

This contract ("Contract") is made and entered effective August 28, 2018 by and between **PUBLIC MANAGEMENT, INC.**, a Texas corporation, of Cleveland, Liberty County, Texas ("Consultant") and the **Chambers County**, ("Client") for the purpose of retaining Consultant to render **Application and Administration Services** to the Client for the federal, state or locally funded Disaster Recovery Programs.

Client and Consultant agree that Consultant will provide consulting services to Client on the terms and conditions outlined in this Contract.

I.

Consultant will provide Client with administrative services as follows:

A) Application Preparation

- Review of proposed project for program compliance and will work with County staff to provide an overview of damage assessment;
- Advise on important deadlines and procedures;
- Schedule project meetings with client staff to evaluate proposed project and timeframes.
- Prepare project description in conjunction with staff and project engineer;
- Evaluate project objective and develop timelines/milestones;
- Prepare project maps in ArcGIS and PDF format;
- Prepare necessary preliminary Environmental Compliance documentation;
- Conduct public hearings (as applicable) for application submission and attend Client meeting to address application development;
- Package complete application with all pertinent supplemental documentation for client to review prior to submission;
- Advise client on funding availability, anticipated scoring, selection and award process;
- Identify and document beneficiaries.

B) Administrative Duties

- Oversee the project and achieve all of the project goals within the constraints given by the funding agency;
- Develop and implement project phases to plan, budget, oversee, and document all aspects of the specific project;
- Coordinate all activities related to the project's successful completion with all other professionals and organizations associated with this project;
- Act as the Client's liaison to the funding agency in all matters concerning the project;
- Coordinate communication via email, conference call, facsimile, and direct meetings to ensure the project is on schedule and all parties are properly informed;
- Prepare and submit any necessary reports required by the funding agency during the course of the project (i.e. Quarterly Progress Reports, Project Monitoring Reports, Project Completion Reports, etc.);
- Provide Client staff specific instructions on the necessary administrative procedures that will assure a successful project;

- Establish and maintain record keeping systems;
- Assist with resolving monitoring and audit findings;

C) Recordkeeping

- Complete filing system will be developed and maintained at Client's office;
- Both physical and electronic form of records will be developed and accessible;
- Records will be updated as necessary to ensure compliance with funding source and administrative agency;
- Records will be retained for the appropriate period of time as dictated by the funding agency, with electronic records available for perpetuity.

D) Financial Management

- Utilize and assist with the agency's system of record to complete milestones, submit documentation, reports, draws, change requests, etc.;
- Requested fund expenditure in-line with project milestones;
- Develop a detailed Contract Ledger;
- Establish a filing system that accurately and completely reflects the financial expenditures of the program and project(s).

E) Construction Management

- Assist the Client in submitting/setting up project applications in the Agency's system of record;
- Coordinate the development, completion, and execution of contract documents to ensure supporting documentation is in order;
- Conduct regular on-site visitations and assessments;
- Development and maintenance of construction management status log;
- Recommendation and development of scope realignments as prescribed by the projects complexities.

F) Economic Revitalization (as applicable)

- Develop a contract for compliance with the private enterprise partner;
- Monitor compliance with the contract throughout the course of the project;
- Coordinate job creation and/or retention reporting;
- Document and track economic impact and revitalization activities.

G) Flood Protection Planning (as applicable)

- Assist Client with establishing formal and direct contact with appropriate entities affected by the project and in coordinating with existing flood protection planning activities in the watershed;
- Develop detailed budgets for subcontracts;
- Schedule and assist facilitating at minimum three (3) required public meetings;
- Submit planning studies for review.

