


**MONONGAHELA CONSERVATION DISTRICT
NOTICE TO PROSPECTIVE
BIDDERS/CONTRACTORS**



**REHABILITATION
of
UPPER DECKERS CREEK SITE 1**
Preston County, WV

April 14, 2017

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**Only available for
Pick-up at Pre-Bid
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DEFINITIONS

- **Addendum:**
Changes or revisions to this Solicitation made by an official written addendum issued by the Conservation District through the West Virginia Conservation Agency. Upon issuance, the addendum will become part of the contract.
- **Agents of the Monongahela Conservation District**
The agents shall mean the officers and employees of the State of West Virginia, State Conservation Committee, West Virginia Conservation Agency, the fourteen (14) Conservation Districts, and the Engineering Firm Gannett-Fleming Inc.
- **Awarded Contractor:**
An individual, partnership or business who is the qualified responsible lowest bidder/contractor that is validated (meets all federal and state requirements) through a bid evaluation then awarded the contract by a Conservation District Board motion.
- **Bid:**
A competitive offer made by a Bidder/Contractor.
- **Bid, Evaluation:**
The process of examining all offers received in order to ascertain whether they meet all bid requirements and to determine which offer to recommend or select for award.
- **Bid Guarantee:**
A bid guarantee from each bidder/contractor equivalent to five percent (5%) of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder/contractor will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- **Bid, Line Item:**
Dollar amount placed on that line item of the bid schedule.
- **Bid Schedule:**
The list of Pay Items, their units of measurement, and estimated quantities. (When a Contract is awarded, the Bid Schedule becomes the Schedule of Items.)
- **Bid, Sealed:**
A process for the solicitation of bids for the purchase of commodities or services wherein the interested bidders/contractors are required to submit their proposals in a sealed envelope that are opened during a formal meeting at the place, date, and time specified in the bid solicitation.
- **Bidder/Contractor:**
An individual, partnership or business authorized to conduct business in the State of West Virginia that is able to furnish the desired commodity or service.
- **Bonding, Performance Bond**
A performance bond on the part of the Awarded Contractor for 100 percent (100%) of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- **Bonding, Payment Bond**
A payment bond on the part of the Awarded Contractor for 100 percent (100%) of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

- **Conservation District:**
A subdivision of the State of West Virginia organized under W.Va. Code 19-21A-5. This is the entity that approved the work to go to contract. For this contract, the Monongahela Conservation District (MCD) is that entity. Throughout the “Notice to Prospective Bidders/Contractors” and the “Contract”, the Monongahela Conservation District may be referred to by its full name, its initials, or referred to as “Conservation District”.
- **Conservation District Board:**
A board comprised of elected or appointed Conservation District supervisors who serve as a Conservation District’s governing body, W.Va. Code 19-21A-7.
- **Conservation District Supervisor:**
One of the members of the governing body of a Conservation District, elected or appointed in accordance with the provisions of W.Va. Code 19-21A-6.
- **Construction Change Order:**
A written instrument specifying that a change is to be made to the construction project, and may be initiated by any party to the construction contract. Only the Contracting Officer or Conservation District may approve a change order. The change order shall address the changes in the work and adjustments to the contract cost and contract time, if any.
- **Contract:**
A document sent out by the Conservation District to the Awarded Contractor. It is required that the Contractor sign and returned to the Conservation District the “Contract Agreement” page. This Contract will contain a contract price, which is the total compensation payable to the Contractor for performing the Work, subject to modification by Change Order.
- **Contract Agreement:**
A written, legally binding agreement between the Conservation District and the Awarded Contractor in which is specified the terms and conditions to which the parties have agreed.
- **Contracting Officer:**
A Conservation District supervisor appointed by the Conservation District board who has board authority to oversee the terms/conditions of the contract and to provide administrative action on specified contract documents, including, but not limited to, approving construction change orders.
- **District Manager:**
A WVCA employee who conducts day-to-day District office operations at the Conservation District.
- **Invoice:**
An itemized statement submitted by the Awarded Contractor to the Conservation District for payment. Multiple invoices will be submitted on this contract and paid based upon a payment schedule.
- **Liquidated Damages**
Liquidated Damages are calculated based on actual damages. The calculated daily liquidated damages have been calculated for this project to include construction damages and water replacement damages.
- **No Debt Affidavit:**
A requirement in W.Va. Code § 5A-3-10a that a form be completed by all bidders/contractors. The statute states that no contract or renewal of any contract may be awarded to any bidder/contractor who is a debtor to the State of West Virginia in an aggregate amount of \$1,000 or more.
- **Notice to Proceed:**
A formal written communication to the Awarded Contractor (Notice to Proceed Form located in contract) which establishes the date for work to commence and the number of days the contractor has to complete work before liquidated damages start.

- **Engineer:**
The Engineer provides all administrative/engineering duties as set forth in the agreement with the West Virginia Conservation Agency (WVCA) dated February 15, 2016, and will oversee and inspect the day-to-day operations for the Conservation District project. For this contract the Engineer is the Engineering Firm Gannett Fleming Inc.
- **Contracting Officer's Representative:**
The Contracting Officer's Representative is a WVCA employee who is the Director of Watershed Projects and is responsible for efficiently and effectively executing the project. Identifies and resolves project issues, making sure the project progresses on schedule and on budget and provides oversight for the Engineer.
- **Protest:**
A formal, written complaint filed with the Conservation District by a bidder/contractor involving the award of this contract or its specifications, with the intent of receiving a remedial result.
- **Release of Claims:**
A form sent by the Conservation District to the Awarded Contractor at project completion. Such Release of Claims expressly releases the Conservation District from all actions, claims, demands or damages of any kind whatsoever involving the contractor, or in any way related to this project, once the project is complete.
- **Sponsoring Local Organizations:**
Including, but not limited to county commissions, municipalities, and grassroots organizations providing financial and administrative support to a project.
- **State Employee:**
All staff of the West Virginia Conservation Agency (WVCA) are considered state employees.
- **Subcontractor:**
A person who performs a portion of a project undertaken by a principal or general contractor or another subcontractor.
- **West Virginia Conservation Agency:**
The West Virginia Conservation Agency (WVCA) is a state agency that provides administrative support to the fourteen (14) Conservation Districts.

**REHABILITATION of
UPPER DECKERS CREEK SITE #1**

SOLICITATION

ISSUING OFFICE:

Monongahela Conservation District
201 Scott Avenue
Morgantown, WV 26508

SOLICITATION/CONTRACT NO: MCD 2017-04-14 UDC Site 1 Rehab

MANDATORY TERMS:

The solicitation may contain mandatory provisions identified using the words "must," "will," and "shall." Failure to comply with a mandatory term in the solicitation will result in bid disqualification.

FUNDING:

This contract shall continue for the term stated herein, contingent upon funds being appropriated by the West Virginia Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this contract becomes void and of no effect beginning on July 1st of the fiscal year for which funding has not been appropriated or otherwise made available.

SCOPE:

The existing dam is an earth embankment dam with a principal spillway and riser structure, and a grass-lined auxiliary spillway. The rehabilitation efforts to the dam include replacement of the existing riser structure, extension of the principal spillway conduit, modification of the dam embankment to serve as an auxiliary spillway with the addition of a roller compacted concrete armored stepped spillway, addition of a filtered drainage system, flattening the downstream embankment slope for stabilization, and filling/abandoning the existing auxiliary spillway (as identified during the Job Showing) at the Upper Deckers Creek Site 1 Dam, Reedsville, Preston County, WV.

END DATE:

This contract shall have a final construction completion date 386 days after the notice to proceed is issued. Liquidated damages to begin on the 387th day. Extensions of performance time is a contract change authorized by the CO.

PREVAILING WAGE RATE:

Davis-Bacon Act applies. See Contract Provisions section for details.

PUBLIC OPENING OF PROPOSALS:

Proposals will be opened and read publicly at the time indicated on the proposal form. The opening will take place at the Monongahela Conservation District office. Bidders/Contractors, their authorized agents, and other interested parties are invited to be present, but are not required.

DATE: *May 19, 2017*

TIME *1:00 P.M.*

LOCATION: *Monongahela Conservation District
201 Scott Avenue
Morgantown, WV 26508*

BID ACCEPTANCE:

1. Bids received after the established opening of proposals date and time will not be accepted - no exceptions.
2. Bids will not be considered without current licenses and certificate of insurance enclosed with bid. Requirements are listed under "Bid Documents".
3. The Conservation District reserves the right to accept or reject any/and or all bids.

PRE-BID CONFERENCE / JOB SHOWING:

1. NOTIFICATION OF JOB SHOWING

The Conservation District will have the West Virginia Conservation Agency post job showing on its site (autogenerated E-mail to contractors who sign-up online for the E-mail Notification System); place Class I Legal Advertisements statewide; and contact the West Virginia Contractors Association for dissemination to their members.

2. MANDATORY JOB SHOWING

Only prospective bidders/contractors who have attended the job showing will be permitted to submit a bid. The mandatory job showing will be held on April 14, 2017, at 10:00 AM at the J.W. Ruby Research Farm, 155 WVU Reedsville Farm Dr., Reedsville, WV 26547.

3. EXAMINATION OF DOCUMENTS AND SITE OF WORK

The bidder/contractor is required to examine carefully the bid documents and the site of the work contemplated. The submission of a bid shall be considered prima facie evidence that the bidder/contractor has made such examination and has judged for and satisfied themselves as to the character, quality, and quantity of work to be performed and material required to be furnished under the contract.

4. EXPLANATION TO PROSPECTIVE BIDDERS/CONTRACTORS

Any needed explanations, questions, or interpretations of the solicitation shall be submitted by email to **contracting@wvca.us**. The email must be received by **April 21, 2017, by 12:00 p.m.** to receive a response. All responses will be provided by email to all bidder/contractors present at the job showing (if bidder/contractor provides their E-mail address during sign-up).

