COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF PUBLIC WELFARE
Division of Procurement
Room 525, Health & Welfare Building
625 Forster Street
PO Box 2675
Harrisburg, PA 17120

Daniel R. Boyd
Director

Telephone 717-783-3767
Fax 717-787-3560

September 19, 2011

Banes Roofing, Inc.
80 South Third Street
Telford, PA 18969-2001

Dear Vendor:

I am writing to notify you that you can begin services on contract # 4000015916 to do the NRM Project W-0509-0908 – Partial roof replacement - building 51, Forensic Unit at Norristown State Hospital. The term of the contract will be **90 calendar days** from the start date of the contract on September 26, 2011.

All bonds, insurance and any other requirements for this contract (if required) should be sent to the issuing facility prior to any services being rendered. Please contact the purchasing agent if you have any questions concerning these requirements.

Services cannot be rendered under this contract nor payment made until you have received a copy of this letter and contract containing all necessary Commonwealth approval signatures.

If you have any questions concerning this contract, please contact Greg Kratzer at 717-425-5454.

Sincerely,

Daniel R. Boyd
Director
Division of Procurement

Funds Commitment #_____

(to be completed upon award)

DEPARTMENT OF PUBLIC WELFARE

SIGNATURE PAGE

FACILITY Norristown State Hospital		
PROJECT NUMBER W-0509-0908	MAILING DATE 8/24/10	OPENING DATE/TIME 9/15/10 2:00

PROPOSAL OF Partial Roof Replacement - Building 51, Forensic Unit

CONTRACTOR'S NAME Banes Roofing, Inc.

TELEPHONE NUMBER: 215-723-2888

ADDRESS 80 S. Third Street Telford, PA 18969

BASE BID:

According to the project specifications, plans and general and special conditions of the proposal, the contractor agrees to perform all work as specified in this proposal for the sum of (round to nearest dollar):

BASE BID #1	BASE BID #2	BASE BID #3
$ 67,230	$	$

VENDOR ID NUMBER: ▶ 196376

This bid will remain firm for 90 days following bid opening unless the contractor indicates a date here: ▶

CONTRACTOR'S SIGNATURE – WHEN THE CONTRACTOR IS NOT INCORPORATED:

_____ PARTNER _____ DATE

_____ OWNER OR PARTNER - Circle One _____ DATE

CONTRACTOR'S SIGNATURE - WHEN THE CONTRACTOR IS A CORPORATION:

[signature] 9-14-10
SECRETARY OR TREASURER - Circle One DATE

[signature] 9-14-10
PRESIDENT OR VICE PRESIDENT - Circle One DATE

WITNESSED OPENING

Beth A. Leach	Chris Clausen	Gregory Kratze

BASE BID # ACCEPTED ▶ 1

The Department of Public Welfare hereby accepts and approves the contractor's bid and the provisions and requirements of the proposal are binding upon the parties. Contractor agrees to the terms and conditions and attachments, if any, which are part of this contract. This contract is not valid or enforceable until fully executed, approved and delivered to the contractor.

[signature] 6/24/11
ASSISTANT COUNSEL DATE
APPROVED AS TO LEGALITY AND FORM

[signature] 9-15-11
COMPTROLLER DATE
DEPARTMENT OF PUBLIC WELFARE

[signature] 6/16/11
SECRETARY DATE
DEPARTMENT OF PUBLIC WELFARE

[signature] 6/29/11
DEPUTY ATTORNEY GENERAL DATE
OFFICE OF THE ATTORNEY GENERAL
APPROVED AS TO LEGALITY AND FORM

_____ OFFICE OF GENERAL COUNSEL _____ DATE

PW 1475 - 9/90

Instructions to Bidders

GENERAL:

The Department of Public Welfare hereby invites you to bid on the project described on the attached specifications.

You should have received one (1) complete copy of the bid proposal, which includes Signature Page, Project Specifications and drawings and General Conditions of the Construction Contract.

If you do not wish to bid, return the signature page only marked "No Bid."

BIDS:

If you wish to bid on this project, enter your bid on the signature page. If this bid proposal requires only one lump sum bid, enter the amount in the block designated Base Bid #1. If the proposal incorporates more than one base bid, enter the amounts in the respective blocks as appropriate up to four (4) base bids.

Bids must be firm. If a bid is submitted with conditions or exceptions or not in conformance with the terms and conditions referenced in the Contract Documents, it shall be rejected. The bid shall also be rejected if the services offered by the Bidder are not in conformance with the specifications as determined by the Department.

Complete and return ONE ENTIRE PROPOSAL prior to the bid opening date and time noted using the enclosed bid return envelope. Bids must be sealed. Bids received after the specified date and time CANNOT be accepted, regardless of the reason. Failure to return one entire proposal may be cause for rejection of bid.

If bid is over $10,000, the Reciprocal Limitations Act form (pages 12-4 through 12-7) must be completed and returned with the bid.

Any project awarded over $25,000 must include Prevailing Wage Rates (9-29).

If bid is over $50,000, the STD-168 form (page 12-8) must be completed and returned with your bid in the enclosed confidential envelope. If this form is not completed and bid totals over $50,000, bid will not be accepted.

Once contract award is made, for contracts awarded for amounts over $25,000.00, the Department will require contract performance security in the amount equal to at least 50% of the contract price. Once contract award is made, for contracts awarded for amounts in excess of $100,000.00, the Department will require security bonds executed by a surety company authorized to do business in the Commonwealth and made payable to the Department as follows:

1. A performance bond in an amount equal to 100% of the contract price and conditioned upon the faithful performance of the contract, and;
2. A payment bond in an amount equal to 100% of the contract price and conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the performance o the contract.

SIGNATURES:

If you are a corporation, two (2) officers, either Secretary or Treasurer AND President or Vice President, must sign unless a corporate resolution is attached authorizing others to sign contracts. If you are a partnership, two (2) signatures of authorized representatives, by title, must sign. Sole proprietorships must affix signature of the owner. If the proposal is not signed, the bid will be rejected.

BID MODIFICATION AND WITHDRAWAL

Bids may only be modified by written notice received by the Issuing Office prior to the bid opening. The written notice shall specifically identify the bid to be modified and shall be signed by the Bidder. The bid modification must be received in a sealed envelope and the envelope must identify the assigned contract inquiry number and the bid opening date and should state that enclosed is a bid modification. Modifications of bids received after the bid opening shall not be considered.

Bids may be withdrawn by written or facsimile notice received by the Issuing Office prior to the bid opening. The notice shall specifically identify the bid to be withdrawn and shall be signed by the Bidder.

Bidders are permitted to withdraw erroneous bids after bid opening only if the following conditions are met:

The Bidder submits a written request for withdrawal.

The Bidder presents credible evidence with the request that the reason for the lower bid price was a clerical mistake as opposed to a judgment mistake and was actually due to an unintentional arithmetical error or an unintentional omission of a substantial quantity of work, labor, material or services made directly in the compilation of the bid.

The Contracting Officer must receive the request for relief and supporting evidence within three (3) business days after bid opening and before award of the contract.

If the Bidder is permitted to withdraw its bid, the Bidder cannot supply any material or labor or perform any subcontract or other work agreement for the awarded Contractor without the written approval of the Contracting Officer.

The Contracting Office shall not permit a bid withdrawal if it would result in the award of the Contract on another bid of the same Bidder, its partner or a corporation or business venture owned by or in which the Bidder has a substantial interest.

The Commonwealth reserves the right to reject any and all bids, to waive technical defects or any informality in bids and to accept or reject any part of any bid if the best interests of the Commonwealth are thereby served.

BID OPENING:

Bids will be opened publicly in the presence of one or more witnesses at the time and place designated on the Signature Page. The amount of each bid and any other relevant information together with the name of each Bidder shall be recorded on the bid tabulation sheet. The bid tabulation sheet shall be opened to public inspection.

ACCEPTANCE OR REJECTION OF PROPOSAL AND AWARD

The Department of Public Welfare and Contracting Officer reserves the right to accept or reject any proposal or part thereof and to waive technicalities. All prices in this bid proposal shall remain firm for ninety (90) days after bid opening and, unless specifically noted, are based upon the specifications set forth herein without exception.

If the Department of Public Welfare makes an award, this proposal, with attached specifications and drawings, if any, become a valid Contract when signed by all parties and the Contractor receives a signed copy of the Contract.

Unless all bids are rejected, and except as otherwise provided by law, award will be made to the lowest responsible and responsive Bidder. The Director of Procurement will break all tie bids. Prompt payment discounts will not be considered in making an award. However, if they are offered, the Commonwealth will take advantage of such offer.

BID PROTEST PROCEDURES:

a. *Who May File the Protest.* Any Bidder or prospective bidder who is aggrieved in connection with the IFB or award of the contract solicitation or award of a contract may file a protest. Protests relating to cancellation of invitations for bids and protests relating to the rejection of all bids are not permitted. A Bidder is a person that submits a bid in response to the IFB. A prospective bidder is a person that has not submitted a bid in response to the IFB.

b. *Time for Filing.*

1) If a protest is submitted by a prospective bidder, the protest must be filed before bid opening time or proposal receipt date.

2) If a protest is filed by a Bidder, the protest must be filed within seven days after the protesting Bidder knew or should have known of the facts giving rise to the protest EXCEPT THAT IN NO EVENT MAY A PROTEST BE FILED LATER THAN SEVEN (7) DAYS AFTER THE DATE THE CONTRACT OR PURCHASE ORDER WAS AWARDED. Date of filing is the date of receipt of protest.

3) Untimely filed protests shall be disregarded.

c. *Form of Protest.*

1) A protest must be in writing and filed with the agency head (or designee) of the purchasing agency.

2) A protest must state all grounds upon which the protesting party asserts that the solicitation or award was improper. Issues not raised by the protesting party in the protest are deemed waived and may not be raised on appeal.

3) The protesting party may submit with the protest any documents or information deemed relevant.

d. *Notice of Protest.* If award has been made, the agency head (or designee) shall notify the successful Bidder or contractor of the protest. If the protest is received before award and substantial issues are raised by the protest, all Bidders who appear to have a substantial and reasonable prospect of winning the award shall be notified and may file their agreement/disagreement with the purchasing agency within three (3) days after receipt of notice of the protest.

e. *Stay of Procurement.* The head of the purchasing agency (or designee) shall immediately decide, upon receipt of the protest, whether or not the solicitation or award shall be stayed, or if the protest is timely received after the award, whether the performance of the contract should be suspended. The Issuing Office shall not proceed further with the IFB or with the award of the contract, and shall suspend performance under the contract if awarded, unless the agency head of the purchasing agency makes a written determination that the protest is clearly without merit or that award of the contract/purchase order without delay is necessary to protect the substantial interests of the Commonwealth.

f. *Procedures.*

1) Contracting Officer Response. Within fifteen (15) days of the receipt of a protest, the contracting officer may submit a written response to the head of the purchasing agency (or designee). The response may include any documents or information that the contracting officer deems relevant to the protest.

2) Protesting Party Reply. Within ten (10) days of the date of the contracting officer response, the protesting party may file a written reply.

3) Review. The head of the purchasing agency (or designee) shall:

a) Review the protest and any response or reply.

b) Request and review any additional documents or information he deems necessary to render a decision.

c) Give the protesting party and the contracting officer reasonable opportunity to review and address any additional documents or information requested by the agency head.

d) In his sole discretion, conduct a hearing.

e) Within sixty (60) days of the receipt of the protest, issue a written determination stating the reasons for the decision.

f) If additional time is required to investigate the protest, inform the protesting party of the additional time needed to render a determination and obtain the protesting party's consent.

4) "Clearly Without Merit" Determinations. If the head of the purchasing agency (or designee) determines, upon receipt, that the protest is clearly without merit and does not stay the procurement, the head of the purchasing agency (or designee) shall immediately issue the decision as required by Subparagraph h below.

g. *Settlement.* The Issuing Office has the authority to settle and resolve bid protests.

h. *Decision.* The head of the purchasing agency (or designee) shall promptly, but in no event later than sixty (60) days from the filing of the protest, issue a written decision. The decision shall:

1) State the reasons for the decision.

2) If the protest is denied, inform the protesting party of its right to file an appeal in Commonwealth Court within fifteen (15) days of the mailing date of the decision.

3) If it is determined that the solicitation or award was contrary to law, enter an appropriate order.

The agency head (or designee) shall send a copy of the decision to the protesting party and any other person determined by the agency head (or designee) to be affected by the decision.

General Bidding Instructions

for

Construction Projects

DEPARTMENT OF PUBLIC WELFARE

GENERAL CONDITIONS
OF THE
CONSTRUCTION CONTRACT

TABLE OF CONTENTS

Page Number

ARTICLE 1: DEFINITIONS

Change Order 1-1
Clarifications/Bulletins 1-1
Completion of the Work 1-1
Contract 1-1
Contract Bonds 1-1
Contract Completion Date 1-1
Contract Documents 1-2
Contracting Officer 1-2
Contract Extension of Time 1-2
Contractor 1-2
Contract Start Date 1-2
Contract Sum 1-2
Construction Manager 1-2
Days 1-2
Department 1-2
Effective Date of Contract 1-3
Field Order 1-3
Facility 1-3
Milestones 1-3
Notice of Deficiency or Defect 1-3
Project Designer 1-3
Project Area 1-3
Subcontractor 1-3
Submittals 1-4
Supplier 1-4
Work 1-4

ARTICLE 2: PROJECT DESIGNER AND CONSTRUCTION MANAGER

Administration of Contracted Work 2-1
Contract Detail and Design Intent 2-1
Contract Errors or Conflicts 2-1
Access to Site 2-1
Interpretation of Documents 2-1
Rejection of Work 2-1
Project Designer Review of Change Orders 2-2
Contracting Officer and Construction Manager Not Responsible for Contractor Acts or Omissions 2-2

ARTICLE 3: CONTRACTOR REQUIREMENTS

Review of Contract Documents and Site Conditions	3-1
Supervision and Construction Procedures	3-1
Provision of Labor and Materials	3-1
Use of Equipment	3-1
Good Order Among Employees	3-2
Warranty	3-2
Offset of Amounts Due to Commonwealth	3-2
Permits, Fees and Taxes	3-2
Compliance with Applicable Law, Ordinances, Regulations, Etc.	3-3
Cutting and Patching of Work	3-3
Surveys and Laying Out Work	3-3
Storage in Existing Buildings	3-3
Chases and Openings	3-3
Cleaning of Surfaces	3-4
Cleaning Up Project Site	3-4
Waste Disposal	3-4
Unclassified Excavation	3-4
Removal of Unclassified Materials	3-5
Existing Utilities	3-5
Contractor Performing Excavation or Demolition	3-5
Environmental Quality Control	3-5

ARTICLE 4: MILESTONES AND TIME EXTENSION

Commencement of On-Site Work	4-1
Working Hours	4-1
Sequence of Operation	4-1
Parking and Traffic	4-1
Milestones	4-1
Delays and Extensions of Time	4-2
Requests for Extensions of Time	4-2

ARTICLE 5: SUBMITTALS AND INSPECTIONS

Submittals	5-1
Contractor Representations	5-1
Project Designer Review of Submittals	5-1
Contractor Corrections to Submittals	5-1
Project Designer Approval	5-2
Manufacturer or Trade Names	5-2
Quality and Sample of Materials	5-2
Removal of Rejected Materials	5-3
Ongoing Inspection of Material and Work	5-3
Workmanship and Material Guarantee	5-3

ARTICLE 6: CHANGES IN THE WORK

Changes	6-1
Changes Only by Change Order	6-1
Cost of Debit Change Order	6-1
Value of Credit Change Order	6-2
Disagreement as to Cost or Credit	6-2
Unit Prices Set Out In Bid	6-2
Concealed Conditions	6-2
Claims for Additional Cost or Time	6-3
Minor Changes in the Work	6-3
Correction of Rejected Work	6-3
Failure to Correct Defective or Non-Conforming Work	6-3
Acceptance of Non-Conforming Work	6-4
Right to Carry Out the Work	6-4

ARTICLE 7: PAYMENTS AND PROJECT COMPLETION

Application for Milestone Payments	7-1
Payments Withheld	7-1
Occupancy	7-2
Final Inspection and Punch List	7-2
Final Payment	7-2

ARTICLE 8: PROTECTION OF PROPERTY

Safety Precautions and Programs	8-1
Compliance with Safety Laws	8-1
Remediation of Damages	8-1
Subletting or Assigning of Contract	8-2
Protection of Existing Utilities	8-2
Environmental Protection	8-2
Precautions	8-2
Fire Hazards	8-3
Damages	8-3
Sanitary Facilities	8-3
Telephone Service	8-3
Protection and Safety Requirements During Construction	8-3