H) Real Property Acquisition Procedures (as applicable)

- Perform initial acquisition assessment;
- *If it is determined that property needs to be acquired, Public Management will perform the following services according to the Uniform Relocation Act for an additional fee;*
- Compliance with performance standards for citizen participation;

- Obtain the proposed easement alignments and meets and bounds from the County;
- Conduct applicable ownership research;
- Prepare easement price valuations;
- Obtain a title opinion and/or a property appraisal when necessary;
- Complete necessary correspondence and negotiation with property owner;
- Draft easement agreements and file executed agreements with County;
- Implement and document initial real property acquisition and relocation assistance activities;
- Assist in other measures and matters incidental to and necessary in carrying the services;
- Advise Client concerning Program requirements and regulations;
- Prepare necessary reports about the Program, including the performance report to comply with URA and TWDB, the Chief Elected Official, Commissioners Court and citizens' groups.

I) Environmental Services

- Review each project description to ascertain and/or verify the level of environmental review required: Exempt, Categorical Exclusion not Subject to 58.5, Categorical Exclusion Subject to 58.5, Environmental Assessment, and Environmental Impact Statements;
- Prepare and maintain a written environmental review record;
- Consult and coordinate with oversight/regulatory agencies to facilitate environmental clearance;
- Conduct site-visits as necessary to ensure environmental compliance;
- Prepare all responses to comments received during comment phase of the environmental review, including State/Federal Agency requiring further studies and/or comments from public or private entities during public comment period;
- Provide documentation of clearance for Parties Known to be Interested as required by 24 CFR 58.43;
- Advise and complete environmental re-evaluations per 24 CFR 58.47 when evidence of further clearance or assessment is required;
- Assist in compliance with flood plain and wetlands management review guidelines;
- *Not included in this service are archeological, engineering or other special services costs mandated by environmental review record compliance agencies.*

J) Civil Rights Requirements

- Set up Civil Rights & Citizen Participation File;
- Designate a Civil Rights Officer (CRO);
- Adopt policies and grievance procedures regarding Citizen Participation;
- Adopt Policies and Pass Resolution/Proclamation/Ordinances regarding Civil Rights;
- Publish Citizen Participation and Civil Rights Notices;
- Place necessary documentation in Bid Packets for Contractors;
- Include required clauses in Construction Contracts between Grant Recipient and Contractor;
- Take action to Affirmatively Further Fair Housing;
- The Team will be diligent and consistent in implementing the project's civil rights responsibilities and will undertake further action and reporting requirements.

K) Procurement/Bidding/Contracting

- Provide assistance to ensure compliance with Local Government Code Chapter 252 as applicable to goods and services;

- Provide assistance to ensure compliance with 2 CFR 200.320 (Methods of Procurement to be Followed).

L) Labor Standards Monitoring

- Davis-Bacon Act (40 USC Chapter 31, Subchapter IV);
- Contract Work Hours & Safety Standards Act (CWHSSA);
- Copeland (Anti-Kickback) Act (18 USC 874; 40 USC 3145);
- Fair Labor Standards Act.

M) Force Account (as applicable)

- Develop and maintain documentation of all associated costs;
- Using appropriate recordkeeping forms required by funding agency;
- Submit documentation upon completion of necessary milestones.

N) Mitigation Projects (as applicable)

- Develop and implement local criteria to prioritize applicants;
- Coordinate and conduct public meetings to solicit homeowners to volunteer to participate in grant programs;
- Respond to verbal, email and written inquiries from the public regarding participation in grant programs;
- Collect homeowner information as needed to facilitate development of grant application;
- Identify and evaluate candidate projects suitable for grant funding;
- Provide written overview of drainage project evaluations to include list of data needs;
- Conduct water surface reduction analysis for potential drainage project areas;
- Provide written report summarizing results of water surface reduction analysis with estimated benefit calculations for each reduction scenario;
- Complete Benefit Cost Analysis per FEMA's Guidance for candidate drainage projects;
- Complete project scope of work, cost estimate, schedule and justifications and all other elements of grant application;
- Complete Benefit Cost Analysis calculations per FEMA guidance for properties to be included in grant application;
- Provide recommendation to County of which properties or drainage projects to include in grant application based on HMA guidance and Benefit Cost Analysis calculations;
- Conduct review and analysis of FEMA and other data to validate property classification and cost estimates;
- Assist County with execution of required certifications and other documents;
- Assist County with the completion and submittal of grant applications;
- Respond to any State or FEMA requests for information post-application submittal (RFIs);
- Report to local officials on the grant process;
- Prepare required reports to the State;
- Assist the County in evaluating options for procurement of qualified contractors in accordance with 2 CFR Part 200 and State of Texas procurement standards;
- Prepare reconciliation with State on all grant funds;
- Prepare all reports and forms required for grant closeout;