Also, Questions and Answers shall be placed in a Response document and posted to the WVCA's webpage at www.wvca.us (Please look for Yellow Excavator and click on heading "Contracting Bid attachments") and upon reaching this page look for a title bar named: MCD 2017-04-14 UDC Site 1 Rehab).

BID PACKET DOCUMENTS:

Each bidder/contractor must submit the following documents in their bid packet or bid will be rejected:

- (1) Bid Schedule Sheets – HAND-OUT and Bid Packet Documents section
- (2) Company/Business Data Sheet – HAND-OUT and Bid Packet Documents section
- (3) No Debt Affidavit – HAND-OUT and Bid Packet Documents section
- (4) Drug Free Workplace Conformance Affidavit – HAND-OUT and Bid Packet Documents section
- (5) Contractor's License
- (6) Business License
- (7) Certificate of liability Insurance
- (8) Bid Guarantee
- (9) Subcontractors List
- (10) Acknowledgment of Responsibility
- (11) Addendum Acknowledgment

BID SCHEDULE SHEET & COMPANY/BUSINESS DATA SHEET

These two documents must be filled out completely and returned with bid packet.

AFFIDAVITS

1. NO DEBT AFFIDAVIT:

In accordance with West Virginia Code § 5A-3-10a, all bidders/contractors are required to sign, notarize, and submit the No Debt Affidavit stating that neither the contractor nor a related party owe a debt to the State in excess of \$1,000. The affidavit must be submitted with the bidder's/contractor's bid. A copy of the No Debt Affidavit is included herewith.

2. DRUG-FREE WORKPLACE AFFIDAVIT:

W.Va. Code § 21-ID-5 provides that any solicitation for a public improvement contract requires each bidder/contractor that submits a bid for the work to submit, at the same time, an affidavit that the bidder/contractor has a written plan for a drug-free workplace policy. To comply with this law, a bidder/contractor must either complete the enclosed drug-free workplace affidavit and submit the same with its bid or complete a similar affidavit that fulfills all the requirements of the applicable code. Failure to submit the signed and notarized drug-free workplace affidavit or a similar affidavit that fully complies with the requirements of the applicable code, with the bid shall result in disqualification of bidder's/contractor's bid. Pursuant to W.Va. Code 21-1D-2(b) and (k), this provision does not apply to public improvement contracts the value of which is \$100,000 or less or temporary or emergency repairs.

LICENSES

LICENSING:

In following the guidelines set forth in West Virginia Code of State Rules § 148-1-6.1e, bidders/contractors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Upon request, the bidder/contractor must provide all necessary releases to obtain information to enable the West Virginia Conservation Agency or the Conservation District to verify that the bidder/contractor is licensed and in good standing with the above entities.

1. WEST VIRGINIA CONTRACTORS LICENSE

A copy of your current license with correct classification of one or more of the following must be submitted with bid:

- B – GENERAL BUILDING
- C – GENERAL ENGINEERING

2. WEST VIRGINIA BUSINESS LICENSE

A copy of your license must be submitted with bid.

INSURANCE

INSURANCE:

The bidder/contractor shall be required, in addition to any other form of insurance or bonds required under the terms of the contract and specifications, to procure and maintain during the life of the contract the following types of insurance in the amounts set forth. All such policies of insurance shall be occurrence policies and the Certificate of Insurance provided to the Conservation District shall so specify. The policies must provide coverage for all damages arising out of injury to persons or property which allegedly occurred during the life of the contract regardless of when the claim is filed subject to statute of limitations.

All such policies shall name the West Virginia State Conservation Committee, the Conservation District and Gannet Fleming, Inc. as additional insureds.

1. CERTIFICATE OF LIABILITY INSURANCE

A copy of the bidder's/contractor's Certificate of Liability Insurance must be submitted with the bid.

Contractor's Public Liability and Property Damage Liability Insurance:

The bidder/contractor shall furnish an ACORD Form 25-S or its equivalent as evidence of insurance with a 30-day notice of cancellation provision that the bidder/contractor has in place, an Insurance Devices Office (CGL) Commercial General Liability Insurance Form CG0001, 01-96 issue date or later. The limits of insurance required by the Conservation District for the bidder/contractor are as follows:

- *General Aggregate \$4,000,000*
- *Products/Completed Operations Aggregate \$2,000,000*
- *Personal & Advertising Injury \$2,000,000*
- *Each Occurrence \$2,000,000*
- *Fire Damage \$100,000*
- *Medical Expense Limit \$10,000*

The CGL policy may include exclusions for blasting, collapse, or underground liability. The CGL policy issued for the bidder/contractor shall include endorsements that extend the aggregate limits of insurance to each construction project separately.

Automobile Insurance:

The bidder/contractor shall furnish evidence, with a 30-day notice of cancellation, to the state that it maintains an Insurance Services Office Commercial Automobile Liability insurance policy Form CA0001 or its equivalent. The policy shall include coverage for owned, non-owned, and hired vehicles. The limits for liability insurance must be at least \$1,000,000 combined single limit. Evidence for the coverage shall be set forth on an ACORD Form 25-S Certificate of Liability Insurance.

Contractor's Protective Public Liability and Property Damage Liability Insurance:

The bidder/contractor shall furnish evidence that, with respect to the operations performed for them, the bidder/contractor carries in their own behalf (1) regular Contractor's Protective Public Liability Insurance providing for a limit of not less than \$500,000 for all damages arising out of bodily injuries to or death of one person and subject to that limit for each person, a total limit of \$1,000,000 for all damages arising out of bodily injuries to or death of two or more persons in any one accident; and (2) regular Contractor's Protective Property Damage Liability Insurance providing for a limit of not less than \$200,000 for all damages arising out of injury to or destruction of property in any one accident and, subject to that limit per accident, a total (or aggregate) limit of \$1,000,000 for all damages arising out of injury to or destruction of property during the life of the Contract. The policy shall be written or endorsed to cover the hazards of blasting, operation of mechanical equipment on streets and highways, and collapse. The bidder/contractor shall also give evidence of insurance for Employer's Liability Insurance, with a 30-day notice of cancellation. The Employer's Liability policy must include coverage to protect the bidder/contractor for claims brought under Section 23-4-2 of West Virginia Code. The limits of insurance under this section shall be as follows:

- *Each Accident \$1,000,000*
- *Each Disease \$1,000,000*
- *Each Disease/Employee \$1,000,000*

Umbrella/Excess Liability Coverage

The bidder/contractor shall furnish umbrella/excess liability coverage in the amount of \$5,000,000.

Countersignature of Resident West Virginia Agents:

The policy or policies of Insurance required must be countersigned by a Resident Agents of the State of West Virginia, in accordance with the applicable statute of the State of West Virginia. All certificates of insurance used to verify the policies issued must be endorsed by a West Virginia Licensed Resident Agents. Such endorsement must include the printed name, street address, city and zip code of the Resident Agents.

BID GUARANTEE

Pursuant to W. Va. Code §5-22-1 et seq., all bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the State of West Virginia or its subdivisions. The bid bond must be submitted with the bid. Also, following the solicitation of bids, the construction contract shall be awarded to the lowest qualified responsible bidder/contractor who shall furnish a sufficient performance bond and payment bond.

1. BID GUARANTEE

Prospective bidders/contractors shall submit a Bid Guarantee in the proper form and in the amount of **five percent (5%) of the bid price**. Bond will be payable to the Monongahela Conservation District.

Failure to furnish a bid guarantee in the proper form and in the proper amount (stated above) at the bid opening (date and time set forth in this “Notice to Prospective Bidders/Contractors”) will be cause for rejection of the bid.

The bidder/contractor shall furnish a bid guarantee in the form of a firm commitment, *e.g.*, bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier’s check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Monongahela Conservation District will hold the bid guarantees until the validation process is complete.

The District Manager of the Monongahela Conservation District will return bid guarantees,

- (1) To unsuccessful bidders/contractors as soon as practicable after the low bid validation process is complete; and
- (2) To the successful bidder/contractor upon execution of contractual documents and performance bond are completed and accepted.

SUBCONTRACTORS

West Virginia Code §5-22-1(e)

Pursuant to WV Code § 5-22-1(e) the bidder/contractor shall submit a list of all subcontractors who will perform more than \$25,000 of work on the project including labor and materials.

The list shall include the names of the subcontractors and the license numbers as required by article eleven, chapter twenty-one of this code. This information shall be provided to the Monongahela Conservation District within one business day of the opening of bids for review prior to the awarding of a construction contract.

If no subcontractors who will perform more than \$25,000 of work are to be used to complete the project it will be noted on the subcontractor list. Failure to submit the subcontractor list with the Bid Packet shall result in disqualification of the bid.

Written approval must be obtained from the Monongahela Conservation District before any subcontractor substitution is permitted. Substitutions are not permitted unless:

- (1) The subcontractor listed in the original bid has filed for bankruptcy;
- (2) The Monongahela Conservation District refuses to approve a subcontractor in the original bid because the subcontractor is under a debarment pursuant to section thirty-three-d, article three, chapter five-a. of this code or a suspension under section thirty-two, article three, chapter five-a. of the West Virginia code; or
- (3) The bidder/contractor certifies in writing that the subcontractor listed in the original bid fails, is unable or refuses to perform the subcontract.

The Monongahela Conservation District may not award the contract to a bidder/contractor which fails to meet the minimum requirements set out in this section.

Upon request, the bidder/contractor shall provide copies of Contractor License, Business License, and Certificate of Liability Insurance for each Subcontractor.

To comply with this law, a bidder/contractor must either complete the enclosed Subcontract’s List and submit the same within the specified timeframe.

