HARDIN COUNTY FISCAL COURT
RESOLUTION NO. 2012-174

BE IT RESOLVED, upon recommendation of Judge/Executive Harry L. Berry, to approve the grant application for 2012 Emergency Management Federal Funds for FY 2013 County Distribution;

BE IT FURTHER RESOLVED, to authorize the Judge/Executive to sign all documents concerning the grant.

ADOPTED, by the Hardin County Fiscal Court in its regular meeting on 27 November, 2012.

Harry L. Berry
Hardin County Judge/Executive

ATTEST:

Kenneth L. Tabb
Hardin County Clerk

Commonwealth of Kentucky

CONTRACT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: 2012 EMPG Federal Funds for FY2013 County Distribution	
Doc ID No: PON2 095 1300000671 1	**Procurement Folder:** 2623107
Procurement Type: Grant	
Administered By: Leslie Stamper	**Cited Authority:** KRS39A.030
Telephone: 502-607-1510	**Issued By:** Kim Richie

CONTRACTOR

Multiple Provider

702 Capitol Avenue
OMPS
Frankfort KY 40601
US

Line	CL Description	Due Date	Quantity	Unit Issue	Unit Price	Contract Amt	Total Price
1	Support Emergency Planning and Preparedness Activities		0.00		0.00000	3,000,000.00	3,000,000.00

Extended Description

Emergency Management Assistance Program (EMA) funds are to be used to support emergency preparedness activities in one hundred twenty (120) local jurisdictions. Approved support includes salaries and other administrative expenses such as expendable office supplies. Approved scope of work will be in accordance with EMA Annual Program Guidance approved per KRS 39C.060. Specific county allocations will be based on total funds available and total number and scope of applications. Specific allocations will be limited to the amount reflected in a separate letter from the Director of KyEM. This Agreement pertains to the following counties: Adair, Allen, Anderson, Ballard, Barren, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clay, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Floyd, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Johnson, Kenton, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Livingston, Logan, Lyon, McCracken, McCreary, McLean, Madison, Magoffin, Marion, Marshall, Martin, Mason, Meade, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Wayne, Webster, Whitley, Wolfe, Woodford, and the city of Frankfort.

Local government contributions are to be at least 50% of eligible expenses. Federal funds provide a maximum of 50% reimbursement of eligible expenses.

Payments will be made in the form of Electronic Funds Transfer (EFT) to an account designated by the County Treasurer.

START DATE: 10/01/2012
END DATE: 09/30/2013

Extended Description

BILL TO	SHIP TO
1572 DMA DIV OF ADMIN SERVICES 100 MINUTEMAN PARKWAY FRANKFORT KY 40601 US	

Total Order Amount:	3,000,000.00

Approvals:

This contract is subject to the terms and conditions as stated. By affixing signatures below, the parties agree that electronic approvals may serve as electronic signatures. In addition, the parties verify that they are authorized to bind this agreement between parties and that they accept the terms of the agreement.

1st Party:

_____ _____
Signature Title

_____ _____
Printed Name Date

2nd Party:

Hardin County Judge/Executive
Signature Title

Harry L. Berry November 27, 2012
Printed Name Date

Other Party:

_____ _____
Signature Title

_____ _____
Printed Name Date

Approved as to form and legality:

_____
Attorney

Article I. Scope, Purpose, and Authority

Section 1.01 General

(a) The Kentucky Division of Emergency Management, in the exercise of its lawful duties, has determined that the functions outlined in this Contract are necessary for the performance of the statutory and regulatory requirements of the Division of Emergency Management, Department of Military Affairs, General Government Cabinet.

(b) This Contract implements elements of a federal grant program from the United States Department of Homeland Security, Catalog of Federal Domestic Assistance number 97.042, Emergency Management Performance grant (EMPG) for which the Kentucky Division of Emergency Management is the grantee within the Commonwealth of Kentucky.

(c) All subrecipients/subgrantees of federal grant money disbursed under this Contract are required under OMB Circular A-133, to have an audit conducted annually if they expend $500,000 or more in total federal grant money during the subrecipient's/subgrantee's fiscal year. All subrecipients/subgrantees that are signatories to this Contract must ensure that an annual audit is performed and provide a copy of their annual audit to the Kentucky Division of Emergency Management no later than 30 days after receipt of the final audit report.