- Participate in any review or audit of the grant by TWDB, FEMA or their assignee, and address any questions, findings, or deficiencies noted.

O) Buyout and Mitigation Projects (as applicable):

- Prepare requests for payment from the County to the property owners or contractor involved in the buyout program;
- Prepare requests for reimbursement from the County to the State;
- Assist the County in developing an agreement between the County and the Homeowners for buyout that passes along the relevant terms of the grant. This agreement will also establish Homeowner obligations that must be followed during the elevation of their home;
- Coordination of inspection, structure requirement, and bid/contract process for elevation contractor procurement;
- Coordinate and facilitate meetings with Homeowners to outline the project's scope of work requirements. Work closely with the Homeowners throughout the duration of the project and respond to their questions in a timely manner.

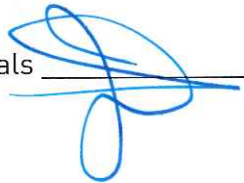
P) Contract Close-out Assistance

- Ensure project outcomes are in line with contract documents and funding agency's goals and objectives;
- Ensure project beneficiaries are appropriately documented and reported;
- Develop, complete, and submit project completion report(s) and any other necessary administrative completion documents.

It is specifically agreed and understood that Consultant will not provide either personally or by contract any professional or technical services requiring a license by the State of Texas in any phase or aspect of the foregoing. Rather, Consultant will advise Client of the need of such services in furtherance of the planned objectives of Client's Program.

Client acknowledges that Consultant is providing Administrative Services only to Client and that Consultant is not responsible for any procurement activities for or on behalf of the Client. That is, Client, not Consultant, will advertise for and procure the services of any third party required to fulfill Program requirements. By way of example only, Client, not Consultant, must timely and properly post any advertisements necessary to fulfill Program requirements and Client, not Consultant, will enter into any required contracts with third parties necessary to fulfill Program requirements.

Client Initials _____



Consultant Initials _____



II.

Consultant hereby agrees that in the implementation of this Contract, Consultant will comply with the terms and conditions of **Attachment II**, which document is attached hereto and incorporated herein for all purposes, as if set out herein verbatim.

III.

Client is awarding this contract in accordance with the State of Texas Government Code 2254, Professional and Consulting Services.

IV.

It is agreed by the parties hereto that Consultant will, in the discharge of services herein, be considered as an Independent Contractor as that term is used and understood under the laws of the State of Texas and further for the purposes of governing Consultant's fees under the Procurement Standards of Title 2 CFR Part 200.

V.

For work associated to **Community Development Block Grant – Disaster Recovery (CDBG-DR)** and in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed **ZERO DOLLARS (\$0.00)** for **Application Preparation Services**:

Milestone/Task

Application Preparation Services	\$0.00
TOTAL:	\$0.00

For work associated to **Community Development Block Grant – Disaster Recovery (CDBG-DR)** and in consideration of the foregoing, **Client agrees to pay Consultant a fee not to exceed the maximum percentage on the table below for Administrative Services.** *The fee will be based on final grant award amount. Consultant reserves the right to renegotiate fees based on the type of project being pursued.*