ACKNOWLEDGEMENT OF RESPONSIBILITY

All bidders/contractors must acknowledge and affirm that they can successfully demonstrate their ability to complete the project. The bidder/contractor shall attach sufficient documentation for the criteria set forth in items number 1 and number 2 below. Upon request, the bidder/contractor shall provide answers to items in number 3 to the Bid Evaluation Committee.

- 1) Sufficient financial ability to perform the contract as evidenced by the bidder's ability to obtain payment and performance bonds from an acceptable surety;
- 2) Appropriate experience to perform the Work described in the bid documents;
- 3) All other items set forth in the Solicitation, Bid Section, paragraph 5, Determination of Responsibility, herein.

The Acknowledgement Form and supporting documentation shall be submitted with the bid.

ADDENDUM ACKNOWLEDGEMENT

Changes or Revisions to this solicitation will result in an official written addendum.

The addendum will be issued by the Conservation District through the West Virginia Conservation Agency's Contract Specialist. All Addendums will be posted to the WVCA's webpage at WWW.WVCA.US.

(Please look for Yellow Excavator and click on heading "Contracting Bid attachments" and upon reaching this page look for a title bar named: MCD 2017-04-14 UDC Site 1 Rehab). All Addendums will be under this title bar.

The West Virginia Conservation Agency's Contract Specialist shall E-mail all Contractors/Bidders that an Addendum has been posted.

Bidders/Contractors shall acknowledge receipt of all addenda issued with this solicitation by completing an Addendum Acknowledgment Form, included herein. The bidders/contractors shall check appropriate boxes.

If no Addendums are issued, the contractor shall check the box indicating that NO ADDENDUM ISSUED.

Failure to complete the Addendum Acknowledge Form completely shall result in bid disqualification. The Addendum Acknowledgement Form shall be submitted with the bid.

BIDS:

1. PREPARATION OF BIDS

The bidder/contractor must take the following items into consideration when filling out the bid packet.

- a) When bidding this contract, the bidder/contractor shall remember that the award of contract will be based on the Total Base Bid Amount entered on the Bid Schedule Sheet.
- b) The sum of the "Line Item Bid" shall be considered the prevailing bid. If the "Line Item Bids" added together does not match the "Total Base Bid Amount", the total of the "Line Item Bids" will be the new bid amount. If the new amounts exceed other bidders'/contractors' bids, it will no longer be considered the low bid contractor.
- c) On items requiring a unit price, the Estimated Quantities will be multiplied by Unit Price to give a "Line Item Bid". If during the evaluation the Estimated Quantities multiplied by Unit Price does not match the amount in the "Line Item Bid" the new total from multiplying Estimated Quantities by Unit Price will replace that "Line Item Bid". If the new amounts exceed other bidders'/contractors' bids, it will no longer be considered the low bid contractor.
- d) Bidder/Contractor acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of bids, and final payment for all Unit Price bid items will be based on actual quantities provided, determined as provided for in the contract documents.

- e) Bids must be submitted on the forms furnished by the Conservation District, or on exact copies of those forms. All bids must contain an original, manual signature. The person submitting a bid must initial each erasure, correction, or change appearing on any bid form.
- f) The bid form may require bidders/contractors to submit bid prices for one or more line items on a bid schedule sheet for this contract. A line item will usually include: Quantity; Unit; Unit Price; and Total.
- g) Bidders/Contractors are required to bid on all line items on the Bid Schedule Sheet unless a line item was disqualified during the job showing. Failure to fill-in or otherwise complete required line items will disqualify the bid.
NOTICE: A zero-dollar bid is considered a bid. Do Not Leave Blanks On Your Bid Schedule Sheet.
If your bid for a particular line item is zero, you must enter a zero (“0”), and not simply leave the line blank. If you leave blanks on your bid schedule sheet, your bid will be disqualified, without exception.
- h) Line items disqualified during the job showing by the Contracting Officer, Contracting Officer’s Representative or the Engineer will require the bidder/contractor to insert the letters “NLR” (No Longer Required) in the blank space provided for that line item.
- i) Bidder/Contractor must have the capability (manpower and equipment) to perform contract requirements within the specified timeframe.

2. SUBMISSION OF BID

Bids received by the Conservation District will be segregated from other mail and stamped with date and time received by the District Manager. District Manager will ensure all received bids are not opened until bid opening date and time.

Bids will be submitted to the Conservation District office in the following manner:

- (a) In sealed envelopes or packages.
- (b) If submitting by mail, the bid package must be sent early enough to reach the Conservation District office prior to the announced bid opening date and time, postmarks are not relevant to the process. The Conservation District is not responsible for bid packets arriving after bid opening due to delays in mail delivery.
- (c) If submitting by hand delivery, the bid package must be handed to the District Manager (or the appointed representative) at the Conservation District office prior to the announced bid opening date and time. Do not submit the bid package to someone other than District Manager (or the appointed representative).

Failure to comply with the above submission directives, may result in bid packages that do not reach their intended destination prior to the bid opening. Bid packages arriving during or after the bid opening process has started, for whatever reason, will be rejected, no exceptions.

Bids should be submitted to the Conservation District Office with the following information:

- (a) Addressed to the Conservation District office specified in the solicitation
- (b) Mark as “Bid Enclosed” and include the solicitation/contract number on the outside of the bid package/envelope.
- (c) Attention to the District Manager
- (d) Name and address of the Bidder/Contractor.

EXAMPLE:

Submit to: Monongahela Conservation District
MCD 2017-04-14 UDC Site 1 Rehab (BID ENCLOSED)
Attn: Amy Cosco
201 Scott Avenue
Morgantown, WV 26508

Failure to include all information will not disqualify the bid, but could result in a delay that will act to disqualify the bid.

WARNING: If a bid package/envelope fails to contain the words "Bid Enclosed" or fails to include the solicitation/contract number, the bidder/contractor risks the bid package/envelope being opened by the Conservation District, prior to the announced bid opening date and time because the Conservation District will have no way of knowing the contents of the package/envelope.

If any bid package/envelope, not properly labeled, is opened by the Conservation District office, prior to the announced bid opening date and time, that bid shall be disqualified.

3. WITHDRAWALS OR MODIFICATIONS OF BIDS PRIOR TO BID OPENING

A bid withdrawal must be done in person by a bidder/contractor or its authorized representative before the bid opening. Such withdrawal shall be in writing, signed by the bidder/contractor or its authorized representative.

Modification or replacement (by the bidder/contractor or authorized representative) of a bid is allowed, after the withdrawal of the previous bid, so long as any changes are made prior to the designated time for the bid opening. This bid is subject to the same conditions as stated in number 1 and number 2 of this Bid section.

Withdrawal of a bid after the bid opening process begins, shall cause forfeiture of the bid bond. Refusal to accept award of contract by the low bidder/Contractor shall cause forfeiture of the bid bond.

4. BID EVALUATION

The Conservation District will evaluate bids to ensure bidders/contractors are in compliance with all contract requirements. An examination of bid packets for required documentation will take place. Any omissions of paperwork (**Page 7, Bid Packet, items 1-11**) or absence of required data on the paperwork will cause the bid to be rejected.

5. DETERMINATION OF RESPONSIBILITY

Each bidder shall be prepared, if so requested by the Conservation District, to present evidence of his experience, qualifications and financial ability to carry out the terms of the Contract.

Prior to award of the Contract, an evaluation will be made to determine if the low Bidder has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance.

Factors to be evaluated include, but are not limited to:

- (a) sufficient financial ability to perform the contract as evidenced by the bidder's ability to obtain payment and performance bonds from an acceptable surety;
- (b) appropriate experience to perform the Work described in the bid documents;
- (c) any judgments entered against the bidder, or any officers, directors, partners or owners for breach of a contract for construction;
- (d) any substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause where the substantial noncompliance is documented;
- (e) a conviction of the bidder or any officer, director, partner, project manager, procurement manager, chief financial officer, or owner in the last five years of a crime relating to governmental or non-governmental construction or contracting; or
- (f) any current debarment of the contractor, any officer, director or owner, from bidding or contracting by any public body of any state, any state agency, or any agency of the federal government.

The Conservation District reserves the right to disqualify or refuse to accept the bid of any Bidder who has been convicted, or entered a plea of guilty or *nolo contendere*, in any federal or state court to any charge involving any unlawful, corrupt or collusive practice involving a public contract whether federal, state or local, or who has been determined in any judicial proceeding to have violated any antitrust, bid-rigging or collusive practice statute in connection with any public contract, or against whom such formal criminal prosecution or other judicial proceeding has been instituted.

A Bidder who, despite being the apparent low Bidder, is determined not to be a responsible bidder shall be notified in writing in conformance with the West Virginia Conservation District Accounting Policy and Procedure, Contract Projects.

6. BID REJECTION

The Conservation District may reject any or all bids.

7. CONTRACT AWARD

The Conservation District will award a contract to the qualified lowest responsible bidder/contractor whose bid, conforming to the solicitation, will be most advantageous to the Conservation District.

8. BONDING

Pursuant to W. Va. Code §5-22-1 et seq., all bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the State of West Virginia or its subdivisions. Following the solicitation of bids, the construction contract shall be awarded to the lowest qualified responsible bidder/contractor who shall furnish a sufficient performance bond and payment bond. For this contract, lowest qualified responsible bidder/contractor shall also furnish a Division of Highways (DOH) Road Bond.

A. PERFORMANCE & PAYMENT BONDS

The Awarded Contractor for this project shall submit a Performance Bond and a Payment Bond in the proper form and ***each*** in the ***Full Amount (100%) of the Contractor Bid*** at the time of acceptance. Bonds will be payable to the Monongahela Conservation District.

The Awarded Contractor for this project shall furnish the properly executed bonds within ***10 business days***. Failure to submit said bonds shall be considered a default and shall terminate the contract.

In the event the contract is terminated for default, the contractor is liable for all costs associated with completion of the project including costs exceeding the amount of its bid. The bid guarantee is available to offset the difference.