Article II. Identification & Obligations of the Parties

Section 2.01 First Party

The Kentucky Department of Military Affairs, Division of Emergency Management (as the First Party), in the exercise of its lawful duties, has determined that the functions outlined in this Contract and in the attachment(s) thereto, are necessary for the performance of the statutory and regulatory requirements of the Division of Emergency Management.

Section 2.02 Second Party

One hundred twenty counties within the Commonwealth of Kentucky, including: Adair, Allen, Anderson, Ballard, Barren, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clay, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fayette, Fleming, Floyd, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Johnson, Kenton, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, Livingston, Logan, Lyon, McCracken, McCreary, McLean, Madison,

Magoffin, Marion, Marshall, Martin, Mason, Meade, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Wayne, Webster, Whitley, Wolfe, Woodford, and the city of Frankfort (each as the second party), is the contractor as defined by KRS 45A.030 (9) and agrees that they are willing, available and qualified to perform the scope of work as detailed in this contract and as specifically outlined.

Section 2.03 Subcontractor Requirements

The Second Party agrees that all requirements of this contract shall also be applicable and binding on any subcontractor (subject to First Party approval) the Second Parties contract with to meet the statement of work, method of payment, and deliverables of this contract.

Section 2.04 Extensions and Amendments to this Contract

The terms and conditions of this contract may be extended or amended according to the provisions of KRS Chapter 45A, and are subject to the approval of the Secretary of the Finance and Administration Cabinet and/or the Legislative Research Commission's Government Contracts Review Committee.

Section 2.05 Choice of Law and Forum Provision

The laws of the Commonwealth shall govern all questions as to the execution, validity, interpretation and performance of this contract. Furthermore, the parties hereto agree that any legal action that is brought on the basis of this contract shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky. However see Section 6.13 for exemption regarding United States.

Section 2.06 Sole Benefit

This Contract is intended for the sole benefit of the First Party, the Second Party, and, if implementing a federal grant program element, the United States Government and is not intended to create any other beneficiaries.

Section 2.07 Successors and Assigns

This Contract may not be assigned by a party without the express written consent of the other party. All covenants made under this Contract shall bind and inure to the benefit of any successors and assigns of the parties whether or not expressly assumed or acknowledged by such

successors or assigns.

Section 2.08 Entire Contract

This Contract forms the entire contract between the parties as to scope and subject matter of this Contract. All prior discussions and understandings concerning the scope and subject matter are superseded and incorporated by this Contract.

Section 2.09 Severability

If any provision of this Contract is held judicially invalid, the remainder of the Contract shall continue in force and effect to the extent not inconsistent with such holding.

Section 2.10 Waiver of Breach

If a party waives enforcement of any provision of this Contract upon any event of breach by the other party, the waiver shall not automatically extend to any other or future events of breach.

Section 2.11 Data Collection/Analysis Limitations

No data collected and provided by the First Party shall be used for any other purpose other than those expressly authorized in this Contract.

Section 2.12 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions

The Second Parties hereby certify the following by signing this contract:

(i) The Second Party hereby certifies that neither they nor their principals and/or subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(ii) If the prospective recipient of federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall submit an explanation in writing to the First Party.

Section 2.13 Campaign Finance

The contractor certifies that neither he/she nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of this contract,

has contributed more than the amount specified in KRS 121.056(2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The contractor further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

Section 2.14 Change of Circumstances

Each party shall promptly notify the other party of any legal impediment, change of circumstances, pending litigation, or any other event or condition that may adversely affect the party's ability to carry out any of its obligations under this Contract.

Section 2.15 Liability and Indemnity

Nothing in this Contract shall be construed as an indemnification by one party of the other for liabilities of a party or third persons for property loss or damage or death or personal injury arising out of and during the performance of this Contract. Any liabilities or claims for property loss or damage or for death or personal injury by a party or its agents, employees, contractors or assigns or by third persons, arising out of and during the performance of this Contract shall be determined according to applicable law.

Section 2.16 Funding Out Provision

The state agency may terminate this contract if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The state agency shall provide the contractor thirty (30) calendar days written notice of termination of the contract.

Section 2.17 Reduction in Contract Worker Hours

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and nonprofessional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the contract will be reduced by the amount specified in that document.

Article III. Identification of the Object or Subject Matter of the Contract

Section 3.01 Purpose and Scope

This Contract implements elements of a federal grant program "Emergency Management Assistance Grant (EMPG)," authorized by Catalog of Federal Domestic Assistance number 97.042, and administered by the First Party.