<i>CDBG-DR Grant Amount</i>	<i>Percentage Factor</i>	<i>Fee Not to Exceed</i>
\$0 - \$249,999	11.00%	\$ 27,499.89
\$250,000 - \$749,999	9.00%	\$ 67,499.91
\$750,000 - 999,999	8.00%	\$ 79,999.92
\$1,000,001 - \$2,000,000	6.00%	\$ 120,000.00
\$2,000,001 - \$4,000,000	6.00%	\$ 240,000.00
\$4,000,001 - \$6,000,000	5.75%	\$ 345,000.00
\$6,000,001 - \$8,000,000	5.50%	\$ 440,000.00
\$8,000,001 - \$10,000,000	4.25%	\$ 425,000.00
\$10,000,001 - \$15,000,000	4.00%	\$ 600,000.00
\$15,000,001 - \$20,000,000	3.75%	\$ 750,000.00
\$20,000,001 - \$30,000,000	3.50%	\$ 1,050,000.00
\$30,000,001 - \$40,000,000	3.00%	\$ 1,200,000.00
\$40,000,001 - \$50,000,000	3.00%	\$ 1,500,000.00
\$50,000,001 - \$75,000,000	2.75%	\$ 2,062,500.00
\$75,000,001 - \$100,000,000	2.50%	\$ 2,500,000.00
\$100,000,001 - \$150,000,000	2.50%	\$ 3,750,000.00
\$150,000,001 - \$200,000,000	2.25%	\$ 4,500,000.00
\$200,000,001 - \$250,000,000	2.00%	\$ 5,000,000.00

It is agreed that upon determination of total funding request amount Consultant and Client will execute the **Work Authorization (Attachment I)** that will detail final contract amount and cost for services. It is also agreed that payments to such Consultant shall be subject to adjustment where monitoring reviews or audits by the agency indicate that personal services were compensated at greater than reasonable rates.

VI.

For work associated to **Hazard Mitigation Assistance (HMA)** and in consideration of the foregoing, Client agrees to pay Consultant a fee based on the table below for **Application Preparation Services**:

<i>Applications for Acquisition or Elevation of Homes</i>	
Applications with 1-25 homes	\$5,000.00
Applications with 26 to 50 homes	\$6,000.00
Applications with 51 to 75 homes	\$7,000.00
Applications with 76 to 100 homes	\$8,000.00
Applications with greater than 100	\$9,000.00
<i>Applications for Minor Flood Control Projects</i>	
Applications with BCAs on < 25 homes	\$8,000.00 (\$2,500 is BCA related)
Applications with BCAs on 26 to 100 homes	\$9,000.00 (\$3,500 is BCA related)
Applications with BCAs on 101 to 200 homes	\$10,000.00 (\$4,000 is BCA related)
Applications with BCAs on 201 to 300 homes	\$11,000.00 (\$5,000 is BCA related)
Applications with BCAs on > 300 homes	\$12,000.00 (\$6,000 is BCA related)

For work associated to **Hazard Mitigation Assistance (HMA)** and in consideration of the foregoing, **Client agrees to pay Consultant a fee not to exceed 4.5 % of the grant award amount for Administrative Services.** *The fee will be based on final grant award amount. Consultant reserves the right to renegotiate fees based on the type of project being pursued.*

It is agreed that upon determination of total funding request amount Consultant and Client will execute the **Work Authorization (Attachment I)** that will detail final contract amount and cost for services. It is also agreed that payments to such Consultant shall be subject to adjustment where monitoring reviews or audits by the agency indicate that personal services were compensated at greater than reasonable rates.

VII.

Payment of the fees associated with (“**Part V. and VI.**”) - Payment Schedule of this Agreement – shall be contingent upon funding award. In the event that grant funds are not awarded to the Client this agreement shall be terminated by the Client.

VIII.

For purposes of this Contract, the Chief Elected Official or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for Consultant. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

IX.

This Contract shall extend and be in full force until the Program has been fully closed out by the agency. Notwithstanding the foregoing, this Contract may be terminated by Consultant, with or without cause, on forty-five (45) days' written notice to Client.

X.