B. DIVISION OF HIGHWAYS (DOH) ROAD BOND

The Awarded Contractor for this project shall be responsible for obtaining all necessary DOH permits and secure a Road Bond in the proper form and in the ***Amount established by the WVDOH*** prior to start of work.

The Awarded Contractor for this project shall furnish the properly executed bonds within ***10 business days***. Failure to submit said bonds shall be considered a default and shall terminate the contract.

In the event the contract is terminated for default, the contractor is liable for all costs associated with completion of the project including costs exceeding the amount of its bid. The bid guarantee is available to offset the difference.

CONTRACT PROVISIONS

1. YOUR SUBMISSION IS A PUBLIC DOCUMENT:

Bidder's/Contractor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code § 5A-3-1 et seq., 5-22-1 et seq., and 5G-I-1 et seq. and the Freedom of Information Act West Virginia Code § 29B-1-1 et seq.

Do not submit material you consider to be
CONFIDENTIAL, A TRADE SECRET, or OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Conservation District (and its administrative support through the West Virginia Conservation Agency) constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Conservation District will disclose any document labeled "confidential", "proprietary", "trade Secret", "private", or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

2. PRIVACY, SECURITY, AND CONFIDENTIALITY:

The contractor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the State Conservation Committee, West Virginia Conservation Agency, or any of the fourteen (14) Conservation Districts, unless the individual who is the subject of the information consents to the disclosure in writing.

3. INDEMNIFICATION:

The contractor agrees to indemnify, defend, and hold harmless the officers and employees of the State of West Virginia, State Conservation Committee, West Virginia Conservation Agency, the fourteen (14) Conservation Districts, and Gannett Fleming Inc., from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the contractor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the contract in a manner not authorized by the contract, or by state or federal statutes or regulations; and (3) Any failure of the contractor, its officers, employees, or subcontractors to observe state and federal laws including, but not limited to, labor and wage and hour laws. Also, to include any claim or liability arising from or based on the violation of any such laws, ordinances, regulations, orders, or decrees, whether by themselves, or their employees.

4. APPLICABLE LAW:

This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

5. COMPLIANCE:

The contractor shall keep fully informed, observe, and comply with of all state and federal laws, all local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work.

6. WAIVER:

The failure of either party to insist upon a strict performance of any of the terms or provision of this contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

7. ARBITRATION:

Any references made to arbitration contained in this contract, any other document related to this project, or the bidder's/contractor's bid, are hereby deleted, void, and of no effect.

8. WARRANTY:

The bidder/contractor expressly warrants that the goods and/or services covered by this contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Conservation District and its agents; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

9. BANKRUPTCY:

In the event the Awarded Contractor files for bankruptcy protection, the Monongahela Conservation District may deem this contract null and void, and terminate this contract without notice.

10. ANTITRUST:

In submitting a bid to, signing a contract with, or accepting an award document from the Monongahela Conservation District, the bidder/contractor agrees to convey, sell, assign, or transfer to the Conservation District all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the Conservation District. Such assignment shall be made and become effective at the time the Conservation District tenders the initial payment to contractor.

11. EQUAL EMPLOYMENT OPPORTUNITY (EEO) CLAUSE:

The Equal Opportunity Clause set forth in 41 CFR 60-1.4 (a) is hereby incorporated by reference.

12. CONFLICT OF INTEREST:

Contractor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Contractor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Conservation District and its agents.

13. CONTRACTOR RELATIONSHIP:

The relationship of the bidder/contractor to the Conservation District shall be that of an independent bidder/contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this contract. The bidder/contractor as an independent bidder/contractor is solely liable for the acts and omissions of its employees and agents. Bidder/Contractor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this solicitation and resulting contract. Neither the contractor, nor any employees or subcontractors of the contractor, shall be deemed to be employees of the State and/or Conservation District for any purpose whatsoever. Contractor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Contractor shall hold harmless the State of West Virginia, State Conservation Committee, West Virginia Conservation Agency and the fourteen (14) Conservation Districts, and shall provide the State of West Virginia, State Conservation Committee, West Virginia Conservation Agency and the fourteen (14) Conservation Districts with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

14. CONTRACTOR CERTIFICATIONS:

By signing its bid or entering into this contract, bidder/contractor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein. Bidder's/Contractor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Conservation District. The individual signing this bid or offer on behalf of bidder/contractor certifies that he or she is authorized by the bidder/contractor to execute this bid or offer or any documents related thereto on bidder's/contractor's behalf; that he or she is authorized to bind the bidder/contractor in a contractual relationship; and that, to the best of his or her knowledge, the bidder/contractor has properly registered with any state agency that may require registration.

15. PUBLIC CONVENIENCE AND SAFETY:

The contractor shall comply with all applicable federal, state, and local laws governing safety, health and sanitation. The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, on their own responsibility, or as the Engineer, Contracting Officer's Representative, and the Conservation District may determine, reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

Pursuant to rules promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96), the contractor shall not require any laborer or mechanic employed in performance of the contract to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to their health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1926, formerly Part 1518, as revised from time to time).

The contractor shall comply with the OSHA Parts 1910 and 1926 Construction Industry Standards and Interpretations. The contractor shall also comply with supplemental to OSHA Parts 1910 and 1926 in the Attachments section.

16. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT:

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

17. DAVIS-BACON ACT AND RELATED COPELAND "ANTI-KICKBACK ACT:

In accordance with the Davis-Bacon Act (40 U.S.C. 3141), contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of U.S. Department of Labor (DOL). In addition, contractors must be required to pay wages not less than once a week. Prevailing wage determinations are located at: <https://www.wdol.gov/>.

Once on the DOL website, the bidder/contractor selects "Davis-Bacon Act", then selects "Selecting DBA Wage Decisions", selects STATE: West Virginia; COUNTY: Preston; CONSTRUCTION TYPE: Heavy. The Awarded Contractor will be responsible for monitoring wage rates for each calendar year.

Acceptance of the wage determination is a condition of contract award. The engineer will certify payroll records and submit their reports to the Monongahela Conservation District. The Monongahela Conservation District shall report all suspected or reported violations to the United States Department of Labor, Charleston, WV office.

In accordance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"), each contractor or sub-recipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Monongahela Conservation District must report all suspected or reported violations to the West Virginia Division of Labor.

18. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

19. WORKERS' COMPENSATION INSURANCE:

The apparent successful contractor shall comply with laws relating to workers' compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of worker' compensation insurance upon request.

20. REPORTS:

Contractor shall provide the Conservation District and/or West Virginia Conservation Agency with such reports as the Conservation District and/or West Virginia Conservation Agency may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

21. DRUG-FREE WORKPLACE POLICY:

Pursuant to W. Va. Code § 21-ID-4, the successful contractor and its subcontractors shall implement and maintain a written drug-free workplace policy that complies with said article. The Monongahela Conservation District shall cancel this contract if: (1) the contractor or its subcontractors fail to implement and maintain a written drug-free workplace policy described in the preceding paragraph., or (2) the contractor or its subcontractors fail to provide information regarding implementation of its drug-free workplace policy at the request of the Monongahela Conservation District, or (3) the contractor or its subcontractors provide the Monongahela Conservation District with false information regarding the contractor's drug-free workplace policy.

22. DRUG FREE WORKPLACE REPORT:

Pursuant to W. Va. Code § 21-ID-7b, no less than once per year, or upon completion of the project, the contractor and its subcontractors shall provide a certified report to the Monongahela Conservation District. The report shall include:

- (a) Information to show that the education and training service to the requirements of West Virginia Code § 21-ID-5 was provided;
- (b) The name of the laboratory· certified by the United States Department of Health and Human Services or its successor that performs the drug tests;
- (c) The average number of employees in connection with the construction on the public improvement;
- (d) Drug test results for the following categories including the number of positive tests and the number of negative tests: (1) Pre-employment and new hires; (2) Reasonable suspicion; (3) Post-accident; and (4) Random.

Contractor shall use the attached Certified Drug Free Workplace Report Coversheet when submitting the report required hereunder. The contractor is responsible for the compliance and reporting requirements of their chosen subcontractors

23. DEBARMENT AND SUSPENSION:

a) State

A bidder/contractor and its subcontractors shall not appear on the State Debarment List and be awarded a contract.

b) Federal

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

24. TERMINATION OF CONTRACT:

The Conservation District reserves the right to terminate this contract immediately upon written notice to the contractor if the materials or workmanship supplied do not conform to the specifications contained in the contract.

The Conservation District may also order the contractor, in writing, to terminate work/contract if contractor is unable to eliminate or remedy the reason of suspension in a timely manner.

If the contractor refuses, or fails to perform the work or any separable part, with the diligence that will ensure its completion, or can no longer perform work, the Conservation District may, by written notice to the contractor, terminate the contracted project (or the separable part of the project) that has been delayed.

In this event, the Conservation District takes over the work and completes it using another contractor, the Conservation District may take possession of, and use, any materials, equipment and plants on the work site necessary for completing the work. The contractor and its sureties shall be liable for any damage to the Conservation District resulting from the contractor's refusal and/or failure to continue work until its completion. This liability includes any increased costs incurred by the Conservation District in completing the work.

25. LIQUIDATED DAMAGES:

Liquidated damages are not punitive and are not negative performance incentives. Liquidated damages are used to compensate the Monongahela Conservation District for calculable damages. Therefore, the liquidated damages rate will be based upon Actual Damages. Actual Damages are those cost that the Conservation District and its agents acquire as a result of the Awarded Contractor's failure to work within the time specified in the contract, and have been **calculated at a rate of \$5,150.00 per day.**

26. PHYSICAL DATA:

Physical data (e.g., Geotech reports, test borings, hydrographic, weather conditions data) will be furnished or made available to offerors. Data and information furnished or referred to below is for the Contractor's information. Neither the West Virginia Conservation Agency, nor its agents, shall be responsible for any interpretation of or conclusion drawn from the data or information by the bidder/contractor.