ARTICLE 9: STANDARD PURCHASE ORDER – TERMS AND CONDITIONS – SAP

Term of Contract	9-1
Independent Contractor	9-1
Compliance with Law	9-1
Environmental Provisions	9-1
Post Consumer Recycled Content	9-1
Compensation/Expenses	9-1
Invoices	9-1
Payment	9-1
Taxes	9-2

Warranty	9-2
Patent, Copyright, and Trademark Indemnity	9-2
Ownership Rights	9-3
Assignment of Antitrust Claims	9-3
Hold Harmless Provision	9-3
Audit Provisions	9-3
Default	9-3
Force Majeure	9-4
Termination Provisions	9-4
Contract Controversies	9-5
Assignability and Subcontracting	9-5
Nondiscrimination/Sexual Harassment Clause	9-6
Contractor Integrity Provisions	9-6
Contractor Responsibility Provisions	9-10
Americans With Disabilities Act	9-10
Hazardous Substances	9-11
Covenant Against Contingent Fees	9-12
Applicable Law	9-12
Integration	9-12
Change Orders	9-12
Right To Know Law	9-13
Exhibit A-1 Construction Products Recycled Content	9-15
Exhibit A-2 Vehicular Products Recycled Content	9-17
Exhibit A-3 Paper Products Recycled Content	9-18
Exhibit A-4 Landscaping Products Recycled Content	9-21
Exhibit A-5 Miscellaneous Products Recycled Content	9-22
Exhibit A-6 Nonpaper Office Products Recycled Content	9-24
Exhibit A-7 Park & Recreation Products Recycled Content	9-26
Exhibit A-8 Transportation Products Recycled Content	9-27
Manufacturer/Mill Certification	9-28

DPW CONSTRUCTION ADDENDUM TO ARTICLE 9

Contract Security	9-29
Insurance	9-29
Site Visit Prior to Bidding	9-30
Drawings and Specifications	9-30
Familiarity With Proposed Work	9-31
Other Contracts	9-31
Royalties and Patents	9-31
Advertising	9-31
Prevailing Minimum Wage Predetermination	9-32
Steel Products Procurement Act	9-32
Trade Practices Act of July 23, 1968, P.L. 686	9-33
Payments to Contractors	9-33
Information	9-34
Certification and Licensing	9-34
Property and Supplies	9-34
Disasters	9-35

Suspension or Debarment	9-35
Covenant Against Contingent Fees	9-35
Contractor's Conflict of Interest	9-35
Interests of the Commonwealth and Others	9-36
Contractor Responsibility to Employ Welfare Clients	9-36
Act 13 Application to Contractor	9-36
MBE/WBE Contact/Solicitation and Commitment Statement	9-37
Reciprocal Limitations Act Requirement	9-37
Audit Clause	9-37

ARTICLE 10: PROJECT SPECIFICATIONS

Summary of Work
Date/Time of Completion
Proof of Visit
Base Bids
Milestones
Materials Submissions
Technical Specifications

ARTICLE 11: PROJECT DRAWINGS

Notes, Details, Plans, Site Plan and Photos

ARTICLE 12: MISCELLANEOUS CONTRACT FORMS

Change Order Request	12-1
Certificate of Final Completion and Final Payment	12-3
Reciprocal Limitations Act	12-4
MBE/WBE Contractor Supplier	12-8
Clarification	12-10
Bulletin	12-11
Proof of Visit Form	12-12
Sample – Notice of Award over $25,000 under $100,000	12-13
Sample – Notice of Award $25,000 and under	12-14
Milestone Payment	12-15
Signature Page	12-16

ARTICLE 1: DEFINITIONS

Whenever in this Contract the following words and expressions occur, they have the following meanings.

CHANGE ORDER

A Change Order is a written order signed by an authorized official of the Department directing the Contractor to make changes in accordance with Article 6: Changes In The Work. The Change Order may be either with the consent of the Contractor or a unilateral order by the Department.

CLARIFICATIONS/BULLETINS

Clarifications are written interpretations or explanations of the specifications or drawings by the Project Designer.

Bulletins are changes in the specifications or drawings to correct errors and omissions or to delete or add items to the bid documents during the bid period. Bulletins are also used to modify, extend, change or cancel the bid opening.

COMPLETION OF THE WORK

The date of Completion of the Work is the date on which the Construction Manager certifies and the Facility Project Designer agrees that the Work is 100% complete and only punch list items are remaining Certificate of Final Completion and Final Payment form (see page 12-3). The Facility Maintenance Manager completes the certificates.

CONTRACT

The Contract is the written agreement signed by the Contractor and all required Commonwealth officials. The Contract represents the entire and integrated agreement between the parties to it and supersedes all prior negotiations, representations or agreements, either written or oral.

CONTRACT BONDS

The Contract Bonds are the security or surety bonds for either performance or payment of labor/materials, or both, depending on the contract amount. Bonds must be executed by companies legally authorized to do business in the Commonwealth of Pennsylvania.

CONTRACT COMPLETION DATE

The Contract Completion Date is either the date specified in the contract for work to be completed or the number of calendar days from the Contract Start Date specified in the contract for completion of the Work.

CONTRACT DOCUMENTS

The Contract Documents include the Signature Page, Notice to Bidders, the Instructions to Bidders, the Notice of Award, the Contract Bonds, the General Conditions of the Contract, the drawings, the specifications and all bulletins, Field Orders, clarifications, Change Orders or any written notice issued by the Department.

CONTRACTING OFFICER

Contracting Officer is the representative of the Facility that approves the payments of the Contractor's invoices and interprets the Contract language relative to non-technical contractual and fiscal requirements.

CONTRACT EXTENSION OF TIME

A Contract Extension of Time is a specific period of time in consecutive calendar days, requested by the Contractor and approved by the facility and Project Designer by Change Order for the completion of work.

CONTRACTOR

The Contractor is the person or business organization identified as such in the Agreement and is referred to throughout the Contract Documents, as if singular in number. The term Contractors means each separate Prime Contractor.

CONTRACT START DATE

The Contract Start Date is the Effective Date of the Contract identified as the Signature Page.

CONTRACT SUM

The Contract Sum is the total amount payable by the Department to the Contractor for the performance of the Work under the Contract Documents, including Change Orders.

CONSTRUCTION MANAGER

This person is the Facility Maintenance Manager or authorized person who is vested with the responsibility for daily on-site project construction oversight in accordance with the Contract Documents as interpreted by the Project Designer.

DAYS

Days mean consecutive calendar days unless specifically stated otherwise in the Contract.

DEPARTMENT

The Department is the Department of Public Welfare of the Commonwealth of Pennsylvania.

EFFECTIVE DATE OF CONTRACT

The Effective Date of Contract is a date fixed by the Director of Procurement, which is after the date the Contract has been fully executed by the Contractor and by the purchasing agency and all approvals required by Commonwealth contracting procedures have been obtained. The Contract shall not be a legal and binding Contract until after the Effective Date is affixed and the Contract is sent to the Contractor.

FIELD ORDER

A Field Order is a written letter directive for documenting minor adjustment in the Work that results in no change in cost or duration of the Contract and does not require a Change Order.

FACILITY

The Facility is the specific institution or building under the control of the Department of Public Welfare where the Project will occur.

MILESTONES

Milestones are specific scheduled progress points for the Contractor to achieve, in order for the project to be completed as originally planned within the calendar days allotted for the project. Achieving the milestones is tied to any partial payments and the final payment to the Contractor.

NOTICE OF DEFICIENCY OR DEFECT

A Notice of Deficiency or Defect is a written notification to record non-conforming work, deficient work and/or milestone slippage issued by the Project Designer or Construction Manager.

PROJECT DESIGNER

A Project Designer is a Registered Architect or Professional Engineer or his/her authorized representative in the Division of Facilities and Property Management (DFPM), Department of Public Welfare. The Project Designer is the author of the drawings and specifications and is the responsible party for any interpretation of the technical requirements or design intent therein.

PROJECT AREA

The Project Area is the total complete scope of Work to be performed under this Contract, as defined by the drawings, specifications, clarifications, bulletins and change orders.

SUBCONTRACTOR

A Subcontractor is a person or organization that has a contract with the Contractor to perform a part of the Work within the scope of the Contract. The term Subcontractor is referred to as if singular in number and means a Subcontractor or its authorized representatives. Subcontracting work on site shall not be permitted without prior authorization from the Project Designer.

SUBMITTALS

Submittals are Contractor qualifications, drawings, diagrams, manuals, illustrations, schedules, milestone charts, brochures, catalog data and other data the Contractor or any Subcontractor, manufacturer, supplier or distributor prepares and which illustrate some portion of the Work or how it fits in relation to other parts of the Work. All Submittals are to be submitted to the Project Designer as required in the specifications.

SUPPLIER

A Supplier is a person or organization that has a contract with the Contractor to provide goods, materials and/or equipment for this project.

WORK

The Work is everything listed in the "Specifications". It also includes all materials, labor and equipment incorporated or to be incorporated into the Project.

ARTICLE 2: PROJECT DESIGNER AND CONSTRUCTION MANAGER

ADMINISTRATION OF CONTRACTED WORK

The Project Designer, in cooperation with the Construction Manager, shall provide technical interpretation of the construction documents, specifications and drawings, including performance of the Work hereinafter described. All interpretations of the terms, conditions and payment requirements of the Contract shall be made by the Contracting Officer.

CONTRACT DETAIL AND DESIGN INTENT

Where the Work is shown in complete detail on only a portion of a drawing or there is an indication of continuation, the remainder being shown in outline, the Work drawn out in detail applies to all other like portions of the structure within the Project Area.

CONTRACT ERRORS OR CONFLICTS

If the Contractor, in the course of construction, finds any technical conflict, omission or discrepancy on or among the drawings and specifications, such conflict, omission or discrepancy shall be immediately referred to the Project Designer in writing via fax or e-mail. The Project Designer, with appropriate input from the Construction Manager and Facility, will review the matter and issue a Clarification to the Contractor in writing.

ACCESS TO SITE

The Project Designer, Construction Manager and authorized representatives of the Department shall, at all times, have access to the Work area.

INTERPRETATION OF DOCUMENTS

The Project Designer is the interpreter of the requirements of the drawings and technical specifications. The Project Designer will, within ten (10) days after receipt of a written request, render in writing such interpretation as a clarification. All interpretations by the Project Designer shall be consistent with the Contract Document requirements and shall become part of the Contract Documents.

REJECTION OF WORK

The Project Designer is authorized to recommend rejection of Work that does not conform to Contract Documents and shall immediately notify the Contractor of such rejection. The Project Designer must make recommendations to the Construction Manager as soon as possible for the remedial methods to resolve rejected Work. The Project Designer will be the final authority for accepting or rejecting proposed or installed work that does not conform to the specifications or drawings.

PROJECT DESIGNER REVIEW OF CHANGE ORDERS

If necessary, the Project Designer will prepare additional specifications and drawings to facilitate Change Orders in accordance with the Contract. The Project Designer shall review all costs submitted by the Contractor for all Change Orders and advise the Facility in writing of their acceptance or rejection. Justification must be provided to substantiate disputed costs.

CONTRACTING OFFICER AND CONSTRUCTION MANAGER NOT RESPONSIBLE FOR CONTRACTOR ACTS OR OMISSIONS

The Project Designer, Contracting Officer and Construction Manager shall not be responsible for the acts or omissions of the Contractor, or any Subcontractor, suppliers, or any of their agents or employees or any other persons performing any of the Work.

ARTICLE 3: CONTRACTOR REQUIREMENTS

REVIEW OF CONTRACT DOCUMENTS AND SITE CONDITIONS

The Contractor shall carefully study and compare the requirements of the Contract Documents and physical conditions of the project site. If the Contractor, in the course of the Work, finds any discrepancy between the plans or specifications and the physical condition of the locality or any errors in plans or specifications, the Contractor must immediately inform the Project Designer in writing of the discrepancy or omission.

SUPERVISION AND CONSTRUCTION PROCEDURES

The Contractor is solely responsible for all construction means, methods, techniques, procedures and safety programs in connection with the Work under the Contract. The Contractor shall supervise and direct the Work, using his best skill and attention. The Contractor shall be solely responsible for all construction means, methods, labor standards, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract.

The Contractor shall employ only such foremen, superintendents and workers as are experienced and competent for the Work. The Construction Manager may request or demand the removal of any person employed by the Contractor who shall be guilty of misconduct or who neglects or refuses to comply with the directions given and such person shall not again be employed at the project site of this Contract without the express consent of the Construction Manager. Failure of the Contractor to comply with these provisions shall be sufficient reason for the Department to withhold all payments that are or may become due or the Contracting Officer may suspend the work until compliance with such orders is effected.

PROVISION OF LABOR AND MATERIALS

Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, security, transportation and all other facilities and services necessary for the proper execution and completion of the Work as developed in the Milestones Schedule, specifications and drawings.

USE OF EQUIPMENT

The Contractor shall supply and assemble, erect and move, into proper location, all scaffolds, derricks, hoists, lifting apparatus and equipment necessary for the execution and installation of work. Hoists, derricks and other lifting apparatus shall be equipped with safety devices required by law and shall be so placed as not to interfere with or damage the work of any trade. The Contractor shall furnish, at his cost and expense, all barriers, trestles and all other safety and construction equipment required for the completion of the Work under this Contract.

The Contractor shall furnish such equipment and/or materials necessary for completion of the work in an acceptable manner and at a satisfactory rate of progress. The equipment used on any portion of the work shall be such as not to endanger the operators or any persons in the vicinity of the equipment or cause damage to adjacent property or highways. Any damages resulting from the operations of such equipment to any person or property are the responsibility of the Contractor.

GOOD ORDER AMONG EMPLOYEES

The Contractor shall, at all times, enforce good order and conduct among its employees. Every employee shall be skilled in the performance of work assigned to that employee. Any violation is sufficient cause for the Facility to direct that the Contractor remove such person from employment on the project and direct that they shall not be re-employed on that project without the written consent of the Construction Manager.

WARRANTY

The Contractor warrants to the Department that all materials and equipment furnished under this Contract are new, unless otherwise specified, and that all work is of good quality, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards may be considered defective or non-conforming. Where there is a substitution of material or equipment, the Contractor warrants that the installation, construction, material or equipment will perform to the standards of the item originally specified. The Contractor explicitly warrants the merchantability and the fitness for use and quality of all substituted items provided for or by it. The warranty provided in this section shall be in addition to, and not in limitation of, any other warranty or remedy provided by law or by Contract.

OFFSET OF AMOUNTS DUE TO COMMONWEALTH

The Contractor, by execution of the Contract, certifies that it has no outstanding tax liability to Pennsylvania.

If it is later determined that the Contractor knowingly rendered an erroneous certification, the Department may find the Contractor in default and terminate the Contract.

The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

PERMITS, FEES AND TAXES

The Contractor shall pay all sales, consumer, use and other similar taxes including wage rates required by law for all labor and materials or equipment used on the project.

The Contractor shall obtain all permits, licenses, review fees, sewer and/or water tap-in fees and certificates required by law for the proper execution and completion of its Work under this Contract.

The Department may elect to procure the necessary approvals and permits for the Project through the Department of Health and the Department of Labor and Industry, prior to the commencement of the work.

COMPLIANCE WITH APPLICABLE LAW, ORDINANCES, REGULATIONS, ETC.

The Contractor shall give all notices and comply with all applicable law, ordinances, regulations, rules and orders of any public authority bearing on the performance of the Work. If the Contractor observes that any of the Contract Documents is at variance therewith in any respect, it shall promptly notify the Project Designer in writing by fax or e-mail with supporting documentation.

CUTTING AND PATCHING OF WORK

The Contractor shall do all cutting, fitting or patching of existing materials as required to make its several parts fit together properly and shall not endanger any existing work by cutting, excavating or otherwise altering the work, or any part of it.

Unless otherwise specified, each Contractor is responsible for its own cutting and patching of existing roof systems necessitated by its work. A qualified Contractor/Subcontractor must perform the cutting and patching. The cutting and patching must maintain any current warranty or bond on the roofing and, whether under warranty or not, must be done in accordance with the manufacturer's written directions and warranty requirements.

SURVEYS AND LAYING OUT WORK

The Contract drawings shall be used for all dimensions in laying out the Work under this Contract. The Contractor shall utilize a competent surveyor or engineer, whose name and qualifications shall be submitted to the Project Designer, to lay out the utility lines, walls, floor elevations, etc. from the initial points established on the drawings. The Surveyor shall take, as a basis, the figures on the plans and shall lay out all intersections, all building lines at corners and centers, test and check all elevations and levels, locate levels and plumb lines of walls, beams and columns and other parts of the construction as the Work progresses. The Contractor, who is solely responsible for its correctness, shall lay out all work of every description. The Contractor, as part of the original Contract sum, shall pay for all expenses in connection with this work.

STORAGE IN EXISTING BUILDINGS

The Contractor shall not store any materials in any existing building or beyond the project area, as defined by the drawings, without prior written authorization from the Construction Manager. No flammable items shall be stored in the project building.