Termination for Cause by Client: If Consultant fails to fulfill in a timely and proper manner its obligations under this Contract, or if Consultant violates any of the covenants, conditions, contracts, or stipulations of this Contract, Client shall have the right to terminate this Contract by giving written notice to Consultant of such termination and specifying the effective date thereof, which shall be at least five (5) days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by Consultant pursuant to this Contract shall, at the option of Client, be turned over to Client and become the property of Client. In the event of termination for cause, Consultant shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Termination for Convenience by Client: Client may at any time and for any reason terminate Consultant's services and work at Client's convenience upon providing written notice to the Consultant specifying the extent of termination and the effective date. Upon receipt of such notice, Consultant shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. Upon such termination, Consultant shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Consultant as are permitted by the prime contract and approved by Client; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Consultant prior to the date of the termination of this Agreement. Consultant shall not be entitled to any claim or claim of lien against Client for any additional compensation or damages in the event of such termination and payment.

Resolution of Program Non-Compliance and Disallowed Costs: In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or Program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within thirty (30) days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within thirty (30) days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Contract and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within sixty (60) days of the initiation of that procedure, either party may proceed to file suit.

XI.

Client, the agency, the U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of Consultant which are directly pertinent to this Program, for the purpose of making audit, examination, excerpts, and transcriptions, and to close out the Client's contract. Consultant agrees hereby to maintain all records made in connection with the Program for a period of three (3) years after Client makes final payment and all other pending matters are closed. All subcontracts of Consultant shall contain a provision that Client, the agency, and the Texas State Auditor's Office, or any successor agency or representative, shall have access to all books, documents, papers and records relating to subcontractor's contract with Consultant for the administration, construction, engineering or implementation of the Program between the agency and Client.

XII.

If, by reason of force majeure, either party hereto shall be rendered unable, wholly or in part, to carry out its obligations under this Contract, then if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after the occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term "force majeure" as employed herein shall mean acts of God, acts of public enemy, orders of any governmental entity of the United States or of the State of Texas, or any civil or military authority, and any other cause not reasonably within the control of the party claiming such inability.

XIII.

This document embodies the entire Contract between Consultant and Client. Client may, from time to time, request changes in the services Consultant will perform under this Contract. Such changes, including any increase or decrease in the amount of Consultant's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Contract.

XIV.

If a portion of this Contract is illegal or is declared illegal, the validity of the remainder and balance of the Contract will not be affected thereby.

XV.

Any provision of this Contract which imposes upon Consultant or Client an obligation after termination or expiration of this Contract will survive termination or expiration of this Contract and be binding on Consultant or Client.

XVI.

No waiver of any provision of this Contract will be deemed, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

XVII.

This Contract will be governed by and construed in accordance with the laws of the State of Texas.

XVIII.

Any dispute between Consultant and Client related to this contract which is not resolved through informal discussion will be submitted to a mutually agreeable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.

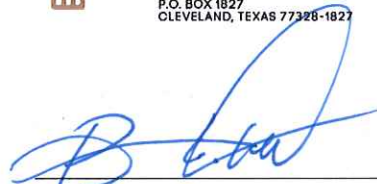
XIX.

The party who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney fees and all costs of such proceeding.

XX.

Consultant and Client, each after consultation with an attorney of its own selection (which counsel was not directly or indirectly identified, suggested, or selected by the other party), both voluntarily waive a trial by jury of any issue arising in an action or proceeding between the parties or their successors, under or connected with this contract or its provisions. Consultant and Client acknowledge to each other that Consultant and Client are not in significantly disparate bargaining positions.