27. OTHER CONTRACTS:

The Monongahela Conservation District may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Monongahela Conservation District and its agents' employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Monongahela Conservation District and its agents' employees.

28. BIDDER/CONTRACTOR PROTEST:

a) Submission of Protest

Protests based on bid specifications must be submitted no later than five (5) working days prior to the bid opening. Protest contract awards must be submitted no later than five (5) working days after the award. The bidder/contractor is responsible for knowing the bid opening and award dates. Protests received after these dates may be rejected at the option of the Conservation District board.

All protests shall be submitted in writing to the Conservation District board and contain the following information:

- the name and address of the protestor;
- the requisition, purchase order or contract numbers;
- a statement of the grounds of protest;
- supporting documentation; and
- the resolution or relief sought.

Failure to submit this information shall be grounds for rejection of the protest by the Conservation District board.

b) Protest Review

The Conservation District board or their designee shall review the matter of protest and issue a written decision. A meeting to hear information from the bidder/contractor and pertinent staff may be conducted at the option of the Conservation District board, or their designee.

Continuation or delay of the contract award while the protest is considered is at the discretion of the Conservation District board.

The Conservation District board or their designee may refuse to review any protests when the matter involved is the subject of litigation before a court of competent jurisdiction; if the merits have previously been decided by a court of competent jurisdiction; or if it has been decided in a previous protest by the Conservation District board.

All protests, regardless of dollar amount must be in writing and shall be directed to the Conservation District board. A protest incorrectly delivered will not be considered received until it reaches the Conservation District board. Responsibility for delivery of the protest to the Conservation District board shall remain with the protesting bidder/contractor.

c) Civil Action

All civil actions related to any protest shall be filed in the circuit court of Preston County, West Virginia.

LITIGATION BOND

The Conservation District reserves the right to require any bidder/contractor that files a protest of an award to submit a litigation bond in the amount equal to one percent of the lowest bid submitted or \$10,000, whichever is greater. The entire amount of the bond shall be forfeited if the hearing officer, hired by the Conservation District, determines that the protest was filed for frivolous or improper purpose, including but not limited to, the purpose of harassing, causing unnecessary delay, or needless expense for the Conservation District. All litigation bonds shall be made payable to the Conservation District in which the contract is being held. In lieu of a bond, the protester may submit a cashier's check or certified check payable to the Conservation District in which the contract is being held. Cashier's or certified checks will be deposited with and held by the Conservation District in which the contract is being held. If it is determined that the protest has not been filed for frivolous or improper purpose, the bond or deposit shall be returned in its entirety.

29. BASIC RECORDS AND PAYROLLS:

(a) Basic records and payrolls relating to this contract shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents), daily and weekly number of hours worked, deductions made, and actual wages paid. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause, except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be obtained from the U.S. Department of Labor Wage and Hour Division website at <http://www.dol.gov/whd/forms/wh347.pdf>. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Contracting Officer, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a Prime Contractor to require a subcontractor to provide addresses and social security numbers to the Prime Contractor for its own records, without weekly submission to the Contracting Officer.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify—

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions.

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

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (b)(2) of this clause.

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action.

30. PAYMENT OF CONTRACT:

The Monongahela Conservation District shall pay the Contractor the contract price as provided in this contract. The contractor will make a claim for payment through an invoice to the Conservation District. Such payment shall be made by the Conservation District to the contractor within 45 calendar days, upon receipt and acceptance of proper invoice and confirmation that the work associated with that claim is complete. The Contracting Officer's Representative or Engineer will provide confirmation of work completion.

The Conservation District shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

- A. The Contractor's request for progress payments shall include the following substantiation:
- 1) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.
 - 2) A listing of the amount included for work performed by each subcontractor under the contract.
 - 3) A listing of the total amount of each subcontract under the contract.
 - 4) A listing of the amounts previously paid to each such subcontractor under the contract.
 - 5) Additional supporting data in a form and detail required by the Contracting Officer.
- B. In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if—
- 1) Consideration is specifically authorized by this contract; and
 - 2) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.
1. *Contractor certification.* Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (1)(d) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that—

- (a) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;
 - (b) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of West Virginia State Code and United States Code;
 - (c) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and
 - (d) This certification is not to be construed as final acceptance of a subcontractor's performance.
2. *Refund of unearned amounts.* If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall—
- (a) Notify the Contracting Officer of such performance deficiency; and
 - (b) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (7) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until—
 - 1) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or
 - 2) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

3. *Retainage.* If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Monongahela Conservation District and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.
4. *Title, liability, and reservation of rights.* All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Monongahela Conservation District, but this shall not be construed as—
 - (a) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or
 - (b) Waiving the right of the Conservation District to require the fulfillment of all of the terms of the contract.
5. *Final payment.* The Monongahela Conservation District shall pay the amount due the Contractor under this contract after—
 - (a) Completion and acceptance of all work;
 - (b) Presentation of a properly executed voucher; and
 - (c) Presentation of release of all claims against the Monongahela Conservation district and its agents arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release.
6. *Limitation because of underfinitized work.* Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A “contract action” is any action resulting in a contract, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.
7. *Interest computation on unearned amounts.* The amount payable under paragraph (2)(b) of this clause shall be—
 - (a) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and
 - (b) Deducted from the next available payment to the Contractor.

FEDERAL, STATE AND LOCAL TAXES

It is the responsibility of the Contractor to ensure that all applicable federal, state, and local taxes and duties are paid.

31. MODIFICATIONS/CHANGE ORDERS:

Modification/Change Orders will be needed throughout the life of this contract. No Modification/Change Order of this contract shall be binding without mutual consent of the Contracting Officer and the Contractor. The Engineer shall validate the need for change order and with mutual consent the Contracting Officer shall authorize a Modification/Change Order.

- (a) The Engineer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, request of the Contracting Officer to make changes in the work within the general scope of the contract, including changes—
 - (1) In the specifications (including drawings and designs);
 - (2) In the Monongahela Conservation District-furnished property or services; or
 - (3) Directing acceleration in the performance of the work.
- (b) A change to the dollar amount in a line item on the Bid Schedule Sheet that results in less than 15%, above or below the line item contract price, shall result in no adjustment to the line item.
- (c) A change to the dollar amount in a line item on the Bid Schedule Sheet that results in an amount equal to or exceeding 15%, above or below the line item contract price, shall result in a change order.

- (d) The Contracting Officer can approve a line item Change Order from 15% up to 25% above or below the contract price (dollars) on that line item. All Change orders exceeding 25% of the contract price (dollars) on a line item shall require the approval of the Monongahela Conservation District Board prior to the implementation of the change.
- (e) Any request that adds work that was not included in the original contract, regardless of price, shall require the submission of a Change Order to the Monongahela Conservation District Board for consideration. All such Change Orders shall require approval of the Conservation District Board prior to implementation of the change.
- (f) Any other written or oral order (which, as used in this paragraph (a), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; Provided, that the Contractor gives the Contracting Officer written notice stating—
 - (1) The date, circumstances, and source of the order; and
 - (2) That the Contractor regards the order as a change order.
- (g) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- (h) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (c) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Conservation District and its agents are responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- (i) The Contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (c) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Conservation District. The statement of proposal for adjustment may be included in the notice under paragraph (c) of this clause.
- (j) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.
- (k) The Awarded Contractor may submit written proposed or requested modifications to the contract at any time if they find efficiencies, or other cost savings that are favorable to the Conservation District, and the Conservation District will give any such requests expedited review.

32. SAVINGS CLAUSE:

In the event any provision, term or condition contained in this solicitation or resulting contract is deemed to be unlawful by a court of competent jurisdiction, only those unlawful terms shall be stricken from this solicitation or resulting contract and the remainder shall be in full force and effect.

PROJECT SITE OPERATIONS

SECTION A: GENERAL

1. TIME:

Time is of the essence regarding all matters of time and performance in this Contract.

2. AUTHORITY OF THE ENGINEER:

The Engineer will have final decision concerning all questions/issues which may arise as to:

- the interpretation of the Design, Specifications, and implementation of Plans; and,
- the quantity, quality, and acceptability of materials furnished; and,
- work performed, priority of work, and the rate of progress of the work; and,
- the interpretation of the contract; and,
- the acceptable fulfillment of the contract on the part of the contractor.

The decision of the Engineer will be final.

3. PROJECT OVERSIGHT:

Work shall be performed by the contractor as shown on the construction drawings and as stated in the construction specifications with Engineer consultation. The contractor shall contact the Engineer prior to mobilization to a site and coordinate a start date. The contractor shall meet with the Engineer at the site for the start of work.

a) Suspension of Work

The Engineer, Contracting Officer's Representative, or the Contracting Officer may suspend the work, in whole or in part, for such time as he/she deems necessary because of environmental or other conditions outside the control of the contractor. Also, the Engineer, Contracting Officer's Representative, or the Contracting Officer may suspend the work, in whole or in part, for such time as he/she deems necessary because of contractor shortfalls, unsatisfactory work performance, or failure of the contractor to comply with any of the requirements of this contract.

The following actions of the Engineer, Contracting Officer's Representative, or the Contracting Officer are to prevent unsafe conditions for the employees or the general public, or for any other condition or reason deemed to be in the public interest.

- i. Work suspension due to contractor shortfalls (inefficient operation, equipment not in good operating condition, or any condition or circumstance that are considered unsatisfactory for performance of the work) will not extend the calendar days.
- ii. In the event the contract calendar days are extended, at no time shall the contractor be monetarily compensated for expenses incurred by the contractor for work delays, for any reason whatsoever.