CHASES AND OPENINGS

The Contractor will construct, or have built, into new walls, new partitions and new floors, all such chases and openings as are required to install the new Work. The Contractor will be responsible to see that the chases and openings affecting its work are installed in accordance with the drawings or specifications. Penetrations of fire and smoke rated floor and wall systems must be finished to meet the original rating.

CLEANING OF SURFACES

The surfaces that are to be finished or painted shall have all plaster, mortar and other surplus materials removed before finishing is begun. Before the acceptance of the project by the Construction Manager at the Final Inspection, all visible finished surfaces and materials shall be thoroughly cleaned and/or retouched by the Contractor at its cost and shall be left in a clean and final condition to the satisfaction of the Construction Manager.

CLEANING UP PROJECT SITE

The Contractor is responsible for general broom cleaning at its cost in addition to the specific cleaning. The Contractor shall, at least once weekly or as required by the project specifications, remove all rubbish resulting from the Work and assure that the building premises and surrounding premises are clean and free of such materials.

The Contractor, at his own expense, shall remove all refuse and debris caused by the project and will leave the premises broom clean at the final completion of the Work. The Contractor shall clean all debris from the work area and remove any surplus materials from lawn or adjacent areas upon completion of the Work. Adjoining lawns and grass areas shall be put in a condition as before and, if needed, sod and seed shall be applied. The entire area of work in this Contract shall be broom cleaned at the end of the project.

WASTE DISPOSAL

The Contractor, at all times, shall keep the premises free from accumulation of waste materials or rubbish caused by its operations. The Contractor shall promptly remove from the premises all empty cartons, boxes, crates and containers belonging to it, including cleaning and removal of all materials attached to lavatory, tub and similar fixtures used as a protection during shipment and installation. The Contractor shall promptly remove from the premises all excess excavated material that is on the premises, as a result of its excavation, provided such material is not required elsewhere on the project for fill to attain elevations shown on the drawings. The Contractor shall, at its cost pick up, move and deposit, at a location or locations on the premises designated by the Contractor, all discarded material and rubbish resulting from its work, other than that as described above.

All construction waste and hazardous or controlled materials resulting from the Project shall be handled, transported and disposed of in a manner consistent with, and in compliance of, all applicable codes, ordinances, regulations and laws governing those materials. All disposal fees and costs shall be paid by the Contractor and are part of the original contract amount, unless modified by a Change Order.

UNCLASSIFIED EXCAVATION

Excavation, if required for this Project, will be unclassified and will include all types of earth and soil, stone, boulders and bedrock; municipal trash, rubbish and manmade garbage; and all types of debris of the construction industry such as wood, stone, concrete, plaster, brick, mortar, steel and iron shapes, pipe, wire, asphaltic materials, paper and glass. Unclassified excavation does not include unforeseen concrete foundations, walls or slabs of previous structures. Determination and resolution of unforeseen conditions and excavation problems shall be made by Project Designer.

REMOVAL OF UNCLASSIFIED MATERIALS

All materials encountered, which are identified as unclassified, shall be removed to the required widths and depths to create a finished product as shown and/or noted on the drawings and as written in the specifications. No additional compensation shall be made to the Contractor for this unclassified excavation, forms, dewatering or shoring.

EXISTING UTILITIES

The Contractor shall determine the location of existing utilities required to remain in place, including those overhead or underground, and take all necessary precautions to prevent injury or damage during the performance of the contract and shall be responsible for any and all damages thereto. Known utilities will be noted on the drawings when applicable.

CONTRACTOR PERFORMING EXCAVATION OR DEMOLITION

The Contractor performing excavation or demolition work shall fully comply with the requirement of (One Call) Act 287-74, as amended, approved December 10, 1974, relative to protection of underground utilities which shall include, but not be limited to:

1) Ascertain approximate location and type of utility lines at the site by inspecting drawings or by obtaining a list of utility companies' lines on the site from the County Recorder of Deeds and then contacting the utility company.

2) Three (3) days before excavation or demolition, request information from the utility companies regarding the steps Contractors should take to avoid damage.

3) Provide each equipment operator or blaster with information obtained in (1) and (2) above.

4) Report to the utility company any damage to utility line made or discovered in the course of the work.

5) Alert occupants of premises as to emergency created or discovered.

6) Provisions of (1), (2) and (3) do not apply in an emergency. An emergency is any condition constituting a clear and present danger to life or property by escaping gas, exposed wires or other utility line breaks or defects.

ENVIRONMENTAL QUALITY CONTROL

The Contractor and its Subcontractors shall perform their work in a manner which minimizes the possibility of air, water, land and noise pollution.

ARTICLE 4: MILESTONES AND TIME EXTENSION

COMMENCEMENT OF ON-SITE WORK

On-site work will commence within ten (10) days after the Effective Contract Date. Established milestones shall be developed and met during the Project. The Contractor shall carry the Work forward expeditiously with adequate forces and shall complete it no later than the Contract Completion Date, including extensions, if any are approved by a Change Order.

WORKING HOURS

The working hours shall be between 7:00 a.m. and 6:00 p.m., Monday through Friday, or special hours as required by the Facility. To complete the Project with limited disruption, the standard work hours may be modified. These modified times will be noted in the Project Specifications. Changes in work hours will be without any additional cost to the Commonwealth. Any changes to the work hours during the five day work period, or any time worked beyond these days on Saturdays or Sundays or holidays, shall have prior written approval of the Facility and Construction Manager. This shall not apply in those isolated cases where work must be performed in a continuous operation that will extend the working day.

SEQUENCE OF OPERATION

The Contractor shall arrange the construction of the various items of work to the satisfaction of the Construction Manager without any unnecessary interference to Facility routine. Before beginning work, the Contractor will be required to prepare a milestone schedule in consultation with the Construction Manager and the work must be carried out in compliance with the scheduled milestones.

PARKING AND TRAFFIC

Limited parking space may be available at the project site, subject to approval of a pre-arranged agreement by the Contractor and the Construction Manager. The Contractor shall make arrangements with the Construction Manager for establishing a staging area to be used for delivery of material and equipment.

MILESTONES (Applicable for projects over $50,000.)

When required by the specifications, the Contractor shall submit a Progress Schedule with specific dates for the milestones. Milestones not completed on schedule will require a Recovery Plan from the Contractor. Milestone achievement, and not elapsed time, will be the basis for partial payments.

The milestones must be in agreement with the activities shown in the specifications. Each Contractor must show at least one milestone in each month of the scheduled construction period. By signing off on the Progress Schedule, the Contractor is also agreeing to the milestones set forth on the schedule.

The level of completion and payment shall be based on an assessment of project milestones made by the Facility Maintenance Manager. (See Article 12)

DELAYS AND EXTENSIONS OF TIME

If the Contractor is delayed at anytime in the progress of the work by changes ordered in the work, by labor disputes, fire, unavoidable casualties, Acts of God or by delay due to suspension of work or by any cause that the Construction Manager and Project Designer determines may justify the delay, the Contract Completion Date may be extended by the Project Designer. In his/her sole discretion, the Project Designer may approve of an Extension of Time for such reasonable time as may be determined by the Project Designer. These require a Change Order.

REQUESTS FOR EXTENSIONS OF TIME

All requests for Extensions of Time shall be made to the Project Designer in writing. All such requests must be filed within ten (10) days of the end of the event or issue which caused the delay. In no case will the granting of an Extension of Time to one Contractor automatically entitle any other contractor to an Extension of Time. Preparing Change Orders and the processing of Change Orders are not causes for granting of an Extension of Time unless agreed to and stated in the Change Order.

NOTE: A construction project CANNOT be extended past June 30th of the second FY unless there is an approved 310.3 waiver from the Governor's Budget Office.

ARTICLE 5: SUBMITTALS AND INSPECTIONS

SUBMITTALS

Contractors shall submit all necessary documents to the Project Designer in accordance with the submittal schedule established by the Project Designer in the specifications.

CONTRACTOR REPRESENTATIONS

By preparing and submitting submittals, the Contractor represents that it has reviewed and verified all field measurements, field construction criteria, materials, catalog numbers and similar data, or will do so, and that it has checked and coordinated each shop drawing and sample with the requirements of the Work and of the Contract Documents.

PROJECT DESIGNER REVIEW OF SUBMITTALS

The Project Designer will review and act upon submittals within fourteen (14) days from the time of receipt of the submittal to the time of return of the submittal by the Project Designer. The review and approval is only for conformance with the design concept of the project and with the information given in the Contract Documents. The Project Designer's approval of a separate item does not indicate approval of an assembly in which the item functions.

CONTRACTOR CORRECTIONS TO SUBMITTALS

The Contractor shall make any corrections required by the Project Designer and shall resubmit the required number of corrected copies of shop drawings or new samples until approved. The resubmission shall be acted upon by the Project Designer within ten (10) days of its receipt. When resubmitting submittals, the Contractor shall direct specific attention to any revisions made, other than the corrections requested by the Project Designer on previous submissions, by noting such revisions on the resubmitted submittals.

PROJECT DESIGNER APPROVAL

The Project Designer's approval of shop drawings or samples does not relieve the Contractor of responsibility for any deviation from the requirements of the Contract Documents, unless the Contractor has, at the time of submission, noted the deviation on the submittals and the Project Designer has given written approval of the specific deviation. The Project Designer's approval also does not relieve the Contractor from responsibility for errors or omissions in the submittals. No portion of the Work requiring a submittal shall be commenced until the submittal has been approved by the Project Designer. Any work commenced by the Contractor prior to final approval of the submittals by the Project Designer is performed by the Contractor at its own risk. The Department is not responsible for materials ordered, purchased or installed, that have not received prior review/approval or that do not conform to the specifications.

MANUFACTURER OR TRADE NAMES

Whenever, in this proposal, an article or material is defined by trade name and/or the name and catalogue number of the manufacturer of vendor, the term "or approved equal", if not inserted therein, shall be implied. The reason for maintaining manufacturer's and trade names is to establish the grade, quality and proportion of ingredients which will provide acceptable performance under these specifications. Materials of the same quality, manufactured by nationally known manufacturers, will be considered for approval. The decision of Project Designer shall be final in all matters concerning comparative quality or fitness for the Work for substitution submittals and requests.

QUALITY AND SAMPLE OF MATERIALS

Before any construction may proceed, the Contractor may be required to furnish the required information to the Project Designer, of the origin, composition and manufacturer of any or all materials to be used in the Work, together with samples. All expenses incurred in delivering, transporting, packing, collection, testing, return, etc., of the material in samples or equipment shall be paid by the Contractor. Samples shall be clearly marked with Project number, Contractor's name and Project location. If any material or article other than that which is specified is to be used or installed, prior approval is required from the Project Designer. The Contractor will furnish satisfactory technical evidence as to the standard of quality of materials proposed to those specified, including finished projects using the materials.

Any material delivered to the Project site shall be compared with the approved sample and, if necessary, additional tests may be made upon the material at any time. Failure of samples to pass the tests will be sufficient cause for refusal to consider any further samples from the manufacturer or other sources of the material. Samples may be incorporated into the work, if they are approved.

Unless otherwise specified, all supplies, equipment and material to be furnished and installed under this Contract shall be new and unused and of current manufacture. Government surplus items and discontinued, suspended or otherwise obsolete items or designs are not permitted.

REMOVAL OF REJECTED MATERIALS

If any material intended for use in the Project has been rejected, such rejected material shall be removed immediately from the property at the Contractor's expense. If the Contractor fails to remove such rejected material promptly, the Construction Manager, with the approval of the Project Designer, may have the item(s) removed at the Contractor's expense.

ONGOING INSPECTION OF MATERIAL AND WORK

Workmanship shall be of good quality and all work and material shall be, at all times, subject to the inspection of the Construction Manager. The Contractor shall provide reasonable and necessary space for such inspection. If required by the Project Designer, the Contractor shall take down and uncover portion of the finished work.

The Contractor agrees that in case any of the material or work, or both, shall be rejected as defective or unsuitable by the Project Designer, then such material shall be replaced with new material and the work shall be done again immediately to the satisfaction and approval of the Project Designer at the cost and expense of the Contractor. Should the work thus exposed prove satisfactory, the cost of exposing and restoring same shall be at the expense of the Facility. But, if it should prove to be unsatisfactory, all costs shall be at the expense of the Contractor.

Any omission or failure, on the part of the Project Designer, to identify or reject any defective work or materials shall not be construed to be an acceptance of any defective work or materials.

If the Project Designer does not consider the defect of sufficient importance to require the Contractor to rebuild or replace any work or materials, the Project Designer may recommend an equitable deduction from the contract amount and accept the defective work. This shall be done via Change Order.

WORKMANSHIP AND MATERIAL GUARANTEE

In addition to all other warranties herein, the Contractor guarantees its workmanship and materials and will remedy, without cost to the Commonwealth, any defects which may develop therein for a period of one (1) year from the date of completion and acceptance as provided in the Contract. All workmanship shall be first class as established by standard of the trades involved and is to be performed by capable, experienced mechanics and trades in such a manner as to produce a complete, defect-free installation. Any defective workmanship may require removal and replacement at no additional cost to the Commonwealth if rejected by the Project Designer.

ARTICLE 6: CHANGES IN THE WORK

CHANGES

The Facility, in consultation with the Project Designer, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, with corresponding adjustments to Contract amount, if necessary, the Contract sum being adjusted if required. All such changes in the Work will be authorized by Change Order. The Contractor agrees that payment under any method noted within this Article will be the exclusive compensation for such addition, deletion or other revision to the original Contract including any and all costs associated with acceleration, stacking and resequencing of forces required by the change to maintain the Project Milestone Schedule. If it is not possible to complete the work within the Milestone Schedule by acceleration, stacking or resequencing, the Contractor must request an Extension of Time via Change Order. (See Change Order form on page 12-1.)

CHANGES ONLY BY CHANGE ORDER

A Change Order is a written order to the Contractor, signed by the Project Designer and issued after the execution of the Contract, authorizing a change in the Scope of Work or an adjustment in the Contract Sum or of the Contract Time.

COST OF DEBIT CHANGE ORDER

The cost debit to the Facility resulting from a change in the Work shall be determined in one or more ways in accordance with this Article, at the option of the Project Designer.

A) By a detailed cost breakdown properly itemized (the breakdown shall include size, quantity, type, subcontractors, etc., and may include a maximum of fifteen percent (15%) markup to labor costs for overhead and profit and a maximum of ten percent (10%) markup for materials for overhead and profit);

B) By unit prices stated in the bid proposal, specifications or from Square Foot prices agreed upon in the contract breakdown; or a settlement amount agreed upon by the Project Designer.

If the Designer and Vendor cannot agree on a cost, the formula in A above will be used.

VALUE OF CREDIT CHANGE ORDER

The credit to the Facility resulting from a change in the Work shall be determined in one or more of the following ways, at the option of the Project Designer:

A) By a detailed cost breakdown properly itemized (the breakdown shall include size, quantity, type, etc.). The credit must include credit for overhead and profit on deleted work;

B) By unit prices derived from the bid proposal, specifications or from a settlement amount agreed upon by the Project Designer.

DISAGREEMENT AS TO COST OR CREDIT

If the Construction Manager and the Contractor cannot agree as to the cost or credit to the Department resulting from a change in the Work, the cost or credit settlement amount shall be solely determined by the Project Designer.

UNIT PRICES SET OUT IN BID

If unit prices are stated in the bid and subsequently agreed upon and, if the quantities originally contemplated are so changed by a proposed Change Order that application of the agreed unit price to the quantities of work proposed will create a hardship on the Facility or the Contractor, the applicable unit prices shall be equitably adjusted by Change Order to prevent such hardship. The Contractor must provide evidence to the Facility and Project Designer that a hardship exists before an adjustment will be made.

CONCEALED CONDITIONS

If in the performance of the Work, should concealed conditions be encountered, which are unascertainable from the drawings, Contract Documents, visits to the site and reasonable investigation and which are at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground be of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, the Contract sum shall be equitably adjusted by Change Order upon claim of either party made within ten (10) days after the first observance of the conditions. No adjustment shall be made to the Contract sum, however, for concealed conditions encountered during cutting and patching of Work.

CLAIMS FOR ADDITIONAL COST OR TIME

No claims for increased costs, charges, expenses or damages of any kind, except as provided in the General Conditions, shall be made by the Contractor against the Department for any delays or hindrances from any cause whatsoever, including but not limited to strikes, walkouts or work stoppages during the progress of any portion of the work. The Department may, however, extend the time for completion of the Work, as provided in the Contract, which extensions shall constitute the exclusive remedy between the parties in the event of such delays.