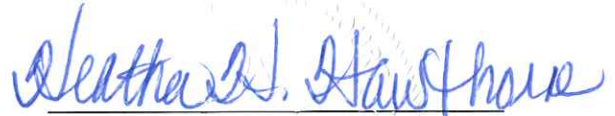
PATRICK K. WILTSHIRE
President/CEO

Client



Chief Elected Official

ATTEST:



Attestor

ATTACHMENT I
WORK AUTHORIZATION

For work associated to _____ and
in consideration of the foregoing, Client agrees to pay Consultant a fee not to exceed:

_____ (\$ _____) for
Application Preparation Services

_____ (\$ _____) for
Grant Administration Services

Application Preparation

Applications for Acquisition or Elevation of Homes..... \$ _____

Applications for Minor Flood Control Projects..... \$ _____

Total: \$ _____

Grant Administration

Preliminary Administrative Requirements..... \$ _____

Environmental Review..... \$ _____

Start of Construction..... \$ _____

Construction Completion..... \$ _____

Close-Out..... \$ _____

Total: \$ _____

CLIENT

PATRICK K. WILTSHIRE
President/CEO

Chief Elected Official

ATTEST:

ATTACHMENT II
TERMS AND CONDITIONS

I.

Equal Employment Opportunity

During the performance of this Contract, Consultant agrees as follows:

- a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor; state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employees essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity" and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h) The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

II.

Civil Rights Act of 1964

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

III.

Section 109 of the Housing and Community Development Act of 1974

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

IV.

Section 504 Rehabilitation Act of 1973, as Amended

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.

V.

Age Discrimination Act of 1975

The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

VI.

"Section 3" Compliance in the Provision of Training, Employment and Business Opportunities (Limited to contracts greater than \$100,000)

- a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated

by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- b) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

- c) The Contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- d) The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

- e) The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

- f) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.

- g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

VII.

Section 503 of the Rehabilitation Act (the "Act") -
Handicapped Affirmative Action for Handicapped Workers

- a) Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. Consultant agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising layoff or termination rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b) Consultant agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- c) In the event of Consultant's non-compliance with requirements of this clause, actions for non-compliance may be taken in accordance with rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- d) Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e) Consultant will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973 and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f) Consultant will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary Issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

VIII.

Interest of Members of Client

No member of the governing body of Client and no other officer, employee, or agent of Client who exercises any functions or responsibilities in connection with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract and Consultant shall take reasonably appropriate steps to assure compliance.

IX.

Interest of Other Local Public Officials

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connections with the planning and carrying out of the Program, shall have any personal financial interest, direct or indirect, in this Contract; and Consultant shall take appropriate steps to assure compliance.

X.

Interest of Consultant and Employees

Consultant covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

XI.

Debarment and Suspension (Executive Orders 12549 and 12689)

The Consultant certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Consultant. The Consultant understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

XII.

Copyrights and Rights in Data

HUD has no regulations pertaining to copyrights or rights in data as provided in 24 CFR 85.36. HUD requirements, Article 45 of the General Conditions to the Contract for Construction (form HUD-5370) requires that contractors pay all royalties and license fees. All drawings and specifications prepared by the Design Professional pursuant to this contract will identify any applicable patents to enable the general contractor to fulfill the requirements of the construction contract.

XIII.

Clean Air and Water.

(Applicable to contracts in excess of \$100,000)

Due to 24 CFR 85.36(i)(12) and federal law, the Design Professional shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. § 1857h-4 transferred to 42 USC § 7607, section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15), on all contracts, subcontracts, and sub grants of amounts in excess of \$100,000.

XIV.

Energy Efficiency

Pursuant to Federal regulations (24 C.F.R 85.36(i)(13)) and Federal law, except when working on an Indian housing authority Project on an Indian reservation, the Design Professional shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163 codified at 42 U.S.C.A. § 6321 et. seq.).

XV.

Retention and Inspection of Records

Pursuant to 24 CFR 85.26(i)(10) and (11), access shall be given by the Design Professional to the Owner, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and records of the Design Professional which are directly pertinent to that specific Contract for the purpose of making an audit, examination, excerpts, and transcriptions. All required records shall be retained for three years after the Owner or Design Professional and other sub grantees make final payments and all other pending matters are closed.