All such suspension orders will be directed to the contractor in writing. The Engineer is not authorized to increase the obligation of the Conservation District to the contract except as provided. The findings of the Engineer, Contracting Officer's Representative, and the Conservation District shall be final and conclusive for all parties involved.

4. CONSERVATION DISTRICT INSPECTION AND TEST:

All work (which term includes but is not restricted to materials, workmanship and manufacture and fabrication of components) shall be subject to inspection and testing by the Conservation District at all reasonable times and at places prior to acceptance. Any such inspection and testing is for the sole benefit of the Conservation District and shall not relieve the contractor of the responsibility of providing quality control measures to assure that the work strictly complies with the contract requirements.

No inspections or tests by the Conservation District shall be construed as constituting or implying acceptance. Inspections or tests shall not relieve the contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Conservation District after acceptance of the completed work.

5. INSPECTION OF CONSTRUCTION:

The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Conservation District and its agents. All work shall be conducted under the general observation of the Engineer and is subject to inspections and tests by the Engineer, Conservation District, and its agents at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

Such inspections and tests are for the sole benefit of the Conservation District and its agents and do not—

- (a) Relieve the Contractor of responsibility for providing adequate quality control measures;
- (b) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
- (c) Constitute or imply acceptance; or
- (d) Affect the continuing rights of the Government after acceptance of the completed work under last paragraph of this section.

The presence or absence of a Conservation District, or an agents', inspector does not relieve the Contractor from any contract requirement. No inspector is authorized to change any term or condition of the specification without the Engineer's written authorization.

The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Engineer. The Conservation District may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. The Conservation District and its agents shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

The Contractor shall, without charge, replace or correct work found by the Conservation District and its agents not to conform to contract requirements, unless in the public interest the Conservation District and its agents' consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

If the Contractor does not promptly replace or correct rejected work, the Conservation District may—

- (a) By contract or otherwise, replace or correct the work and charge the cost to the Contractor; or
- (b) Terminate for default the Contractor's right to proceed.

If, before acceptance of the entire work, the Conservation District and its agents decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

Unless otherwise specified in the contract, the Conservation District and its agents shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Monongahela conservation District's rights under any warranty or guarantee.

6. DIFFERING SITE CONDITIONS:

The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Engineer of—

- (a) Subsurface or latent physical conditions at the site which differ materially from those indicated in this contract; or
- (b) Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

The Engineer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether changed because of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; *provided*, that the time prescribed in paragraph (a) of this clause for giving written notice may be extended by the Contracting Officer.

No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

7. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK:

The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (1) conditions bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and roads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance.

The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Conservation District.

The Conservation District and its agents assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Conservation District and its agents. Nor does the Conservation District and its agents assume responsibility for any understanding reached or representation made concerning conditions, which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

8. REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK:

All work which does not conform to the requirements of the contract will be considered as unacceptable work. Unaccepted work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause, found to exist prior to the final acceptance of the work, shall be removed immediately and replaced in an acceptable manner.

Unacceptable material shall be removed from the job site. Work done contrary to the instructions of the Engineer, work done beyond the lines shown on the plans, or as given, except as specified, or any extra work done without authority, will be considered as unauthorized and will not be paid for under the provisions of the contract. Work so done may be ordered removed or replaced at the contractor's expense.

Upon failure on the part of the contractor to comply promptly with any order of the Engineer, made under the provisions of this subsection, the Engineer, will have authority to cause unacceptable work to be remedied or removed and replaced and unauthorized work to be removed, and to deduct the costs from any monies due or to become due the contractor.

9. ACCEPTANCE:

Upon due notice from the contractor of presumptive completion of the entire project, the Engineer, Contracting Officer's Representative, and the Conservation District will perform a final inspection. If all construction and other contractual requirements provided for and contemplated by the contract is found completed to the satisfaction of the Engineer, Contracting Officer's Representative, and the Contracting Officer, the Contracting Officer will notify the contractor of final acceptance. Upon receipt of this acceptance, the contractor may submit their final invoice which shall also include the Release of Claims to the Conservation District.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the Engineer, Contracting Officer's Representative, or the Conservation District shall give the contractor the necessary instruction for correction of same in writing, and the contractor shall immediately comply with and execute such instructions.

Upon completion of correction of the work, the contractor shall notify the Engineer, Contracting Officer's Representative, and the Conservation District. The acceptance process shall start again.

10. PERFORMANCE OF WORK BY THE CONTRACTOR:

The contractor shall perform on the site, and with its own organization, work equivalent to at least 20 percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performance of the work, the contractor requests a reduction and the Conservation District determines that the reduction would be to the advantage of the Government.

11. COOPERATION BY CONTRACTOR:

It is contemplated that the contractor will furnish the necessary personnel/skilled labor, material, equipment, services and facilities (except as otherwise specified) to perform the Statement of Work/Specifications, and all other items necessary for the successful completion of work.

The contractor shall give the work the constant attention necessary to facilitate the progress thereof, and shall consult with the Engineer on day to day operations and with the Contracting Officer on contractual matters.

The contractor shall have on the worksite at all times, as an agent, a competent superintendent capable of reading and thoroughly understanding the plans and specifications, and thoroughly experienced in the type of work being performed, who will consult with the Engineer.

The contractor shall furnish to the Engineer a list of addresses and telephone numbers of their personnel who may be reached in case of emergency during hours when no work is to be performed. On weekends, holidays, during suspensions of work, and during storms, the contractor shall alert certain members of their personnel to stand by and shall inform the Engineer of arrangements so made.

12. CHARACTER OF WORKERS; METHODS AND EQUIPMENT:

The contractor shall at all times employ sufficient labor and equipment for prosecuting the several classes of work to full completion in the manner and time required by these specifications. All employees shall have sufficient skill and experience to perform properly the work assigned to them. Employees engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform all work properly and satisfactorily.

All equipment which is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment used on any portion of the project shall be such that no injury to adjacent property will result from its use. For methods and equipment to be used by the contractor that are not prescribed in this contract, the contractor is free to use any methods or equipment so long as the contractor can demonstrate that it will accomplish the contract work in conformity with the requirements of the contract and to the satisfaction of the Engineer.

13. CONTRACTOR'S RESPONSIBILITY FOR WORK:

The contractor is responsible for the means, methods, techniques, sequences or procedures of construction.

Until final written acceptance of the project by the Conservation District, the contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof by the action of the elements, or from the non-execution of the work.

The contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of and without the fault of or negligence of the contractor, including but not restricted to acts of God, of the public enemy or governmental authorities.

In case of suspension of work from any cause whatever, the contractor shall be responsible for the project and shall take such precautions as may be necessary to prevent damage to the project, provide for normal drainage and to erect any necessary temporary structures, signs, or other facilities at their expense. During such period of suspension of work, the contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established seedlings furnished under their contract, and shall take adequate precautions to protect important vegetative growth against injury.

14. RESPONSIBILITY FOR DAMAGE CLAIMS:

The contractor shall be responsible for claims of any character brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the contractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of the contractor.

15. UTILITY IDENTIFICATION:

It is the responsibility of the contractor prior to any ground disturbing activities to call **WV 811** (Miss Utility of West Virginia) to ensure that utilities are identified at project site. To make contact, dial 811 or 1-800-245-4848. You can also get additional information at their website at www.WV811.com.

16. PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS:

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Engineer.

(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site, and (2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Engineer may have the necessary work performed and charge the cost to the Contractor.

17. OPERATIONS AND STORAGE AREAS:

(a) The Contractor shall confine all operations (including storage of materials) on project site premises to areas authorized or approved by the Engineer. The Contractor shall hold and save the Conservation District and its agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (*e.g.*, storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Engineer and shall be built with labor and materials furnished by the Contractor without expense to the Conservation District. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Engineer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Engineer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Engineer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

18. CLEANING UP:

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Conservation District and its agents. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Engineer.

19. SCHEDULES FOR CONSTRUCTION CONTRACTS:

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Engineer, prepare and submit to the Engineer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Engineer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Engineer. If, in the opinion of the Engineer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Engineer, without additional cost to the Conservation District. In this circumstance, the Engineer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Engineer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Engineer under this clause shall be grounds for a determination by the Engineer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Engineer will make recommendation to the Contracting Officer to terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

20. QUANTITY SURVEYS:

(a) Quantity surveys shall be conducted, and the data derived from these surveys shall be used in computing the quantities of work performed and the actual construction completed and in place.

(b) The Government shall conduct the original and final surveys and make the computations based on them. The Contractor shall conduct the surveys for any periods for which progress payments are requested and shall make the computations based on these surveys. All surveys conducted by the Contractor shall be conducted under the direction of the Engineer, unless the Engineer waives this requirement in a specific instance.

(c) Promptly upon completing a survey, the Contractor shall furnish the originals of all field notes and all other records relating to the survey or to the layout of the work to the Engineer, who shall use them as necessary to determine the amount of progress payments. The Contractor shall retain copies of all such material furnished to the Engineer.

21. LAYOUT OF WORK:

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work.

The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Engineer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Engineer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Engineer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

22. SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION:

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Engineer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Engineer, who shall promptly decide in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Engineer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription," of the Engineer is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" the Engineer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated," "as detailed," or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed."

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (*i.e.*, fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Engineer without evidence of the Contractor's approval may be returned for resubmission. The Engineer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Conservation District's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Engineer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) of this clause.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Engineer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Engineer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Engineer and one set will be returned to the Contractor.

23. PERMITS AND LICENSING:

The Contractor is responsible for all necessary permits and associated fees except for the Land Rights. The contractor shall, without additional expense to the Conservation District, be responsible for codes, any necessary licenses and permits, and for complying with any applicable federal, state, and municipal laws, and regulations applicable to the performance of the work.