MINOR CHANGES IN THE WORK

The Construction Manager may request changes in the Work not involving an adjustment in the Contract sum or an extension of the time and not inconsistent with the Contract Documents. Such changes may be affected by written Change Order approved by the Project Designer or by a Field Order. Such changes are binding on the Facility and the Contractor. After an interpretation of the Contract Documents and review and approval by the Project Designer, the Construction Manager may issue written Field Orders consistent with the Contract Documents without changing the Contract sum or Contract time. The Contractor shall carry out such Field Orders promptly.

CORRECTION OF REJECTED WORK

The Contractor shall promptly correct all work rejected by the Construction Manager and agreed to by the Project Designer as defective or as failing to conform to the Contract Documents, whether observed before or after substantial completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected or defective work.

FAILURE TO CORRECT DEFECTIVE OR NON-CONFORMING WORK

If the Contractor does not remove defective or non-conforming work within time fixed by written notice from the Facility, the Facility may remove it and may store the defective materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage, the Facility may, upon ten (10) days written notice, sell such work at auction or at private sale and, after deducting all the costs that should have been borne by the Contractor pursuant to the provisions of this paragraph, shall account for the net proceeds of the sale. If such proceeds do not cover all costs that the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and/or the Contractor's surety shall pay the differences to the Facility.

ACCEPTANCE OF NON-CONFORMING WORK

The Facility may elect to accept non-conforming work instead of requiring its removal and correction. If non-conforming work is accepted, a Change Order shall be issued to reflect an appropriate reduction in the Contract sum, or, if the amount is determined after final payment, it shall be paid by the Contractor and/or the Contractor's surety to the Department.

RIGHT TO CARRY OUT THE WORK

If the Contractor fails to carry out the Work in accordance with the Contract Documents or fails to perform any provision of the Contract, the Project Designer may, after written notice to the Contractor, and without prejudice to any other remedy the Department may have, make good such failures. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such failure, including the cost of the Project Designer's additional services made necessary by such failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor and/or the Contractor's surety shall pay the difference to the Department.

ARTICLE 7: PAYMENTS AND PROJECT COMPLETION

APPLICATION FOR MILESTONE PAYMENTS

During the progress of work, in accordance with the Contract Documents, the Contractor shall prepare periodic estimates of the value of the work performed and shall submit to the Contracting Officer itemized invoices for payments. Invoices shall be supported by completed Milestones and other requirements, as required by the Contracting Officer, substantiating the Contractor's right to payment. (See page 12-15)

PAYMENTS WITHHELD

The Contracting Officer, in consultation with the Construction Manager and the Project Designer, may decline to approve payment in whole or in part if the Work has not progressed to the point indicated or the quality of the Work is not in accordance with the Contract Documents. The Construction Manager or Project Designer may also decline to approve any payment because of subsequently discovered evidence or inspections which, in their opinion, is necessary to protect the Facility from loss because of:

1) Defective Work not remedied or claims for Work not installed.

2) Unpaid taxes or claims made by other governmental entities.

3) Reasonable doubt that the Work can be completed for the unpaid balance of the Contract sum;

4) Unrepaired damages to Facility property by the Contractor.

5) Consistent failure of the Contractor to substantially meet the Milestones of this Contract and a reasonable indication that the Work will not be completed within the Contract time.

6) Failure of the Contractor to pay Subcontractors or suppliers. It is within the Facility's discretion to withhold payment because of the Contractor's failure to pay Subcontractors or suppliers. The failure to withhold payment for this reason does not give rise to a cause of action on the part of the Subcontractor or supplier.

7) Failure of the Contractor to maintain required insurance or bonds.

The Contracting Officer will notify the Contractor of the reason for withholding payment within ten (10) days of its receipt of the invoice(s).

OCCUPANCY

The Facility may use, may permit the use of or may occupy any completed or partially completed portion of the Work, whether or not the time may have expired for completing the entire Work or said portions of Work. Such use or occupancy shall not be deemed an acceptance of the Work so used or occupied. Prior to such use or occupancy, an inspection of the work to be occupied by the Facility shall be made by the Facility and the Project Designer to determine if it is in conformity with the Contract. Any damage subsequent to the inspection due solely to the use and occupancy of the completed portion is not the responsibility of the Contractor.

FINAL INSPECTION AND PUNCH LIST

When the Contractor submits in writing to the Construction Manager a request for a Final Inspection and an invoice for final payment, the final inspection will be made within ten (10) days of the receipt of the request. If the Work is substantially completed the Construction Manager will approve final payment and the Contracting Officer will make payment in full except as set out in the Contract documents. The Punch List prepared by the Construction Manager shall list in detail each uncompleted item and a reasonable cost for completion.

Final payment may be withheld until the completion of Punch List items. The Contractor shall complete all Punch List items (items to be corrected and/or completed) within twenty (20) days after the date of Final Inspection or show just cause to the satisfaction of the Project Designer and the Construction Manager why they cannot be completed. If the Contractor does not complete the items within twenty (20) days, or show just cause to the satisfaction of the Construction Manager and the Project Designer why they cannot be completed, the Contracting Officer may order the correction of those items and deduct the cost of completion from the amount retained.

If, after Final Inspection of the Work, final completion of punch list items is materially delayed through no fault of the Contractor, the Contracting Officer will, upon certification by the Project Designer, make payment of the balance due for that portion of the work fully completed and accepted. Such payment will not terminate the Contract.

The FMM completes the Certificate of Final Completion and Final Payment (see page 12-3) and submits to DFPM along with the invoice. DFPM reviews/approves and submits to the Comptroller.

FINAL PAYMENT

The making of final payment constitutes a waiver of all claims by the Commonwealth, except those arising from:

1) Unsettled claims; or pending Change Orders.

2) Faulty or defective work or material, including hidden defects;

3) Failure of the work or material to comply with the requirements of the Contract Documents.

4) Warranty Claims and Guarantee Claims.

ARTICLE 8: PROTECTION OF PROPERTY

SAFETY PRECAUTIONS AND PROGRAMS

The Contractor is responsible for initiating, maintaining and supervising all safety precautions and programs required for its portion of the Work. The Contractor shall take all reasonable protection to prevent damage, injury or loss to:

1) All employees on the Work, and all other persons who may be affected thereby, and;

2) All work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of its subcontractors, and;

3) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walls, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

COMPLIANCE WITH SAFETY LAWS

The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The Contractor shall erect and maintain, as required by existing conditions and progress of the work, until the acceptance of the completion of its portion of the project, all reasonable safeguards for safety and protection, including posting danger signs, fences and barriers and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent hazards.

REMEDIATION OF DAMAGES

All damages or loss to any property caused in whole or in part by the Contractor, any subcontractor or anyone directly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor, except damage or loss attributable to faulty drawings or specifications or to the acts or omissions of the Department or anyone employed by the Department.

SUBLETTING OR ASSIGNING OF CONTRACT

The Contractor shall not sublet, transfer, assign or otherwise dispose of the Contract or any portion thereof, or the work provided for therein except for the furnishing of specified materials, or of this right, title or interest therein, to any other contractor without the written consent of the Project Designer and Contracting Officer. No such assignment or subcontract shall relieve the Contractor from his liability under the Contract for the performance and completion of the Work by the time and in the manner agreed upon.

The provisions of the Contract as to performance by the Contractor shall apply to any subcontractor, his officers, agents or employees of the subcontractor, in all respects as if they were employees of the Contractor and the work and materials were furnished by the Contractor.

PROTECTION OF EXISTING UTILITIES

The Contractor with the assistance of the Construction Manager, shall identify and mark the location of existing utilities required to remain in place, including those overhead or underground, and take all necessary precautions to prevent injury or damage during the performance of the Contract and shall be responsible for any and all damages thereto. Any damage shall be promptly restored to the previous condition and function using new materials, at no additional cost to the Facility.

ENVIRONMENTAL PROTECTION

The Contractor shall provide for the prevention, control and abatement of land, water and air pollution during construction in accordance with P.L. Act No. 247 dated October 26, 1972, which shall include but is not limited to:

1) Eliminate burning of all refuse.

2) Remove all refuse from site of work for disposal in accordance with rules and regulations of the authority having jurisdiction over the disposal area.

3) Provide for filtration of all contaminated water discharging directly into a stream.

Any asbestos or lead paint that must be cut, removed or patched during the execution of this Contract must be done in manner to comply with the specifications.

PRECAUTIONS

The Contractor shall take all precautions to remove all his tools and/or equipment from the site each day upon completion of his work. He shall inventory all his tools and equipment periodically. He shall report all missing tools or equipment to the Construction Manager immediately. The Construction Manager or the Facility shall not be responsible for any loss of the Contractor's tools or equipment.

FIRE HAZARDS

The Contractor shall maintain and enforce regulations covering construction fire hazards, including smoking, and shall provide suitable fire extinguishers in proper locations. No smoking is allowed in any Facility structures.

DAMAGES

Any damage to existing materials, utilities, buildings or equipment as a result of the Work of this Contract shall be immediately replaced/repaired by the Contractor at no additional cost to the Facility using equal or better materials to restore damaged portions to original condition.

SANITARY FACILITIES

Sanitary facilities may be available at the project site for the Contractors use, at a location designated by the Construction Manager, for the duration of the project.

TELEPHONE SERVICE

All telephone service, fees, costs and equipment necessary for the completion of the work is the responsibility of the Contractor and shall be for the sole use of the Contractor.

PROTECTION AND SAFETY REQUIREMENTS DURING CONSTRUCTION

In addition to the safety regulations and protection of all parts of the Work during all stages of construction as herein specified, the Contractor shall comply with the rules and regulations of the project site, the Department of Public Welfare and the Commonwealth of Pennsylvania.

On all work performed within operating facility buildings or adjacent to existing facility buildings where facility property, employees or occupants may be endangered, all safety rules will be observed.

The Contractor shall erect and maintain proper protection and signs for all equipment and parts of the project or building, including walls, windows or doors, that may be exposed to damage of any kind during the progress of the Work. The Contractor shall restore any damaged equipment or part to its original condition. The Construction Manager is available for consultation regarding the above items and any safety matters concerning building security and potential losses due to temperature or water damages. The Contractor shall make adjustments in the property or safety protection methods and equipment where directed by the Construction Manager, unless such adjustments will be hazardous or unsafe to the Contractors labor forces and equipment.

STANDARD CONTRACT TERMS AND CONDITIONS FOR SERVICES

1. TERM OF CONTRACT

The term of the Contract shall commence on the Effective Date (as defined below) and shall end on the Expiration Date identified in the Contract, subject to the other provisions of the Contract. The Effective Date shall be fixed by the Contracting Officer after the Contract has been fully executed by the Contractor and by the Commonwealth and all approvals required by Commonwealth contracting procedures have been obtained. The Contract shall not be a legally binding contract until after the Effective Date is affixed and the fully-executed Contract has been sent to the Contractor. The Contracting Officer shall issue a written Notice to Proceed to the Contractor directing the Contractor to start performance on a date which is on or after the Effective Date. The Contractor shall not start the performance of any work prior to the date set forth in the Notice to Proceed and the Commonwealth shall not be liable to pay the Contractor for any service or work performed or expenses incurred before the date set forth in the Notice to Proceed. No agency employee has the authority to verbally direct the commencement of any work under this Contract. The Commonwealth reserves the right, upon notice to the Contractor, to extend the term of the Contract for up to three (3) months upon the same terms and conditions. This will be utilized to prevent a lapse in Contract coverage and only for the time necessary, up to three (3) months, to enter into a new contract.

2. INDEPENDENT CONTRACTOR

In performing the services required by the Contract, the Contractor will act as an independent contractor and not as an employee or agent of the Commonwealth.

3. COMPLIANCE WITH LAW

The Contractor shall comply with all applicable federal and state laws and regulations and local ordinances in the performance of the Contract.

4. ENVIRONMENTAL PROVISIONS

In the performance of the Contract, the Contractor shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

5. POST-CONSUMER RECYCLED CONTENT

Except as specifically waived by the Department of General Services in writing, any products which are provided to the Commonwealth as a part of the performance of the Contract must meet the minimum percentage levels for total recycled content as specified in Exhibits A-I through A-8 to these Standard Contract Terms and Conditions.

6. COMPENSATION/EXPENSES

The Contractor shall be required to perform the specified services at the price(s) quoted in the Contract. All services shall be performed within the time period(s) specified in the Contract. The Contractor shall be compensated only for work performed to the satisfaction of the Commonwealth. The Contractor shall not be allowed or paid travel or per diem expenses except as specifically set forth in the Contract.

7. INVOICES

Unless the Contractor has been authorized by the Commonwealth for Evaluated Receipt Settlement or Vendor Self-Invoicing, the Contractor shall send an ***invoice itemized by line item*** to the address referenced on the purchase order promptly after services are satisfactorily completed. The invoice should include only amounts due under the Contract/purchase order. The purchase order number must be included on all invoices. In addition, the Commonwealth shall have the right to require the Contractor to prepare and submit a "Work In Progress" sheet that contains, at a minimum, the tasks performed, number of hours, hourly rate, and the purchase order or task order to which it refers.

8. PAYMENT

a. The Commonwealth shall put forth reasonable efforts to make payment by the required payment date. The required payment date is: (a) the date on which payment is due under the terms of the Contract; (b) thirty (30) days after a proper invoice actually is received at the "Provide Service and Bill To" address if a date on which payment is due is

not specified in the Contract (a "proper" invoice is not received until the Commonwealth accepts the service as satisfactorily performed); or (c) the payment date specified on the invoice if later than the dates established by (a) and (b) above. Payment may be delayed if the payment amount on an invoice is not based upon the price(s) as stated in the Contract. If any payment is not made within fifteen (15) days after the required payment date, the Commonwealth may pay interest as determined by the Secretary of Budget in accordance with Act No. 266 of 1982 and regulations promulgated pursuant thereto. Payment should not be construed by the Contractor as acceptance of the service performed by the Contractor. The Commonwealth reserves the right to conduct further testing and inspection after payment, but within a reasonable time after performance, and to reject the service if such post payment testing or inspection discloses a defect or a failure to meet specifications. The Contractor agrees that the Commonwealth may set off the amount of any state tax liability or other obligation of the Contractor or its subsidiaries to the Commonwealth against any payments due the Contractor under any contract with the Commonwealth.

b. The Commonwealth shall have the option of using the Commonwealth purchasing card to make purchases under the Contract or purchase order. The Commonwealth's purchasing card is similar to a credit card in that there will be a small fee which the Contractor will be required to pay and the Contractor will receive payment directly from the card issuer rather than the Commonwealth. Any and all fees related to this type of payment are the responsibility of the Contractor. In no case will the Commonwealth allow increases in prices to offset credit card fees paid by the Contractor or any other charges incurred by the Contractor, unless specifically stated in the terms of the Contract or purchase order.

9. TAXES

The Commonwealth is exempt from all excise taxes imposed by the Internal Revenue Service and has accordingly registered with the Internal Revenue Service to make tax free purchases under Registration No. 23740001-K. With the exception of purchases of the following items, no exemption certificates are required and none will be issued: undyed diesel fuel, tires, trucks, gas guzzler emergency vehicles, and sports fishing equipment. The Commonwealth is also exempt from Pennsylvania state sales tax, local sales tax, public transportation assistance taxes and fees and vehicle rental tax. The Department of Revenue regulations provide that exemption certificates are not required for sales made to governmental entities and none will be issued. Nothing in this paragraph is meant to exempt a construction contractor from the payment of any of these taxes or fees which are required to be paid with respect to the purchase, use, rental, or lease of tangible personal property or taxable services used or transferred in connection with the performance of a construction contract.

10. WARRANTY

The Contractor warrants that all services performed by the Contractor, its agents and subcontractors shall be free and clear of any defects in workmanship or materials. Unless otherwise stated in the contract, all services and parts are warranted for a period of one year following completion of performance by the Contractor and acceptance by the Commonwealth. The Contractor shall correct any problem with the service and/or replace any defective part with a part of equivalent or superior quality without any additional cost to the Commonwealth.

11. PATENT, COPYRIGHT, AND TRADEMARK INDEMNITY

The Contractor warrants that it is the sole owner or author of, or has entered into a suitable legal agreement concerning either: a) the design of any product or process provided or used in the performance of the Contract which is covered by a patent, copyright, or trademark registration or other right duly authorized by state or federal law or b) any copyrighted matter in any report document or other material provided to the commonwealth under the contract. The Contractor shall defend any suit or proceeding brought against the Commonwealth on account of any alleged patent, copyright or trademark infringement in the United States of any of the products provided or used in the performance of the Contract. This is upon condition that the Commonwealth shall provide prompt notification in writing of such suit or proceeding; full right, authorization and opportunity to conduct the defense thereof; and full information and all reasonable cooperation for the defense of same. As principles of governmental or public law are involved, the Commonwealth may participate in or choose to conduct, in its sole discretion, the defense of any such action. If information and assistance are furnished by the Commonwealth at the Contractor's written request, it shall be at the Contractor's expense, but the responsibility for such expense shall be only that within the Contractor's written authorization. The Contractor shall indemnify and hold the Commonwealth harmless from all damages, costs, and expenses, including attorney's fees that the Contractor or the Commonwealth may pay or incur by reason of any infringement or violation of the rights occurring to any holder of copyright, trademark, or patent interests and rights in any products provided or used in the performance of the Contract. If any of the products provided by the Contractor in such suit or proceeding are held to constitute infringement and the use is enjoined, the Contractor shall, at its own expense and at its option, either procure the right to continue use of such infringement products, replace them with

non-infringement equal performance products or modify them so that they are no longer infringing. If the Contractor is unable to do any of the preceding, the Contractor agrees to remove all the equipment or software which are obtained contemporaneously with the infringing product, or, at the option of the Commonwealth, only those items of equipment or software which are held to be infringing, and to pay the Commonwealth: 1) any amounts paid by the Commonwealth towards the purchase of the product, less straight line depreciation; 2) any license fee paid by the Commonwealth for the use of any software, less an amount for the period of usage; and 3) the pro rata portion of any maintenance fee representing the time remaining in any period of maintenance paid for. The obligations of the Contractor under this paragraph continue without time limit. No costs or expenses shall be incurred for the account of the Contractor without its written consent.

12. OWNERSHIP RIGHTS

The Commonwealth shall have unrestricted authority to reproduce, distribute, and use any submitted report, data, or material, and any software or modifications and any associated documentation that is designed or developed and delivered to the Commonwealth as part of the performance of the Contract.

13. ASSIGNMENT OF ANTITRUST CLAIMS

The Contractor and the Commonwealth recognize that in actual economic practice, overcharges by the Contractor's suppliers resulting from violations of state or federal antitrust laws are in fact borne by the Commonwealth. As part of the consideration for the award of the Contract, and intending to be legally bound, the Contractor assigns to the Commonwealth all right, title and interest in and to any claims the Contractor now has, or may acquire, under state or federal antitrust laws relating to the products and services which are the subject of this Contract.

14. HOLD HARMLESS PROVISION

The Contractor shall hold the Commonwealth harmless from and indemnify the Commonwealth against any and all claims, demands and actions based upon or arising out of any activities performed by the Contractor and its employees and agents under this Contract and shall, at the request of the Commonwealth, defend any and all actions brought against the Commonwealth based upon any such claims or demands.

15. AUDIT PROVISIONS

The Commonwealth shall have the right, at reasonable times and at a site designated by the Commonwealth, to audit the books, documents and records of the Contractor to the extent that the books, documents and records relate to costs or pricing data for the Contract. The Contractor agrees to maintain records which will support the prices charged and costs incurred for the Contract. The Contractor shall preserve books, documents, and records that relate to costs or pricing data for the Contract for a period of three (3) years from date of final payment. The Contractor shall give full and free access to all records to the Commonwealth and/or their authorized representatives.

16. DEFAULT

a. The Commonwealth may, subject to the provisions of Paragraph 17, Force Majeure, and in addition to its other rights under the Contract, declare the Contractor in default by written notice thereof to the Contractor, and terminate (as provided in Paragraph 18, Termination Provisions) the whole or any part of this Contract for any of the following reasons:

1) Failure to begin work within the time specified in the Contract or as otherwise specified;
2) Failure to perform the work with sufficient labor, equipment, or material to insure the completion of the specified work in accordance with the Contract terms;
3) Unsatisfactory performance of the work;
4) Failure or refusal to remove material, or remove and replace any work rejected as defective or unsatisfactory;
5) Discontinuance of work without approval;
6) Failure to resume work, which has been discontinued, within a reasonable time after notice to do so;
7) Insolvency or bankruptcy;
8) Assignment made for the benefit of creditors;
9) Failure or refusal within 10 days after written notice by the Contracting Officer, to make payment or show cause why payment should not be made, of any amounts due for materials furnished, labor supplied or performed, for equipment rentals, or for utility services rendered;
10) Failure to protect, to repair, or to make good any damage or injury to property; or
11) Breach of any provision of this Contract.

b. In the event that the Commonwealth terminates this Contract in whole or in part as provided in Subparagraph a. above, the Commonwealth may procure, upon such terms and in such manner as it determines, services similar or identical to those so terminated,

and the Contractor shall be liable to the Commonwealth for any reasonable excess costs for such similar or identical services included within the terminated part of the Contract.

c. If the Contract is terminated as provided in Subparagraph a. above, the Commonwealth, in addition to any other rights provided in this paragraph, may require the Contractor to transfer title and deliver immediately to the Commonwealth in the manner and to the extent directed by the Issuing Office, such partially completed work, including, where applicable, reports, working papers and other documentation, as the Contractor has specifically produced or specifically acquired for the performance of such part of the Contract as has been terminated. Except as provided below, payment for completed work accepted by the Commonwealth shall be at the Contract price. Except as provided below, payment for partially completed work including, where applicable, reports and working papers, delivered to and accepted by the Commonwealth shall be in an amount agreed upon by the Contractor and Contracting Officer. The Commonwealth may withhold from amounts otherwise due the Contractor for such completed or partially completed works, such sum as the Contracting Officer determines to be necessary to protect the Commonwealth against loss.

d. The rights and remedies of the Commonwealth provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

e. The Commonwealth's failure to exercise any rights or remedies provided in this paragraph shall not be construed to be a waiver by the Commonwealth of its rights and remedies in regard to the event of default or any succeeding event of default.

f. Following exhaustion of the Contractor's administrative remedies as set forth in Paragraph 19, the Contractor's exclusive remedy shall be to seek damages in the Board of Claims.

17. FORCE MAJEURE

Neither party will incur any liability to the other if its performance of any obligation under this Contract is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but aren't limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, severe weather conditions, civil disorders, natural disasters, fire, epidemics and quarantines, general strikes throughout the trade, and freight embargoes.

The Contractor shall notify the Commonwealth orally within five (5) days and in writing within ten (10) days of the date on which the Contractor becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the contract is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The Contractor shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the Commonwealth may reasonably request. After receipt of such notification, the Commonwealth may elect either to cancel the Contract or to extend the time for performance as reasonably necessary to compensate for the Contractor's delay.

In the event of a declared emergency by competent governmental authorities, the Commonwealth by notice to the Contractor, may suspend all or a portion of the Contract.

18. TERMINATION PROVISIONS

The Commonwealth has the right to terminate this Contract for any of the following reasons. Termination shall be effective upon written notice to the Contractor.

a. **TERMINATION FOR CONVENIENCE:** The Commonwealth shall have the right to terminate the Contract for its convenience if the Commonwealth determines termination to be in its best interest. The Contractor shall be paid for work satisfactorily completed prior to the effective date of the termination, but in no event shall the Contractor be entitled to recover loss of profits.

b. **NON-APPROPRIATION:** The Commonwealth's obligation to make payments during any Commonwealth fiscal year succeeding the current fiscal year shall be subject to availability and appropriation of funds. When funds (state and/or federal) are not

appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the Commonwealth shall have the right to terminate the contract. The contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the supplies or services delivered under this contract. Such reimbursement shall not include loss of profit, loss of use of money, or administrative or overhead costs. The reimbursement amount may be paid for any appropriations available for that purpose

c. **TERMINATION FOR CAUSE:** The Commonwealth shall have the right to terminate the Contract for Contractor default under Paragraph 16, Default, upon written notice to the Contractor. The Commonwealth shall also have the right, upon written notice to the Contractor, to terminate the Contract for other cause as specified in this Contract or by law. If it is later determined that the Commonwealth erred in terminating the Contract for cause, then, at the Commonwealth's discretion, the Contract shall be deemed to have been terminated for convenience under the Subparagraph 18.a.

19. **CONTRACT CONTROVERSIES**

a. In the event of a controversy or claim arising from the Contract, the Contractor must, within six months after the cause of action accrues, file a written claim with the contracting officer for a determination. The claim shall state all grounds upon which the Contractor asserts a controversy exists. If the Contractor fails to file a claim or files an untimely claim, the Contractor is deemed to have waived its right to assert a claim in any forum.

b. The contracting officer shall review timely-filed claims and issue a final determination, in writing, regarding the claim. The final determination shall be issued within 120 days of the receipt of the claim, unless extended by consent of the contracting officer and the Contractor. The contracting officer shall send his/her written determination to the Contractor. If the contracting officer fails to issue a final determination within the 120 days (unless extended by consent of the parties), the claim shall be deemed denied. The contracting officer's determination shall be the final order of the purchasing agency.

c. Within fifteen (15) days of the mailing date of the determination denying a claim or within 135 days of filing a claim if, no extension is agreed to by the parties, whichever occurs first, the Contractor may file a statement of claim with the Commonwealth Board of Claims. Pending a final judicial resolution of a controversy or claim, the Contractor shall proceed diligently with the performance of the Contract in a manner consistent with the determination of the contracting officer and the Commonwealth shall compensate the Contractor pursuant to the terms of the Contract.

20. **ASSIGNABILITY AND SUBCONTRACTING**

a. Subject to the terms and conditions of this Paragraph 20, this Contract shall be binding upon the parties and their respective successors and assigns.

b. The Contractor shall not subcontract with any person or entity to perform all or any part of the work to be performed under this Contract without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

c. The Contractor may not assign, in whole or in part, this Contract or its rights, duties, obligations, or responsibilities hereunder without the prior written consent of the Contracting Officer, which consent may be withheld at the sole and absolute discretion of the Contracting Officer.

d. Notwithstanding the foregoing, the Contractor may, without the consent of the Contracting Officer, assign its rights to payment to be received under the Contract, provided that the Contractor provides written notice of such assignment to the Contracting Officer together with a written acknowledgement from the assignee that any such payments are subject to all of the terms and conditions of this Contract.

e. For the purposes of this Contract, the term "assign" shall include, but shall not be limited to, the sale, gift, assignment, pledge, or other transfer of any ownership interest in the Contractor provided, however, that the term shall not apply to the sale or other transfer of

stock of a publicly traded company.

f. Any assignment consented to by the Contracting Officer shall be evidenced by a written assignment agreement executed by the Contractor and its assignee in which the assignee agrees to be legally bound by all of the terms and conditions of the Contract and to assume the duties, obligations, and responsibilities being assigned.

g. A change of name by the Contractor, following which the Contractor's federal identification number remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the Contracting Officer written notice of any such change of name.

21. NONDISCRIMINATION/SEXUAL HARASSMENT CLAUSE

During the term of the Contract, the Contractor agrees as follows:

a. In the hiring of any employee(s) for the manufacture of supplies, performance of work, or any other activity required under the contract or any subcontract, the Contractor, each subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not, by reason of gender, race, creed, or color, discriminate against any citizen of this commonwealth who is qualified and available to perform the work to which the employment relates.

b. Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the contract on account of gender, race, creed, or color.

c. The Contractor and each subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.

d. The Contractor and each subcontractor shall not discriminate by reason of gender, race, creed, or color against any subcontractor or supplier who is qualified to perform the work to which the contract relates.

e. The Contractor and each subcontractor shall, within the time periods requested by the commonwealth, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the contracting agency and the Bureau of Minority and Women Business Opportunities (BMWBO), for purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause. Within fifteen (15) days after award of any contract, the Contractor shall be required to complete, sign and submit Form STD-21, the "Initial Contract Compliance Data" form. If the contract is a construction contract, then the Contractor shall be required to complete, sign and submit Form STD-28, the "Monthly Contract Compliance Report for Construction Contractors", each month no later than the 15th of the month following the reporting period beginning with the initial job conference and continuing through the completion of the project. Those contractors who have fewer than five employees or whose employees are all from the same family or who have completed the Form STD-21 within the past 12 months may, within the 15 days, request an exemption from the Form STD-21 submission requirement from the contracting agency.

f. The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment Clause in every subcontract so that those provisions applicable to subcontractors will be binding upon each subcontractor.

g. The commonwealth may cancel or terminate the contract and all money due or to become due under the contract may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment Clause. In addition, the agency may proceed with debarment or suspension and may place the Contractor in the Contractor Responsibility File.

22. CONTRACTOR INTEGRITY PROVISIONS

It is essential that those who seek to contract with the Commonwealth observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Commonwealth procurement process. In furtherance of this policy, Contractor agrees to the following:

a. Contractor shall maintain the highest standards of honesty and integrity during the performance of this contract and shall take no action in violation of state or federal laws or regulations or any other

applicable laws or regulations, or other requirements applicable to Contractor or that govern contracting with the Commonwealth.

b. Contractor shall establish and implement a written business integrity policy, which includes, at a minimum, the requirements of these provisions as they relate to Contractor employee activity with the Commonwealth and Commonwealth employees, and which is distributed and made known to all Contractor employees.

c. Contractor, its affiliates, agents and employees shall not influence, or attempt to influence, any Commonwealth employee to breach the standards of ethical conduct for Commonwealth employees set forth in the *Public Official and Employees Ethics Act, 65 Pa.C.S. §§1101 et seq.*; the *State Adverse Interest Act, 71 P.S. §776.1 et seq.*; and the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.*, or to breach any other state or federal law or regulation.

d. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person at the direction or request of any Commonwealth official or employee.

e. Contractor, its affiliates, agents and employees shall not offer, give, or agree or promise to give any gratuity to a Commonwealth official or employee or to any other person, the acceptance of which would violate the *Governor's Code of Conduct, Executive Order 1980-18, 4 Pa. Code §7.151 et seq.* or any statute, regulation, statement of policy, management directive or any other published standard of the Commonwealth.

f. Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty by any Commonwealth official or employee.

g. Contractor, its affiliates, agents, employees, or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract.

h. Contractor shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Contractor's financial interest prior to Commonwealth execution of the contract. Contractor shall disclose the financial interest to the Commonwealth at the time of bid or proposal submission, or if no bids or proposals are solicited, no later than Contractor's submission of the contract signed by Contractor.

i. Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data, or records provided to, or prepared by, Contractor under this contract without the prior written approval of the Commonwealth, except as required by the *Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104*, or other applicable law or as otherwise provided in this contract. Any information, documents, reports, data, or records secured by Contractor from the Commonwealth or a third party in connection with the performance of this contract shall be kept confidential unless disclosure of such information is:

1) Approved in writing by the Commonwealth prior to its disclosure; or

2) Directed by a court or other tribunal of competent jurisdiction unless the contract requires prior Commonwealth approval; or

3) Required for compliance with federal or state securities laws or the requirements of national securities exchanges; or

4) Necessary for purposes of Contractor's internal assessment and review; or

5) Deemed necessary by Contractor in any action to enforce the provisions of this contract or to defend or prosecute claims by or against parties other than the Commonwealth; or

6) Permitted by the valid authorization of a third party to whom the information, documents, reports, data, or records pertain: or

7) Otherwise required by law.

j. Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has been officially notified of, charged with, or convicted of any of the following and agrees to immediately notify the Commonwealth agency contracting officer in writing if and when it or any officer, director, associate, partner, limited partner or individual owner has been officially notified of, charged with, convicted of, or officially notified of a governmental determination of any of the following:

1) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

2) Commission of fraud or a criminal offense or other improper conduct or knowledge of, approval of or acquiescence in such activities by Contractor or any affiliate, officer, director, associate, partner, limited partner, individual owner, or employee or other individual or entity associated with:

   a) obtaining;

   b) attempting to obtain; or

   c) performing a public contract or subcontract.

   Contractor's acceptance of the benefits derived from the conduct shall be deemed evidence of such knowledge, approval or acquiescence.

3) Violation of federal or state antitrust statutes.

4) Violation of any federal or state law regulating campaign contributions.

5) Violation of any federal or state environmental law

6) Violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards; discrimination in wages; or child labor violations.

7) Violation of the *Act of June 2, 1915 (P.L.736, No. 338)*, known as the *Workers' Compensation Act,* 77 P.S. 1 *et seq.*

8) Violation of any federal or state law prohibiting discrimination in employment.

9) Debarment by any agency or department of the federal government or by any other state.

10) Any other crime involving moral turpitude or business honesty or integrity.

Contractor acknowledges that the Commonwealth may, in its sole discretion, terminate the contract for cause upon such notification or when the Commonwealth otherwise learns that Contractor has been officially notified, charged, or convicted.

k. If this contract was awarded to Contractor on a non-bid basis, Contractor must, (as required by *Section 1641* of the *Pennsylvania Election Code*) file a report of political contributions with the Secretary of the Commonwealth on or before February 15 of the next calendar year. The report must include an itemized list of all political contributions known to Contractor by virtue of the knowledge possessed by every officer, director, associate, partner, limited partner, or individual owner that has been made by:

1) Any officer, director, associate, partner, limited partner, individual owner or members of the immediate family when the contributions exceed an aggregate of one thousand dollars ($1,000) by any individual during the preceding year; or

2) Any employee or members of his immediate family whose political contribution exceeded one thousand dollars ($1,000) during the preceding year.