The Conservation District shall be responsible for obtaining all construction rights of entry for the project. The contractor is permitted only to do the work outlined by the Engineer while on site completing work under this contract. Any additional work requested by the landowner will occur only after final inspection is completed by the Conservation District and all necessary permits and rights of entry for additional work must be obtained by the contractor or landowner.

24. LAND RIGHTS:

Adequate land rights needed to perform the work under this contract have been acquired by, or on behalf of, the Conservation District. The right- to-enter, remove, or otherwise make the use of adjacent property, roads, utility lines, fences, and other improvements not included within the land rights provided shall be the sole responsibility of the contractor. The Conservation District will not be held responsible or liable for any work or any resulting damages from work performed outside of the contract or construction limits.

Where ingress and egress is not defined by the drawings, the Engineer, shall designate the right-of-way to be used and determine whether the ingress/egress shall be used together or separate for entrance and exit purposes.

25. MAXIMUM WORKWEEK – CONSTRUCTION SCHEDULE:

Within 10 calendar days after receipt of a written request from the Engineer, the contractor must submit the following in writing for approval:

- (a) A calendar schedule for construction.
- (b) The hours (including the daily starting and stopping times) and days of the week the contractor proposes to carry out the work.

The maximum workweek that will be approved is 10 hours per day, five (5) days per week, Monday through Friday. During the placement of roller compacted concrete the work week will be Monday through Saturday, and hours shall be approved by the Engineer.

26. WORKWEEK RESTRICTIONS AND SEASONAL SHUTDOWN:

In addition to the workweek restrictions as stated in Maximum Workweek- Construction Schedule, above, work shall not be performed under this contract on legal federal holidays. This will include days designated for observance of the federal holiday.

If the performance period of this contract extends into the winter months, work under this contract shall be suspended for Seasonal Shutdowns.

During the seasonal shutdown, work of any emergency, protective or maintenance nature may be performed at any time without prior approval of the Engineer. This will permit the contractor to address their responsibilities.

PROJECT SITE OPERATIONS

SECTION B: SPECIFIC

1. WORK TIMEFRAME

The work timeframe is 386 calendar days from start of work.

Work Days: 174 days

Weekend Days: 83 days

Holidays (during construction seasons): 8 days

Winter Shutdown Days (One winter shutdown): 121 days

2. ITEMS OF WORK AND CONSTRUCTION DETAILS

Items of work to be performed in conformance with this solicitation and the construction details therefore are:

(a) Construction & Material Specifications

See attachment section below.

(b) Upper Deckers Bid Drawings 34x22 Part 1, Part 2, and Part 3

See attachment section below.

(c) UDC1 FINAL Geotech Investigation Report

See attachment section below.

(d) UDC1 FINAL Phase II Geotech Investigation Report

See attachment section below.

**REHABILITATION of
UPPER DECKERS CREEK SITE #1**

LIST OF ATTACHMENTS

ATTACHMENT	TITLE	NUMBER OF PAGES
1	Natural Resources Conservation Services Supplement to OSHA Parts 1910 and 1926 Construction Industry Standards and Interpretations	4
2	Construction & Material Specifications (Upon receiving the Bidder/Contractor E-mail address, the Contract Specialist will send out a website Link for electronic access to the SPECIFICATIONS)	309
3	Upper Deckers Bid Drawings 34x22 Part 1 of 3 Upper Deckers Bid Drawings 34x22 Part 2 of 3 Upper Deckers Bid Drawings 34x22 Part 3 of 3 (Upon receiving the Bidder/Contractor E-mail address, the Contract Specialist will send out a website Link for electronic access to the DRAWINGS)	30 30 26
4	UDC-1 FINAL Geotech Investigation Report (Upon receiving the Bidder/Contractor E-mail address, the Contract Specialist will send out a website Link for electronic access to the SPECIFICATIONS)	179
5	UDC-1 FINAL Phase II Geotech Investigation Report (Upon receiving the Bidder/Contractor E-mail address, the Contract Specialist will send out a website Link for electronic access to the SPECIFICATIONS)	201

ATTACHMENT 1

NATURAL RESOURCES CONSERVATION SERVICE SUPPLEMENT TO OSHA PARTS 1910 AND 1926 CONSTRUCTION INDUSTRY STANDARDS AND INTERPRETATIONS:

The Contractor shall comply with OSHA (Occupational Safety and Health Administration) Parts 1910 and 1926, Construction Industry Standards and Interpretations, and with this supplement.

Requests for variances or waiver from this supplement are to be made to the Contracting Officer in writing supported by evidence that every reasonable effort has been made to comply with the contractual requirements. A written request for a waiver or a variance shall include--

- (1) Specific reference to the provision or standard in question;
- (2) An explanation as to why the waiver is considered justified; and
- (3) The Contractor's proposed alternative, including technical drawings, materials, or equipment specifications needed to enable the Contracting Officer to render a decision.

No waiver or variance will be approved if it endangers any person. The Contractor shall not proceed under any requested revision of provision until the Contracting Officer has given written approval. The Contractor is to hold and save harmless the Conservation District and its agents free from any claims or causes of action whatsoever resulting from the Contractor or subcontractors proceeding under a waiver or approved variance.

Copies of OSHA Parts 1910 and 1926, Construction Industry Standards and Interpretations, may be obtained from:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

1.0 GENERAL CONTRACTOR REQUIREMENTS.

1.1 SAFETY PROGRAM. Each Contractor is to demonstrate that he or she has facilities for conducting a safety program commensurate with the work under contract. The Contractor is to submit in writing a proposed comprehensive safety program to the Contracting Officer for approval before the start of construction operations. The program is to specifically state what provisions the Contractor proposes to take for the health and safety of all employees, including subcontractors and rental equipment operators. The program shall be site specific and provide details relevant to the work to be done, the hazards associated with the work, and the actions that will be necessary to minimize the identified hazards.

1.2 PRECONSTRUCTION SAFETY MEETING. Representatives for the Contractor are to meet with the Contracting Officer (CO) or the CO's representative before the start of construction to discuss the safety program and the implementation of all health and safety standards pertinent to the work under this contract.

1.3 JOINT SAFETY POLICY COMMITTEE. The Contractor or designated on-site representative is to participate in monthly meetings of a joint Safety Policy Committee, composed of the Conservation District and its agents (Contracting Local Organization in locally awarded contracts) and Contractor supervisory personnel. At these meetings the Contractor's Contracting Officer's Representative and the Contracting Officer will review the effectiveness of the Contractor's safety effort, resolve current health and safety problems, and coordinate safety activities for upcoming work.

1.4 SAFETY PERSONNEL. Each Contractor is to designate a competent supervisory employee satisfactory to the Contracting Officer to administer the safety program.

1.5 SAFETY MEETINGS. A minimum of one "on-the-job" or "toolbox" safety meeting is to be conducted each week by all field supervisors or foremen and attended by mechanics and all construction personnel at the jobsite. The Contractor is to also conduct regularly scheduled supervisory safety meetings at least monthly for all levels of job supervision.

1.6 SAFETY INSPECTION. The Contractor shall perform frequent and regular safety inspections of the jobsite, materials, and equipment, and shall correct deficiencies.

1.7 FIRST AID TRAINING. Every Contractor foreman's work crew must include an employee who has a current first aid certificate from the Mine Safety and Health Administration, American Red Cross, or other state-approved organization.

1.8 REPORTS. Each Contractor is to maintain an accurate record of all job-related deaths, diseases, or disabling injuries. The records shall be maintained in a manner approved by the Contracting Officer. A copy of all reports is to be provided to the Contracting Officer. All fatal or serious injuries are to be reported immediately to the Contracting Officer, and every assistance is to be given in the investigation of the incident, including submission of a comprehensive narrative report to the Contracting Officer. Other occurrences with serious accident potential, such as equipment failures, slides, and cave-ins, must also be reported immediately. The Contractor is to assist and cooperate fully with the Contracting Officer in conducting accident investigations. The Contracting Officer is to be furnished all information and data pertinent to investigation of an accident.

1.9 CERTIFICATION OF INSURANCE. Contractors are to provide the Contracting Officer or his or her authorized representative with certificates of insurance before the start of operations indicating full compliance with State Worker's Compensation statutes, as well as other certificates of insurance required under the contract.

2.0 FIRST AID AND MEDICAL FACILITIES.

2.1 FIRST AID KITS. A 16-unit first aid kit approved by the American Red Cross is to be provided at accessible, well-identified, locations at the ratio of at least 1 kit for each 25 employees. The first aid kits are to be moisture proof and dust tight, and the contents of the kits are to be replenished as used or as they become ineffective or outdated.

2.2 EMERGENCY FIRST AID. At least one employee certified to administer emergency first aid must be available on each shift and duly designated by the Contractor to care for injured employees. The names of the certified employees shall be posted at the jobsite.

2.3 COMMUNICATION AND TRANSPORTATION. Prior to the start of work, the Contractor is to make necessary arrangements for prompt and dependable communications, transportation, and medical care for injured employees. At least one stretcher and two blankets shall be readily available for transporting injured employees.

2.4 FIRST AID AND MEDICAL REPORTS. The Contractor is to maintain a record system for first aid and medical treatment on the jobsite. Such records are to be readily available to the Contracting Officer and are to include--

- (a) A daily treatment log listing chronologically all persons treated for occupational injuries and illnesses;
- (b) Cumulative record of injury for each individual;
- (c) Monthly statistical records of occupational injuries, classified by type and nature of injury; and
- (d) Required records for worker's compensation.

2.5 SIGNS AND DIRECTIONAL MARKINGS. Adequate identification and directional markers are to be provided to readily denote the location of all first aid stations.

2.6 EMERGENCY LISTING. A listing of telephone numbers and addresses of doctor, rescue squad, hospital, police, and fire departments is to be provided at all first aid locations.