To obtain a copy of the reporting form, Contractor shall contact the Bureau of Commissions, Elections and Legislation, Division of Campaign Finance and Lobbying Disclosure, Room 210, North Office Building, Harrisburg, PA 17120.

l. Contractor shall comply with requirements of the *Lobbying Disclosure Act, 65 Pa.C.S. § 13A01 et seq.*, and the regulations promulgated pursuant to that law. Contractor employee activities prior to or outside of formal Commonwealth procurement communication protocol are considered lobbying and subjects the Contractor employees to the registration and reporting requirements of the law. Actions by outside lobbyists on Contractor's behalf, no matter the procurement stage, are not exempt and

must be reported.

m. When Contractor has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or in these provisions has occurred or may occur, including but not limited to contact by a Commonwealth officer or employee which, if acted upon, would violate such ethical standards, Contractor shall immediately notify the Commonwealth contracting officer or Commonwealth Inspector General in writing.

n. Contractor, by submission of its bid or proposal and/or execution of this contract and by the submission of any bills, invoices or requests for payment pursuant to the contract, certifies and represents that it has not violated any of these contractor integrity provisions in connection with the submission of the bid or proposal, during any contract negotiations or during the term of the contract.

o. Contractor shall cooperate with the Office of Inspector General in its investigation of any alleged Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the inquiry or request of the Office of Inspector General, shall provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract.

p. For violation of any of these Contractor Integrity Provisions, the Commonwealth may terminate this and any other contract with Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred in obtaining another contractor to complete performance under this contract, and debar and suspend Contractor from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.

q. For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this Paragraph.

1) "Confidential information" means information that a) is not already in the public domain; b) is not available to the public upon request; c) is not or does not become generally known to Contractor from a third party without an obligation to maintain its confidentiality; d) has not become generally known to the public through a act or omission of Contractor; or e) has not been independently developed by Contractor without the use of confidential information of the Commonwealth.
2) "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the Commonwealth shall be deemed to have consented by virtue of execution of this contract.
3) "Contractor" means the individual or entity that has entered into this contract with the Commonwealth, including those directors, officers, partners, managers, and owners having more than a five percent interest in Contractor.
4) "Financial interest" means:
   (a) Ownership of more than a five percent interest in any business; or
   (b) Holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
5) "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the *Governor's Code of Conduct, Executive Order 1980-18*, the *4 Pa. Code §7.153(b)*, shall apply.
6) "Immediate family" means a spouse and any unemancipated child.
7) "Non-bid basis" means a contract awarded or executed by the Commonwealth with Contractor without seeking bids or proposals from any other potential bidder or offeror.
8) "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action

committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

23. CONTRACTOR RESPONSIBILITY PROVISIONS

a. The Contractor certifies, for itself and all its subcontractors, that as of the date of its execution of this Bid/Contract, that neither the Contractor, nor any subcontractors, nor any suppliers are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot so certify, then it agrees to submit, along with its Bid, a written explanation of why such certification cannot be made.

b. The Contractor also certifies, that as of the date of its execution of this Bid/Contract, it has no tax liabilities or other Commonwealth obligations.

c. The Contractor's obligations pursuant to these provisions are ongoing from and after the effective date of the contract through the termination date thereof. Accordingly, the Contractor shall have an obligation to inform the Commonwealth if, at any time during the term of the Contract, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or any of its subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. Such notification shall be made within 15 days of the date of suspension or debarment.

d. The failure of the Contractor to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government shall constitute an event of default of the Contract with the Commonwealth.

e. The Contractor agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for Investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the Commonwealth, which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.

f. The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by either searching the internet at **htfp://www.dgs.state.pa.us** or contacting the:

Department of General Services
Office of Chief Counsel
603 North Office Building
Harrisburg, PA 17125
Telephone No. (717) 783-6472
FAX No. (717) 787-9138

24. AMERICANS WITH DISABILITIES ACT

a. Pursuant to federal regulations promulgated under the authority of The Americans With Disabilities Act, 28 C.F.R. § 35.101 et seq., the Contractor understands and agrees that it shall not cause any individual with a disability to be excluded from participation in this Contract or from activities provided for under this Contract on the basis of the disability. As a condition of accepting this contract, the Contractor agrees to comply with the "General Prohibitions Against Discrimination," 28 C.F.R. § 35.130, and all other regulations promulgated under Title II of The Americans With Disabilities Act which are applicable to all benefits, services, programs, and activities provided by the Commonwealth of Pennsylvania through contracts with outside contractors.

b. The Contractor shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against the Commonwealth of Pennsylvania as a result of the Contractor's failure to comply with the provisions of subparagraph a above.

25. HAZARDOUS SUBSTANCES

The Contractor shall provide information to the Commonwealth about the identity and hazards of hazardous substances supplied or used by the Contractor in the performance of the Contract. The Contractor must comply with Act 159 of October 5, 1984, known as the "Worker and Community Right to Know Act" (the "Act") and the regulations promulgated pursuant thereto at 4 Pa. Code Section 301.1 et seq.

a. Labeling. The Contractor shall insure that each individual product (as well as the carton, container or package in which the product is shipped) of any of the following substances (as defined by the Act and the regulations) supplied by the Contractor is clearly labeled, tagged or marked with the information listed in Paragraph (1) through (4):

1) Hazardous substances:

a) The chemical name or common name,

b) A hazard warning, and

c) The name, address, and telephone number of the manufacturer.

2) Hazardous mixtures:

a) The common name, but if none exists, then the trade name,

b) The chemical or common name of special hazardous substances comprising .01% or more of the mixture,

c) The chemical or common name of hazardous substances consisting 1.0% or more of the mixture,

d) A hazard warning, and

e) The name, address, and telephone number of the manufacturer.

3) Single chemicals:

a) The chemical name or the common name,A hazard warning, if appropriate, and

b) The name, address, and telephone number of the manufacturer.

4) Chemical Mixtures:

a) The common name, but if none exists, then the trade name,

b) A hazard warning, if appropriate,

c) The name, address, and telephone number of the manufacturer, and

d) The chemical name or common name of either the top five substances by volume or those substances consisting of 5.0% or more of the mixture.

A common name or trade name may be used only if the use of the name more easily or readily identifies the true nature of the hazardous substance, hazardous mixture, single chemical, or mixture involved.

Container labels shall provide a warning as to the specific nature of the hazard arising from the substance in the container.

The hazard warning shall be given in conformity with one of the nationally recognized and accepted systems of providing warnings, and hazard warnings shall be consistent with one or more of the recognized systems throughout the workplace. Examples are:

- NFPA 704, Identification of the Fire Hazards of Materials.

- National Paint and Coatings Association: Hazardous Materials Identification System.

- American Society for Testing and Materials, Safety Alert Pictorial Chart.

- American National Standard Institute, Inc., for the Precautionary Labeling of Hazardous Industrial Chemicals.

Labels must be legible and prominently affixed to and displayed on the product and the carton, container, or package so that employees can easily identify the substance or mixture present therein.

b. Material Safety Data Sheet. The contractor shall provide Material Safety Data Sheets (MSDS) with the information required by the Act and the regulations for each hazardous substance or hazardous mixture. The Commonwealth must be provided an appropriate MSDS with the initial shipment and with the first shipment after an MSDS is updated or product changed. For any other chemical, the contractor shall provide an appropriate MSDS, if the manufacturer, importer, or supplier produces or possesses the MSDS. The contractor shall also notify the Commonwealth when a substance or mixture is subject to the provisions of the Act. Material Safety Data Sheets may be attached to the carton, container, or package mailed to the Commonwealth at the time of shipment.

26. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except 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 warranty, the Commonwealth shall have the right to terminate the Contract without liability or in its discretion to

deduct from the Contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

27. APPLICABLE LAW

This Contract shall be governed by and interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania, waiving any claim or defense that such forum is not convenient or proper. The Contractor agrees that any such court shall have in personam jurisdiction over it, and consents to service of process in any manner authorized by Pennsylvania law.

28. INTEGRATION

The Contract, including all referenced documents, constitutes the entire agreement between the parties. No agent, representative, employee or officer of either the Commonwealth or the Contractor has authority to make, or has made, any statement, agreement or representation, oral or written, in connection with the Contract, which in any way can be deemed to modify, add to or detract from, or otherwise change or alter its terms and conditions. No negotiations between the parties, nor any custom or usage, shall be permitted to modify or contradict any of the terms and conditions of the Contract. No modifications, alterations, changes, or waiver to the Contract or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both parties. All such amendments will be made using the appropriate Commonwealth form.

29. CHANGE ORDERS

The Commonwealth reserves the right to issue change orders at any time during the term of the Contract or any renewals or extensions thereof: 1) to increase or decrease the quantities resulting from variations between any estimated quantities in the Contract and actual quantities; 2) to make changes to the services within the scope of the Contract; 3) to notify the Contractor that the Commonwealth is exercising any Contract renewal or extension option; or 4) to modify the time of performance that does not alter the scope of the Contract to extend the completion date beyond the Expiration Date of the Contract or any renewals or extensions thereof. Any such change order shall be in writing signed by the Contracting Officer. The change order shall be effective as of the date appearing on

the change order, unless the change order specifies a later effective date. Such increases, decreases, changes, or modifications will not invalidate the Contract, nor, if performance security is being furnished in conjunction with the Contract, release the security obligation. The Contractor agrees to provide the service in accordance with the change order. Any dispute by the Contractor in regard to the performance required under any change order shall be handled through Paragraph 19, "Contract Controversies".

For purposes of this Contract, "change order" is defined as a written order signed by the Contracting Officer directing the Contractor to make changes authorized under this clause.

30. **RIGHT TO KNOW LAW 8-K-1532**

a. The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this Contract. For the purpose of these provisions, the term "the Commonwealth" shall refer to the contracting Commonwealth agency.

b. If the Commonwealth needs the Contractor's assistance in any matter arising out of the RTKL related to this Contract, it shall notify the Contractor using the legal contact information provided in this Contract. The Contractor, at any time, may designate a different contact for such purpose upon reasonable prior written notice to the Commonwealth.

c. Upon written notification from the Commonwealth that it requires the Contractor's assistance in responding to a request under the RTKL for information related to this Contract that may be in the Contractor's possession, constituting, or alleged to constitute, a public record in accordance with the RTKL ("Requested Information"), the Contractor shall:

1. Provide the Commonwealth, within ten (10) calendar days after receipt of written notification, access to, and copies of, any document or information in the Contractor's possession arising out of this Contract that the Commonwealth reasonably believes is Requested Information and may be a public record under the RTKL; and

2. Provide such other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this Contract.

d. If the Contractor considers the Requested Information to include a request for a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Contractor must notify the Commonwealth and provide, within seven (7) calendar days of receiving the written notification, a written statement signed by a representative of the Contractor explaining why the requested material is exempt from public disclosure under the RTKL.

e. The Commonwealth will rely upon the written statement from the Contractor in denying a RTKL request for the Requested Information unless the Commonwealth determines that the Requested Information is clearly not protected from disclosure under the RTKL. Should the Commonwealth determine that the Requested Information is clearly not exempt from disclosure, the Contractor shall provide the Requested Information within five (5) business days of receipt of written notification of the Commonwealth's determination.

f If the Contractor fails to provide the Requested Information within the time period required by these provisions, the Contractor shall indemnify and hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth.

g. The Commonwealth will reimburse the Contractor for any costs associated with complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL if the fee schedule is inapplicable.

h. The Contractor may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Contractor shall indemnify the Commonwealth for any legal expenses incurred by the Commonwealth as a result of such a challenge and shall hold the Commonwealth harmless for any damages, penalties, costs, detriment or harm that the Commonwealth may incur as a result of the Contractor's failure, including any statutory damages assessed against the Commonwealth, regardless of the outcome of such legal challenge. As between the parties, the Contractor agrees to waive all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the

RTKL.

i. The Contractor's duties relating to the RTKL are continuing duties that survive the expiration of this Contract and shall continue as long as the Contractor has Requested Information in its possession.

Payment

a. The Commonwealth will make contract payments through the Automated Clearing House (ACH) Network. Within 10 days of award of the contract or purchase order, the contractor must submit or must have already submitted its ACH information within its user profile in the Commonwealth's procurement system (SRM). At the time of submitting ACH information, the contractor will also be able to enroll to receive remittances via electronic addenda.

b. The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the Commonwealth of Pennsylvania's ACH remittance advice to enable the contractor to properly apply the state agency's payment to the invoice submitted.

c. It is the responsibility of the contractor to ensure that the ACH information contained in SRM is accurate and complete. Failure to maintain accurate and complete information may result in delays in payments.

EXHIBIT A-1
CONSTRUCTION PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All construction products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Construction Products	Material	% of Post-Consumer Materials	% of Total Recovered Materials
Structural Fiberboard	Recovered Materials	-	80
Laminated Paperboard	Post-consumer Paper	100	-
Rock Wool Insulation	Slag	-	75
Fiberglass Insulation	Glass Cullet	-	20
Cellulose Insulation (loose-fill and spray-on)	Post-consumer Paper	75	-
Perlite Composite Board Insulation	Post-consumer Paper	23	-
Plastic Rigid Foam, Polyisocyanurate/ Polyurethane: Rigid Foam Insulation	Recovered Material	-	9
Foam-in-Place Insulation	Recovered Material	-	5
Glass Fiber Reinforced Insulation	Recovered Material	-	6
Phenolic Rigid Foam Insulation	Recovered Material	-	5
Floor Tiles (heavy duty/commercial use)	Rubber Plastic	90 -	- 90
Patio Blocks	Rubber or Rubber Blends Plastic or Plastic Blends	90 -	- 90
Polyester Carpet Fiber Face	Polyethylene terephthalate (PET) resin	25	-
Latex Paint: --Consolidated[1] --Reprocessed[2] -----White, Off-White, Pastel Colors -----Grey; Brown, Earthtones, and Other Dark Colors	Recovered Material Recovered Material Recovered Material	100 20 50	- - -
Shower and Restroom Dividers/Partitions:	Plastic Steel[4]	20 16 67	- 9 33
Carpet Cushion: --Bonded Polyurethane --Jute --Synthetic Fibers --Rubber	Old Carpet Cushion Burlap Carpet Fabrication Scrap Tire Rubber	15 40 - 60	- - 100 -
Railroad Grade Crossing Surfaces --Concrete --Rubber[3] --Steel[4]	Coal Fly Ash Tire Rubber Steel	- - 16 67	15 85 9 33

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed it life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

[1] Consolidated latex paint used for covering graffiti, where color and consistency of performance are not primary concerns.
[2] Reprocessed latex paint used for interior and exterior architectural applications such as wallboard, ceiling, and trim; gutterboards; and concrete, stucco, masonry, wood, and metal surfaces.

[3] The recommended recovered materials content for rubber railroad grade crossing surfaces are based on the weight of the raw materials, exclusive of any additives such as binders or additives
[4] The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

(B) BIDDER'S CERTIFICATION

Bidder certifies that the construction product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the construction product(s), to provide the Commonwealth with documentary evidence that the construction product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-2
VEHICULAR PRODUCTS
RECYCLED CONTENT

(A) REQUIREMENT

All vehicular products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Vehicular Product	Requirements
Re-Refined Oil	25% re-refined oil base stock for engine lubricating oils, hydraulic fluids, and gear oils.

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed its life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

"Re-refined oil" is oil that is manufactured with a minimum of twenty-five percent basestock made from used oil that has been recovered and processed to make it reusable as oil. Once the oil has been refined, no difference can be detected between re-refined and virgin oil.

(B) BIDDER'S CERTIFICATION

Bidder certifies that the vehicular product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE REFERENCED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the vehicular product(s), to provide the Commonwealth with documentary evidence that the vehicular product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-3
PAPER PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All paper offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth must contain the minimum percentage of post-consumer content as shown below for the applicable products:

Item	Notes	Post-Consumer Content (%)
Printing and Writing Papers		
Reprographic	Business papers such as bond, electrostatic, copy, mimeo, duplicator and reproduction	30
Offset	Used for book publishing, commercial printing, direct mail, technical documents, and manuals	30
Tablet	Office paper such as note pads and notebooks	30
Forms bond	Bond type papers used for business forms such as continuous, cash register, sales book, unit sets, and computer printout, excluding carbonless	30
Envelope	Wove Kraft, white and colored (including manila) Kraft, unbleached Excludes custom envelopes	30 10 10
Cotton fiber	High-quality papers used for stationery, invitations, currency, ledgers, maps, and other specialty items	30
Text and cover	Premium papers used for cover stock, books, and stationery and matching envelopes	30
Supercalendered	Groundwood paper used for advertising and mail order inserts, catalogs, and some magazines	10
Machine finished groundwood	Groundwood paper used in magazines and catalogs	10
Papeteries	Used for invitations and greeting cards	30
Check safety	Used in the manufacture of commercial and government checks	10
Coated	Used for annual reports, posters, brochures, and magazines. Have gloss, dull, or matte finishes	10
Carbonless	Used for multiple-impact copy forms	30
File folders	Manila or colored	30
Dyed filing products	Used for multicolored hanging folders and wallet files	20
Index and card stock	Used for index cards and postcards	20
Pressboard	High-strength paperboard used in binders and report covers	20
Tags and tickets	Used for toll and lottery tickets, licenses, and	20

	identification and tabulating cards	
Newsprint		
Newsprint	Groundwood paper used in newspapers	20
Commercial Sanitary Tissue Products		
Bathroom tissue	Used in rolls or sheets	20
Paper towels	Used in rolls or sheets	40
Paper napkins	Used in food service applications	30
Facial tissue	Used for personal care	10
General-purpose industrial wipers	Used in cleaning and wiping applications	40
Paperboard and Packaging Products		
Corrugated containers (<300 psi) (300 psi)	Used for packaging and shipping a variety of goods	 25 25
Solid fiber boxes	Used for specialized packaging needs such as dynamite packaging and army ration boxes	40
Folding cartons	Used to package a wide variety of foods, household products, cosmetics, pharmaceuticals, detergent, and hardware	40
Industrial paperboard	Used to create tubes, cores, cans and drums	45
Miscellaneous	Includes "chipboard" pad backings, book covers, covered binders, mailing tubes, game boards, and puzzles	75
Padded mailers	Made from kraft paper that is usually brown but can be bleached white	5
Carrierboard	A type of folding carton designed for multipack beverage cartons	10
Brown papers	Used for bags and wrapping paper	5
Miscellaneous Paper Products		
Tray liners	Used to line food service trays. Often contain printed information.	50

"Post-consumer" content is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed it life as a consumer item. Post-consumer content is part of the broader category of recovered material."

The Commonwealth of Pennsylvania recognizes that paper products are universally made with scrap material recovered from the manufacturing process; use of such materials is a standard practice, both efficient and economical for the paper maker; therefore, bidders of paper products need not certify that their products are made with "pre-consumer," "recovered," or "secondary" paper fiber.

(B) BIDDER'S CERTIFICATION

Bidder certifies that the paper product(s) which the bidder is offering contains the required minimum percentage of post-consumer content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidders Certification in Subsection (B), a mill certification must be completed and signed by the mill before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the paper product(s), to provide the Commonwealth with documentary evidence that the paper product(s) were in fact produced with the required minimum percentage of post-consumer content.

EXHIBIT A-4
LANDSCAPING PRODUCTS
RECYCLED CONTENT

(A) REQUIREMENT

All landscaping products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth must contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Landscaping Products	Recovered Material Content
Hydraulic Mulch: ------Paper ------Wood/Paper	 100% (post-consumer) 100% (total)
Compost Made From Yard Trimmings and/or Food Waste	Purchase or use compost made from yard trimmings, leaves, grass clippings and/or food wastes for applications such as landscaping, seeding of grass or other plants, as nutritious mulch under trees and shrubs, and in erosion control and soil reclamation. DGS further recommends implementing a composting system for these materials when agencies have an adequate volume and sufficient space.
Garden Hose: ------Rubber and/or Plastic Soaker Hose: ------Rubber and/or Plastic	 60% (post-consumer) 60% (post-consumer)
Lawn and Garden Edging: ------Rubber and/or Plastic	 30% (post-consumer)/30-100% (total)
Landscaping Timber and Posts: ------HDPE ------Mixed Plastics/Sawdust ------HDPE/Fiberglass ------Other mixed Resins	 25% (post-consumer) + 50% (recovered) 50% (post-consumer) + 50% (recovered) 75% (post-consumer) + 20% (recovered) 50% (post-consumer) + 45% (recovered)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed it life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) BIDDER'S CERTIFICATION

Bidder certifies that the landscaping product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the landscaping product(s), to provide the Commonwealth with documentary evidence that the landscaping product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-5
MISCELLANEOUS PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All miscellaneous products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Miscellaneous Products	Recovered Material Content
Awards and Plaques	
----------Glass	75% (post-consumer) + 25% (recovered)
----------Wood	100% (total)
----------Paper	40% (post-consumer)
----------Plastic and Plastic/Wood Composites	50% (post-consumer) + 45% (recovered)
Industrial Drums	
----------Steel[1]	16% (post-consumer) + 9% (recovered)
----------Plastic (HDPE)	30% (post-consumer)
----------Fiber (paper)	100% (post-consumer)
Mats	
---------Rubber	75% (post-consumer) +10% (recovered)
---------Plastic	10% (post-consumer) + 90% (recovered)
---------Rubber/Plastic Composite	100% (post-consumer)
Pallets	
---------Wood	95% (post-consumer)
---------Plastic	100% (post-consumer)
---------Thermoformed	25% (post-consumer)
---------Paperboard	50% (post-consumer)
Signage	
---------Plastic	80% (post-consumer)
---------Aluminum	25% (post-consumer)
---------Plastic Sign Posts/Supports	80% (post-consumer)
---------Steel Sign Posts/Supports[2]	16% (post-consumer) + 9% (recovered)
	67% (post-consumer) + 33% (recovered)
Sorbents	
---------Paper	90% (post-consumer) +10% (recovered)
---------Textiles	95% (post-consumer)
---------Plastics	25% (total)
---------Wood[3]	100% (total)
---------Other Organics/Multimaterials[4]	100% (total)
Manual-Grade Strapping	
----------Polyester	50% (post-consumer)
----------Polypropylene	10% (total)
----------Steel[2]	16% (post-consumer) +9% (recovered)
	67% (post-consumer) +33% (recovered)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed it life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

[1] Steel used in steel drums is manufactured using the Basic Oxygen Furnace (BOF) process, which contains 25-30% total recovered material, of which 16% is post-consumer steel. Steel used in manual-grade strapping is manufactured using either the BOF process or the Electric Arc Furnace (EAF) process, which contains 100% total recovered materials, of which 67% is post-consumer steel.

[2] The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured in either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

[3] "Wood" includes materials such as sawdust and lumber mill trimmings.

[4] Examples of other organics include, but are not limited to, peanut hulls and corn stover. An example of multimaterial sorbents would include, but not be limited to, a polymer and cellulose fiber combination.

[2] The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured in either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

(B) BIDDER'S CERTIFICATION

Bidder certifies that the miscellaneous product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the miscellaneous product(s), to provide the Commonwealth with documentary evidence that the miscellaneous product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-6
NONPAPER OFFICE PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All nonpaper office products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth **must** contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Nonpaper Office Product	Recovered Material Content
Recycling Containers and Waste Receptacles: ----------Plastic ----------Steel[1] ----------Paper ----------Corrugated ----------Solid Fiber Boxes ----------Industrial Paperboard	 20% (post-consumer) 16% (post-consumer) +9% (recovered) 25% (post-consumer) 40% (post-consumer) 40% (post-consumer) + 60% (recovered)
Plastic Desktop Accessories (polystyrene) including desk organizers, sorters, and trays, and memo, note, and pencil holders.	25% (post-consumer)
Binders: ----------Plastic-Covered ----------Paper-Covered ----------Pressboard ----------Solid Plastic ----------HDPE ----------PE ----------PET ----------Misc. Plastics	 25% 75% (post-consumer) +15% (recovered) 20% (post-consumer) + 30% (recovered) 90% (post-consumer) 30% (post-consumer) 100% (post-consumer) 80% (post-consumer)
Trash Bags (plastic)	10% (post-consumer)
Toner Cartridges	Return used toner cartridges for remanufacturing and reuse or purchase a remanufactured or recycled-content replacement cartridge.
Printer Ribbons	Procure printer ribbon reinking or reloading services or procure reinked or reloaded printer ribbons.
Plastic Envelopes	25% (post-consumer)
Plastic Clipboards: ----------HDPE ----------PS ----------Misc. Plastics	 90% (post-consumer) 50% (post-consumer) 15% (post-consumer)
Plastic File Folders ----------HDPE	 90% (post-consumer)
Plastic Clip Portfolios ----------HDPE	 90% (post-consumer)
Plastic Presentation Folders ----------HDPE	 90% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed it life as a consumer item. Post-consumer material is part of the broader category of recovered material."

[1] The recommended recovered materials content levels for steel in this table reflect the fact that the designated item is made from steel manufactured from in a Basic Oxygen Furnace (BOF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel.

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) BIDDER'S CERTIFICATION

Bidder certifies that the nonpaper office products which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) MANUFACTURER/MILL CERTIFICATION

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) ENFORCEMENT

Awarded bidders may be required, after delivery of the paper, to provide the Commonwealth with documentary evidence that the nonpaper office product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

EXHIBIT A-7
PARK & RECREATION PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All park and recreation products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth must contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Park & Recreation Product	Recovered Material Content[1]
Park Benches & Picnic Tables:	
-----Plastic[2]	90% (post-consumer) + 10% (recovered)
-----Plastic Composites	50% (post-consumer) + 50% (recovered)
-----Aluminum	25% (post-consumer)
-----Concrete	15% (total)
-----Steel[3]	16% (post-consumer) + 9% (recovered)
	67% (post-consumer) + 33% (recovered)
Plastic Fencing for Specified Uses[4]	60% (post-consumer) + 30% (recovered)
Playground Equipment	
-----Plastic[3]	90% (post-consumer) + 10% (recovered)
-----Plastic Composites	50% (post-consumer) + 45% (recovered)
-----Steel[4]	16% (post-consumer) + 9% (recovered)
	67% (post-consumer) + 33% (recovered)
-----Aluminum	25% (post-consumer)
Playground Surfaces:	
-----Plastic or Rubber	90% (post-consumer)
Running Tracks:	
-----Plastic or Rubber	90% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed it life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the park and recreational product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the park and recreational product(s), to provide the Commonwealth with documentary evidence that the park and recreational product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

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[1] The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

[2] "Plastic" includes both single and mixed plastic resins. Park benches and picnic tables made with recovered plastic may also contain other recovered materials such as sawdust, wood, or fiberglass. The percentage of these materials contained in the product would also count toward the recovered materials content level of the item.

[3] The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (AF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

[4] Designation includes fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications.

EXHIBIT A-8
TRANSPORTATION PRODUCTS
RECYCLED CONTENT

(A) **REQUIREMENT**

All transportation products offered by the bidder, or included in the final product offered by the bidder, and sold to the Commonwealth must contain the minimum percentage of post-consumer and recovered material content as shown below for the applicable products:

Transportation Products	Recovered Material Content[1]
Traffic Cones: -----Plastic (PVC and LDPE) -----Crumb Rubber	 50% (recovered) 50% (recovered)
Traffic Barricades (type I and II only): -----Plastic (HDPE, LDPE, PET) -----Steel[2] -----Fiberglass	 80% (post-consumer) + 20% (recovered) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered) 100% (recovered)
Parking Stops: -----Plastic and/or Rubber -----Concrete Containing Coal Fly Ash -----Concrete Containing Ground Granulated Blast Furnace Slag	 100% (recovered) 20% (recovered) 15% when used as a partial cement replacement as an admixture in concrete. 25% (recovered)
Traffic Control Devices: -----Channelizers: ---------Plastic ---------Rubber (base only) ------Delineators: ---------Plastic ---------Rubber (base only) ---------Steel (base only)[2] -----Flexible Delineators	 25% (post-consumer) 100% (post-consumer) 25% (post-consumer) 100% (post-consumer) 16% (post-consumer) + 9% (recovered) 67% (post-consumer) + 33% (recovered) 25% (post-consumer)

"Post-consumer" material is "material or finished product that has served its intended use and has been diverted or recovered from waste destined for disposal, having completed it life as a consumer item. Post-consumer material is part of the broader category of recovered material."

"Recovered Materials" refers to waste materials and by-products which have been recovered or diverted from solid waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process

(B) **BIDDER'S CERTIFICATION**

Bidder certifies that the transportation product(s) which the bidder is offering contains the required minimum percentage of post-consumer and recovered material content as shown above for the product.

(C) **MANUFACTURER/MILL CERTIFICATION**

In addition to the Bidders Certification in Subsection (B), a manufacturer certification must be completed and signed by the manufacturer before payment will be made to the successful bidder for the delivered items. The enclosed Manufacturer/Mill Certification form must be used. Bidders are not required to submit the completed and signed Manufacturer/Mill Certification form with their bids. **THE COMMONWEALTH SHALL HAVE NO OBLIGATION TO PAY FOR THE ITEM(S) UNTIL A PROPERLY COMPLETED AND SIGNED MANUFACTURER/MILL CERTIFICATION IS SUBMITTED FOR THE DELIVERED ITEM.**

(D) **ENFORCEMENT**

Awarded bidders may be required, after delivery of the transportation product(s), to provide the Commonwealth with documentary evidence that the transportation product(s) were in fact produced with the required minimum percentage of post-consumer and recovered material content.

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[1] Content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

[2] The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured from either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is post-consumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is post-consumer.

MANUFACTURER/MILL CERTIFICATION

(To be submitted with invoice for each order)

TO BE COMPLETED BY MANUFACTURER/MILL:

NAME OF MANUFACTURER/MILL: _____

ADDRESS OF MANUFACTURER/MILL: _____

FEDERAL EMPLOYER I.D. NO.: _____

CONTRACT OR REQUISITION NO. _____

NAME OF CONTRACTOR: _____

ADDRESS OF CONTRACTOR: _____

Type of product(s) which the manufacturer/mill furnished to the contractor: _____

_____

_____

CERTIFICATION: I, the undersigned officer of the above-named manufacturer/mill, do hereby certify that I am authorized to provide this certification on behalf of the above-named manufacturer/mill and that the type of product(s) listed above which my company furnished to the contractor named above for the referenced contract or purchase requisition, contained not less than _____% post-consumer materials and _____% recovered materials as those terms are defined in the invitation for bids. I understand that this document is subject to the provisions of the Unsworn Falsification of Authorities Act (18 P.S. Section 4904).

_____
Signature

_____
Name of Signatory

_____
Title Date

Article 9: DPW CONSTRUCTION ADDENDUM

CONTRACT SECURITY

For construction contracts between $25,000 and $100,000, Section 903 of the Commonwealth Procurement Code **requires** at least 50% performance security. Chapter 37 of the DGS Procurement Handbooks sets forth DGS policy. The amount of the performance security cannot be reduced except for small and disadvantaged businesses.

The Department of Public Welfare will award the contract to the lowest responsive and responsible bidder. Within ten (10) days of notification of award the bidder shall furnish the specified contract security or surety, as stipulated to follow:

a. Contracts between $25,000 and $100,000 shall be bonded for 50% of the awarded amount for performance only. Bid Bonds are not required. The bidder's performance security may be in the form of a certified check, cashiers check, certificate of deposit, an irrevocable letter of credit, or a performance bond issued by a surety authorized to do business in Pennsylvania. Security or bond shall remain in effect for a period of one year from the date of final acceptance of all work performed.

b. For contracts over $100,000, the Department will require two security bonds executed by a surety company authorized to do business in the Commonwealth and made payable to the Department as follows:

   Bid Bonds are not required.

   A performance bond in an amount equal to 100% of the contract price and conditioned upon the faithful performance of the contract.

   A payment bond in an amount equal to 100% of the contract price and conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the performance of the contract.

c. All bids or contract over $25,000 must include Labor and Industry Wage Rates (see Section 9, Page 32). If a project is awarded under $25,000 and is later amended by a Change Order to include additional value so that the contract exceeds the $25,000 limit, then prevailing wages shall be included in the amendments or change orders to include the entire contract amount.

INSURANCE

1. The Contractor shall accept full responsibility for the payment of premiums for Workers' Compensation, Unemployment Compensation, Social Security and all income tax deductions required by law for its employees who are performing services under this contract. Contractor shall provide insurance Policy Number and Provider Name or a copy of the policy with all renewals for the entire contract period.

2. The Contractor shall, at its expense, procure and maintain, during the term of the contract, the following types of insurance, issued by companies acceptable to the Department and authorized to conduct such business under the laws of the Commonwealth of Pennsylvania:

   a. Worker's Compensation Insurance for all of the Contractor's employees engaged in work at the site of the project as required by law. Contractor will require subcontractors hired to work at the site, if any, to maintain Worker's Compensation Insurance as required above.
   b. Public liability and property damage insurance to protect the Commonwealth, the Contractor and any and all subcontractors from claim for damages for personal injury (including bodily injury), sickness or disease, accidental death and damage to property, including loss of use resulting from any property damage, which may arise from the activities performed under this contract or the failure to perform under this contract whether such performance or nonperformance be by the contractor, by any subcontractor or by anyone directly or indirectly employed by either. The limits of such insurance shall be in an amount not less than $500,000 each person and $2,000,000 each occurrence, personal injury and property damage combined. Such policies shall be occurrence rather than claims-made policies and shall name the Commonwealth of Pennsylvania as an additional insured. The insurance shall not contain any endorsements or any other form designated to limit or restrict any action by the Commonwealth, as an additional insured, against the insurance coverage in regard to work performed for the Commonwealth.