1.0 PHYSICAL QUALIFICATIONS OF EMPLOYEES.

3.1 GENERAL REQUIREMENTS. Persons employed throughout the contract are to be physically qualified to perform their assigned duties. Employees must not knowingly be permitted or required to work while their ability or alertness is impaired by fatigue, illness, or any other reason that may jeopardize themselves or others.

3.2 HOIST OPERATORS. Operators of cranes, cableways, and other hoisting equipment shall be examined annually by a physician and provided with a certification stating that they are physically qualified to safely operate hoisting equipment. The Contractor is to submit a copy of each certification to the Contracting Officer.

3.3 HEAVY EQUIPMENT OPERATORS. It is recommended that operators of trucks and heavy construction equipment be given physical examinations to determine if they are physically qualified to perform their assigned work without endangering themselves or others.

3.4 MOTOR VEHICLE OPERATORS. Operators of motor vehicles engaged primarily in the transportation of personnel are to be 18 years of age or older and have a valid state operator's permit or license for the equipment being operated. The operators must have passed a physical examination administered by a licensed physician within the past year showing that they are physically qualified to operate vehicles safely.

4.0 PERSONAL PROTECTIVE EQUIPMENT.

4.1 HARDHAT AREAS. The entire jobsite, with the exception of offices, shall be considered a hardhat area. All persons entering the area are, without exception, required to wear hardhats. The Contractor shall provide hardhats for visitors entering hardhat areas.

4.1.1 LABELS. Hardhats shall bear a manufacturer's label indicating design compliance with the appropriate ANSI (American National Standards Institute) standard.

4.2 POSTING. Signs at least 3 by 4 feet worded as follows with red letters (minimum 6 inches high) and white background shall be erected at access points to designated hardhat areas:

CONSTRUCTION AREA - HARDHATS REQUIRED BEYOND THIS POINT

These signs are to be furnished and installed by the Contractor at entries to shops, construction yards, and job access points.

4.3 SAFETY GOGGLES (DRILLERS)

4.3.1 DRILLERS AND HELPERS. Drillers and helpers operating pneumatic rock drills must wear protective safety goggles.

5.0 MACHINERY AND MECHANIZED EQUIPMENT.

5.1 SAFE CONDITION. Before any machinery or mechanized equipment is initially used on the job, it must be inspected and tested by qualified personnel and determined to be in safe operating condition and appropriate for the intended use. Operators shall inspect their equipment prior to the beginning of each shift. Any deficiencies or defects shall be corrected prior to using the equipment. Safety equipment, such as seatbelts, installed on machinery is to be used by equipment operators.

5.2 TAGGING AND LOCKING. The controls of power-driven equipment under repair are to be locked. An effective lockout and tagging procedure is to be established, prescribing specific responsibilities and safety procedures to be followed by the person or persons performing repair work. Mixer barrels are to be securely locked out before permitting employees to enter them for cleaning or repair.

5.3 HAUL ROADS FOR EQUIPMENT

5.3.1 ROAD MAINTENANCE. The Contractor shall maintain all roadways, including haul roads and access roads, in a safe condition so as to eliminate or control dust and ice hazards. Wherever dust is a hazard, adequate dust-laying equipment shall be available at the jobsite and utilized to control the dust.

5.3.2 SINGLE-LANE HAUL ROADS. Single-lane haul roads with two-way traffic shall have adequate turnouts. Where turnouts are not practical, a traffic control system shall be provided to prevent accidents.

5.3.3 TWO-WAY HAUL ROADS. On two-way haul roads, arrangements are to be such that vehicles travel on the right side wherever possible. Signs and traffic control devices are to be employed to indicate clearly any variations from a right-hand traffic pattern. The road shall be wide enough to permit safe passage of opposing traffic, considering the type of hauling equipment used.

5.3.4 DESIGN AND CONSTRUCTION OF HAUL ROADS. Haul road design criteria and drawings, if requested by the Contracting Officer, are to be submitted for approval prior to road construction. Sustained grades shall not exceed 12 percent and all curves shall have open-sight line with as great a radius as practical. All roads shall be posted with curve signs and maximum speed limits that will permit the equipment to be stopped within one-half the minimum sight distance.

5.3.5 OPERATORS. Machinery and mechanized equipment shall be operated only by authorized qualified persons.

5.3.6 RIDING ON EQUIPMENT. Riding on equipment by unauthorized personnel is prohibited. Seating and safety belts shall be provided for the operator and all passengers.

5.3.7 GETTING ON OR OFF EQUIPMENT. Getting on or off equipment while the equipment is in motion is prohibited.

5.3.8 HOURS OF OPERATION. Except in emergencies, an equipment operator shall not operate any mobile or hoisting equipment for more than 12 hours without an 8-hour rest interval away from the job.

5.4 POWER CRANES AND HOISTS (TRUCK CRANES, CRAWLER CRANES, TOWER CRANES, GANTRY CRANES, HAMMERHEAD CRANES, DERRICKS, CABLEWAYS, AND HOISTS)

5.4.1 PERFORMANCE TEST. Before initial onsite operation, at 12-month intervals, and after major repairs or modification, power cranes, derricks, cableways, and hoists must satisfactorily complete a performance test to demonstrate the equipment's ability to safely handle and maneuver the rated loads. The tests shall be conducted in the presence of a representative of the Contracting Officer. Test data shall be recorded and a copy furnished the Contracting Officer.

5.4.2 PERFORMANCE TEST—POWER CRANES (Crawler mounted, truck mounted and wheel mounted). The performance test is to be carried out as per ANSI requirements. The test is to consist of raising, lowering, and braking the load and rotating the test load through 360° degrees at the specified boom angle or radius. Cranes equipped with jibs or boom-tip extensions are to be tested using both the main boom and the jib, with an appropriate test load in each case.

5.4.3 PERFORMANCE TEST—DERRICKS, GANTRY CRANES, TOWER CRANES, CABLEWAYS, AND HOISTS, INCLUDING OVERHEAD CRANES. This equipment is to be performance tested as per ANSI requirements.

5.4.4 BOOM ANGLE INDICATOR. Power cranes (includes draglines) with booms capable of moving in the vertical plane shall be provided with a boom angle indicator in good working order.

5.4.5 CRANE TEST CERTIFICATION. The performance test required by 5.4.2 and 5.4.3 is fulfilled if the Contractor provides the Contracting Officer a copy of a certificate of inspection made within the past 12 months by a qualified person or by a government or private agency satisfactory to the Contracting Officer.

5.4.6 POSTING FOR HIGH VOLTAGE LINES. A notice of the 10-foot (or greater) clearance required by OSHA 1926.550, Subpart N, shall be posted in the operator's cab of cranes, shovels, boom-type concrete pumps, backhoes, and related equipment.

5.4.7 BOOM STOPS. Cranes or derricks with cable-supported booms, except draglines, shall have a device attached between the gantry of the A-frame and the boom chords to limit the elevation of the boom. The device shall control the vertical motions of the boom with increasing resistance from 83° or less, until completely stopping the boom at not over 87° above horizontal.

5.4.8 SAFETY HOOKS. Hooks used in hoisting personnel or hoisting loads over construction personnel or in the immediate vicinity of construction personnel shall be forged steel equipped with safety keepers. When shackles are used under these conditions, they shall be of the locking type or have the pin secured to prohibit turning.

5.5 ROLLOVER PROTECTIVE STRUCTURES (ROPS)

5.5.1 ROLLOVER PROTECTIVE STRUCTURES. OSHA 1926, Subpart W, Overhead Protection, Sections 1001 and 1002 are applicable regardless of the year in which the equipment was manufactured and regardless of the struck capacity of the equipment.

5.5.2 EQUIPMENT REQUIRING ROPS. The requirement for ROPS meeting 5.5.1 above applies to crawler and rubber-tired tractors such as dozers, push-and-pull tractors, winch tractors, tractors with backhoes, and mowers; off-highway, self-propelled, pneumatic-tired earthmovers, including scrapers, motor graders and loaders; and rollers, compactors, water tankers (excluding trucks with cabs). These requirements shall also apply to agricultural and industrial tractors and similar equipment.

5.5.3 EQUIPMENT REQUIRING SEATBELTS. The requirements for seatbelts as specified in OSHA Subpart O, Motor Vehicles, Mechanized Equipment, and Marine Operations, Section 1926.602 shall also apply to self-propelled compactors and rollers, and rubber-tired skid-steer equipment.

6.0 LADDERS AND SCAFFOLDING.

6.1 LADDERS. OSHA 1926, Subpart L - Section 450. Ladders shall be used as work platforms only when use of small hand tools or handling of light material is involved. No work requiring lifting of heavy materials or substantial exertion shall be done from ladders.

6.2 SCAFFOLDING. OSHA 1926, Subpart L - Section 451. Scaffolds, platforms or temporary floors shall be provided for all work except that which can be done safely from the ground or similar footing.

6.3 SAFETY BELTS, LIFELINE, AND LANYARDS. OSHA 1926, Subpart E, Section 104. Lifelines, safety belts and lanyards independently attached or attended, shall be used when performing such work as the following when the requirements of 6.1 or 6.2 above cannot be met.

(a) Work on stored material in hoppers, bins, silos, tanks, or other confined spaces.

(b) Work on hazardous slopes, structural steel, or poles; erection or dismantling of safety nets, tying reinforcing bars; and work from Boatswain's chairs, swinging scaffolds, or other unguarded locations at elevations greater than 6 feet.

(c) Work on skips and platforms used in shafts by crews when the skip or cage does not block the opening to within 1 foot of the sides of the shaft, unless cages are provided.

BID PACKET DOCUMENTS

- 1. Bid Schedule Sheets**
- 2. Company/Business Data Sheet**
- 3. No Debt Affidavit**
- 4. Drug Free Affidavit**
- 5. Subcontractors List**
- 6. Acknowledgement of Responsibility**
- 7. Addendum Acknowledgement Form**