Prior to commencement of the work under the contract and during the term of the contract, the Contractor shall provide the Department with current certificates of insurance. These certificates shall contain a provision that the coverages afforded under the policies will not be cancelled or changed until at least thirty (30) days' written notice has been given to the Department.

SITE VISIT PRIOR TO BIDDING

Project Site Visit (Article 12) is mandatory. Each prospective Contractor shall visit the project site and carefully note all existing conditions. Any additions or items noted during the site visit not clearly defined in the specifications or the drawings shall be brought to the attention of the Project Designer and Construction Manager. All prospective Contractors shall have the "Proof of Visit" form (See page 12-12) completed. The signed copy of the Proof of Visit form must be returned with the bid. The Contractor may not make any claims or demands based on variations between the project drawings and specifications and the scope of work or based on the conditions of the project when such variations and/or conditions are discoverable through a reasonable site inspection. Failure to do a site visit will result in disqualification of a bid.

DRAWINGS AND SPECIFICATIONS

Any drawings which accompany the specifications (Article 10 and Article 11) are herein designated Contract Documents and are for the purpose of illustrating the general character and extent of the work and are subject to such modifications as may be found necessary or advisable either before or during the period of the project and the Contractor shall conform to and abide by whatever supplementary drawings and interpretation or clarifications furnished by the Project Designer for the purpose of illustrating the Work. The Project Designer shall decide as to necessary or advisable modifications and the meaning or intention of any portion of the specifications and drawings where the same may be found obscure or in dispute. The Project Designer shall have the right to correct any errors or omissions therein.

When work is called for in the specifications, and not shown on the drawings, or is shown on the drawings but not covered in the specifications, such work shall be executed and furnished by the Contractor as though described in both. The Contractor agrees to perform such work and furnish such materials as if same were fully specified.

Figure dimensions shall govern in case of any discrepancy between scale and figures. In no case shall the Contractor measure by scaling the drawings. Where the work is indicated on the drawings or by half of the side or portion thereof, or has indications of continuation, the remainder being shown in outline, the drawn out work shall be understood as applying also to the other portions of the structure. Materials, finishes, and systems, where indicated on the drawings in certain cases by showing the starting of the detail, shall be considered as being repeated or continued throughout all the rooms or areas in which they occur in the Project.

FAMILIARITY WITH PROPOSED WORK

It is the responsibility of the Contractor, by careful personal examination, to satisfy himself as to the nature and location of Work, the character, quantity and quality of the materials that will be required. By careful examination of the Contract, the drawings, specifications, and all other documents and data pertaining to the project and being in accord therewith, the Contractor shall predetermine the nature of the work, and general and local conditions and all other matters that in any way affect the work under this contract. No verbal agreement or conversation with any officer, agent, or employee of the Department of Public Welfare or Facility, either before or after execution of this contract, shall affect or modify any of the terms or obligations herein contained. Failure to become familiar with the Contract requirements or to comply with any or all of the requirements of this paragraph shall not be permitted as a basis for any claims made by the Contractor, and he assumes all responsibility for the faithful performance of the provision of the Contract.

OTHER CONTRACTS

The Commonwealth reserves the right to award other contracts or to do concurrent work with Facility staff in connection with this project. This Contractor shall afford other contractors or employees of the Commonwealth reasonable opportunity for the introduction and storage of their materials and for the execution of their work. He shall coordinate his work with them and make such accommodations thereto as may be required.

ROYALTIES AND PATENTS

The Contractor shall pay all royalties and patent or license fees. It shall defend all suits or claims for infringement of any patent rights and shall save the Department harmless from loss on account thereof.

ADVERTISING

No advertising is permitted on any of the work area or adjacent area, except on the Contractor's vehicles and workmen, or as required by law or regulations governing the work area.

PREVAILING MINIMUM WAGE PREDETERMINATION

The Contractor is hereby notified that the Contract may be subject to the provisions, duties, obligations, remedies and penalties of the Pennsylvania Prevailing Wage Act, 43 P.S. Sections 165-1 et seq., which is incorporated herein by reference as if fully set forth herein. If compliance with said Pennsylvania Prevailing Wage Act is required, the Prevailing Minimum Wage Predetermination is attached and made part hereof as approved by the Secretary of Labor and Industry. The Contractor shall contact the Contracting Officer for clarification of any issues concerning wage rates. Prevailing Minimum Wage information can be found at www.dli.state.pa.us and going to Quick Links on the right side of the page.

If a specific job classification is not covered by the Prevailing Wage Predetermination, the Contractor may not pay individuals in that classification less than the lowest rate for laborers, as set out in the predetermination. Generally, projects under $25,000 do not require Wage Rate Determination.

STEEL PRODUCTS PROCUREMENT ACT (73 P.S. SECTION 1881)

In the performance of any contract awarded pursuant to this Invitation to Bid, the contractor, subcontractors, material men, or suppliers shall use only steel products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer, or other steel making process. Steel products include not only cast iron products, but also machinery and equipment listed in United States Department of Commerce Standard Industrial Classifications 25 (furniture and fixtures), 35 (machinery, except electrical), and 37 (transportation equipment), and made of fabricated form, or containing steel components. If a product contains both foreign and United States steel, it shall be determined to be a United States steel product only if at least 75% of the cost of the articles, materials, and supplies have been mined, produced, or manufactured, as the case may be, in the United States. Transportation equipment shall be determined to be a United States steel product only if it complies with Section 165 of Public Law 97-24 (96 Stat. 2136).

When unidentified steel products are supplied under a contract, before any payment will be made, the contractor must provide documentation including, but not limited to invoices, bills of lading, and mill certification that the steel was melted and manufactured in the United States. If a steel product is identifiable from its face, the contractor must submit certification that satisfies the using agency that the contractor has fully complied with this provision. The Department shall not provide for or make any payments to any person who has not complied with the Act. Any such payments made to any person by the Department, which should not have been made as a result of the Act, shall be recoverable directly from the contractor, subcontractor, manufacturer, or supplier who did not comply with the Act.

In addition to the withholding of payments, any person who willfully violates any of the provisions of the Act shall be prohibited from submitting any bids to any public agency for a period of five (5) years from the date of the determination that a violation has occurred. In the event the person who violates the provision of the Act is a subcontractor, manufacturer, or supplier, such person shall be prohibited from performing any work or supplying any materials to a public agency for a period of five (5) years from the date of the determination that a violation has occurred. The contractor shall include the provisions of the Steel Products Procurement Act in every subcontract and supply contract so that the provisions of the Act shall be binding upon each subcontractor and supplier.

TRADE PRACTICES ACT OF JULY 23, 1968, P.L. 686 (71 P.S. SECTION 773.101 ET SEQ)

The Contractor cannot and shall not use or permit to be used in the work any aluminum or steel products made in a foreign country that is listed below as a foreign country that discriminates against aluminum or steel products manufactured in Pennsylvania. The countries of Brazil, South Korea, Spain, and Argentina have been found to discriminate against certain products manufactured in Pennsylvania. Therefore, the purchase or use of those countries' products, as listed below, is not permitted.

- BRAZIL: welded carbon steel pipes and tubes; carbon steel wire rod; tool steel; certain stainless steel products including hot-rolled stainless steel bar; stainless steel wire rod and cold-formed stainless steel bar; pre-stressed concrete steel wire strand; hot-rolled carbon steel plate in coil; hot-rolled carbon steel sheet; and cold-rolled carbon steel sheet.

- SPAIN: certain stainless steel products including stainless steel rod, hot-rolled stainless steel bars, and cold-formed stainless steel bars; pre-stressed concrete steel wire strand; and certain steel products including hot-rolled steel plate, cold-rolled carbon steel plate, carbon steel structural shapes, galvanized carbon steel sheet, hot-rolled carbon steel bars, and cold-formed carbon steel bars.

- SOUTH KOREA: welded carbon steel pipes and tubes; hot-rolled carbon steel plate; hot-rolled carbon steel sheet; and galvanized steel sheet.

- ARGENTINA: carbon steel wire rod and cold-rolled carbon steel sheet.

Penalties for violation of this paragraph may be found in the Trade Practices Act, which penalties include becoming ineligible for public works contracts for a period of three (3) years.

NOTE: This provision in no way relieves the contractor of responsibility to comply with those provisions of this invitation to bid which prohibit the use of foreign-made steel and cast iron products.

PAYMENTS TO CONTRACTORS

Invoices shall be submitted in triplicate and contain the following information:

Project Number
Funds Commitment Number
Vendor ID Number
Dates of Service
Milestone or Project Completed

Contractor will be reimbursed only for services/materials actually accepted by the Department.

INFORMATION

During the period of this Contract, all information obtained by the Contractor through work on the project will be made available to the Department immediately upon demand. If requested, the Contractor shall deliver to the Department background material prepared or obtained by the Contractor incident to the performance of this agreement. Background material is defined as original work, papers, notes and drafts prepared by the Contractor to support the data and conclusions in final reports, and includes completed questionnaires, materials in electronic data processing form, computer programs, other printed materials, pamphlets, maps, drawings and all data directly related to the services being rendered.

CERTIFICATION AND LICENSING

Contractor agrees to obtain all licenses, certifications and permits from Federal, State and Local authorities permitting it to carry on its activities under this contract.

PROPERTY AND SUPPLIES

1. Contractor agrees to obtain all supplies and equipment for use in the performance of this Contract at the lowest practicable cost and to purchase by means of competitive bidding whenever required by law.

2. Title to all property furnished in-kind by the Department shall remain with the Department.

3. Contractor has title to all personal property acquired by the Contractor, including purchase by lease/purchase agreement, of which the Contractor is to be reimbursed under this Contract. Upon cancellation or termination of this Contract, disposition of such purchased personal property, which has a remaining useful life, shall be made in accordance with the following provisions.

   a. The Contractor and the Department may agree to transfer any item of such purchased property to another contractor designated by the Department. Cost of transportation shall be born by the contractor receiving the property and will be reimbursed by the Department. Title to all transferred property shall vest in the designated contractor. The Department will reimburse the Contractor for its share, if any, of the value of the remaining life of the property in the same manner as provided under sub clause b of this paragraph.

   b. If the Contractor wishes to retain any items of such purchased property, depreciation tables shall be used to ascertain the value of the remaining useful life of the property. The Contractor shall reimburse the Department in the amount determined from the tables.

   c. When authorized by the Department in writing, the contractor may sell the property and reimburse the Department for its share. The Department reserves the right to fix the minimum sale price it will accept.

4. All property furnished by the Department or personal property acquired by the Contractor, including purchase by lease-purchase contract, for which the Contractor is to be reimbursed under this contract shall be deemed "Department Property" for the purposes of subsection 5, 6 and 7 of this section.

5. Contractor shall maintain and administer in accordance with sound business practice a program for the maintenance, repair, protection, preservation and insurance of Department Property so as to assure its full availability and usefulness.

6. Department property shall, unless otherwise approved in writing by the Department, be used only for the performance of this contract.

7. In the event that the Contractor is indemnified, reimbursed or otherwise compensated for any loss, destruction or damage to Department Property, it shall use the proceeds to replace, repair or renovate the property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall reimburse the Department, at the Department's direction.

DISASTERS

If, during the terms of this contract, the Commonwealth's premises are so damaged by flood, fire or other Acts of God as to render them unfit for use; then the Department shall be under no liability or obligation to the contractor hereunder during the period of time there is no need for the services provided by the contractor except to render compensation which the contractor was entitled to under this agreement prior to such damage.

SUSPENSION OR DEBARMENT

In the event of suspension or debarment, 4 Pa Code Chapter 60.1 through 60.7, as it may be amended, shall apply.

COVENANT AGAINST CONTINGENT FEES

The Contractor warrants 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 warranty, the Department shall have the right to annul this contract without liability or, in its discretion, to deduct from the consideration otherwise due under the contract, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

CONTRACTOR'S CONFLICT OF INTEREST

The Contractor hereby assures that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further assures that in the performance of this contract, it will not knowingly employ any person having such interest. Contractor hereby certifies that no member of the Board of the Contractor or any of its officers or directors has such an adverse interest.

INTERESTS OF THE COMMONWEALTH AND OTHERS

No officer, member or employee of the Commonwealth and no member of its General Assembly, who exercises any functions or responsibilities under this Contract, shall participate or association in which he is, directly or indirectly, interested; nor shall any such officer, member or employee of the Commonwealth or member of its General Assembly have interest, direct or indirect, in this Contract or the proceeds thereof.

CONTRACTOR RESPONSIBILITY TO EMPLOY WELFARE CLIENTS

1. The successful Contractor, within 10 days of receiving the notice to proceed, shall contact the Employment Unit Coordinator in the County Assistance Office in the county where the Contractor delivers the service to present, for review and approval, Contractor's plan for recruiting and hiring of public assistance recipients for employment under this Contract. Contractors that provide services through the contract to more than one county shall present their plan for review and approval to the Central Office of Employment and Training. Such plan shall be submitted on Form PA 778. A copy of the contractor's approved plan shall be returned with 30 days of notice to proceed to the initiating office/facility.

2. Pursuant to the approved plan, the Contractor shall make a good faith effort to fill at least 25% of the new or vacant jobs created under this Contract with qualified recipients referred by the County Assistance Office Employment Unit Coordinator.

3. Hiring under the approved plan shall be verified by Quarterly Contract Reports on Form PA 1540 to the Employment Unit Coordinator or to the Central Office of Employment and Training for plans covering more than one county. Such reports shall be made in the format approved by the Department.

4. The Department may cancel this contract upon thirty (30) days written notice in the event of Contractor's failure to implement or abide by an approved plan.

ACT 13 APPLICATION TO CONTRACTOR

Contractor shall be required to submit, upon award, information obtained within the preceding one-year period for any personnel who will have or may have direct contact with residents from the facility or unsupervised access to their personal living quarters in accordance with the following:

1. Pursuant to 18 Pa C.S. Ch. 91 (relating to criminal history record information) a report of criminal history information from the Pennsylvania State Police or a statement from the State Police that their central repository contains no such information relating to that person. The criminal history record information shall be limited to that which is disseminated pursuant to 18 Pa. C.S. 9121(b)(2) (relating to general regulations).

2. Where the applicant is not, and for the two years immediately preceding the date of application has not been a resident of this Commonwealth, the Department shall require the applicant to submit with the application a report of Federal criminal history record information pursuant to Federal Bureau of Investigation's under Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544, 86 State. 1109).

For the purpose of this paragraph, the applicant shall submit a full set of fingerprints to the State Police, which shall forward them to the Federal Bureau of Investigation for a national criminal history check. The information obtained from the criminal record check shall be used by the Department to determine the applicant's eligibility. The Department shall insure confidentially of the information.

3. The Pennsylvania State Police may charge the applicant a fee of not more than $10 to conduct the criminal record check required under subsection 1. The State Police may charge a fee of not more than the established charge by the Federal Bureau of Investigation for the criminal history record check required under subsection 2.

The Contractor shall apply for clearance using the State Police Background Check (SP4164) at their own expense. The forms are available from any State Police Substation. When the State Police Criminal History Background Report is received, it must be forwarded to the Department. State Police Criminal History Background Reports not received within sixty (60) days may result in cancellation of the contract.

MBE/WBE CONTACT/SOLICITATION AND COMMITMENT STATEMENT ($50,000 or more)

The Commonwealth of Pennsylvania is strongly committed to assisting minority (MBE) and women-owned (WBE) business enterprises in their efforts to compete for State government contracting and subcontracting opportunities. Executive Order 1987-18 established the Office of Minority and Women Business Enterprise in the Department of General Services to aggressively pursue contracting and subcontracting opportunities for MBEs and WBEs and to develop an appropriate and credible program for MBE and WBE certification.

MBE/WBE Contact/Solicitation and Commitment Statement, STD168, (attached) was established to evaluate the level of participation with MBE's and WBE's as contractors, subcontractors, and suppliers and must be completed for bids of $50,000 or more or bid will not be accepted.

RECIPROCAL LIMITATIONS ACT REQUIREMENT

The Reciprocal Limitations Act requires the Department of General Services to give preference to those bidders offering supplies produced, manufactured, mined or grown in Pennsylvania as against those bidders offering supplies produced, manufactured, mined or grown in any state that gives or requires a preference to supplies produced, manufactured, mined or grown in that state and to give preference to bidders who reside in Pennsylvania.

The Reciprocal Limitations Act form (attached) must be completed for bids over $10,000 or the bid will be rejected.

AUDIT CLAUSE

(Applicable to contracts $100,000 or more)

This contract is subject to audit in accordance with the Audit Clause attached hereto and incorporated herein.