Section 3.02 Performance Specifications

Successful completion by the Second Parties shall include the following deliverables:

Within 15 days of the end of each quarter, the local emergency management agency shall upload to www.kyemweb.com a completed claim of reimbursement (KyEM Form 160) signed by the Local Emergency Management Director and the County Treasurer. Upon notification of the upload, the regional office will facilitate administrative review and notify the Program Manager that the claim is ready for reimbursement, as stated in the FFY2012 Emergency Management Performance Grant Guidance.

Section 3.03 Scope of Services/Scope of Work

(a) The Second Party will accomplish the goals and objectives as presented through the annual program guidance issued by the Director, Kentucky Division of Emergency Management and the results of internal and external evaluations of capabilities by both federal and commonwealth evaluations

(b) Counties will be notified in writing of the exact allocation amount by the Division of Emergency Management, based upon program analysis.

(c) Second Party allocations pursuant to KRS 39C.010 and 39C.020 are up to but no more than fifty percent of the total local funds expended by the local agencies.

Section 3.04 Property

Property purchased by the First Party for the purposes of fulfilling the requirements of the scope of services for this contract, and which may include, but not be limited to, furniture, computer software, computer hardware, office equipment, and supplies are considered the property of the First Party and shall remain the property of the First Party.

Section 3.05 Intellectual Properties

The contractor agrees that any formulae, methodology, other reports and compilations of data

provided by the First Party to the contractor for the purposes of meeting the terms and conditions of this contract, or as developed, prepared or produced by the contractor for use by the First Party under the scope of services of this contract shall be the exclusive property of the First Party. Any use of this material for purposes other than those specifically outlined and authorized by this contract without prior approval and without appropriate acknowledgement of the funding source, shall be grounds for immediate termination of this contract and possible criminal prosecution.

Article IV. Consideration and Conditions for Payment

Section 4.01 Total Amount of Contract and Contract Period

The Second Party's and/or Third Party's fees and expenses relative to the performance of the scope of services outlined in this Contract and in the detailed attachment(s) to this contract shall not exceed the Total Order Amount as set forth on signature page of this Contract. The subject services and functions are to be performed during the term of this contract as set forth on page 1. It is understood that this contract is not effective and binding until approved by the Secretary of the Finance and Administration Cabinet and/or Legislative Research Commission's Government Contract Review Committee per KRS 45A.705.

Section 4.02 Earliest Dates of Payment

No payment on this contract shall be made before completion of the review procedure provided for in KRS 45A.705, unless alternate actions occur as set out in KRS 45A.695(7) to wit payments on personal service contracts and memoranda of contracts shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and Administration cabinet or agency head, if the agency has been granted delegation authority by the secretary.

Section 4.03 Payments

Payment by the First Party to the Second Party and/or Third Party shall be made only after receipt of appropriate, acceptable and timely invoice, as so described in this Contract, and as submitted in written or electronic format to the First Party by the Second Party and/or Third Party. The preferred method of payment will be through electronic funds transfer.

Section 4.04 Other Expenses

(a) The contractor shall be reimbursed for no other expenses than those, which have been expressly detailed in this Contract. All direct charges shall be documented to support the direct charging of the expense.

(b) Where applicable:

(i) Invoicing for fee: The contractor's fee shall be original invoice(s) and shall be documented by the contractor. The invoice(s) must conform to the method prescribed in the specifications of this contract.

(ii) Invoicing for travel expenses: The contractor must follow instructions prescribed in the specifications of this contract. Either original or certified copies of receipts must be submitted for airline tickets, motel bills, restaurant charges, rental car charges, and other miscellaneous expenses.

(iii) Invoicing for miscellaneous expenses: The contractor must follow instructions prescribed in the specifications of this contract. Expenses submitted shall be documented by original or certified copies.

Section 4.05 Travel

The contractor shall be paid no travel expense unless and except as specifically authorized under the specifications of this contract. Unless otherwise indicated, travel reimbursement shall be in accordance with 200 KAR 2:006. No travel time nor travel expenses will be included in the Second Party's or any subcontractor's hourly rates.

Section 4.06 Social Security

The Second Parties and all other parties so contracted for services under the scope of service of this contract agree that they are cognizant that the First Party is not liable for Social Security contributions pursuant to 42 U.S Code, Section 418, relative to the compensation of the Second Parties during the effective dates of this contract.

Section 4.07 Financial Management System

(a) Applicable only to contracts where reimbursement is based upon actual, allowable costs.

(b) The Second Party agrees to establish and/or maintain a financial management system which shall provide for:

(i) Accurate, current, and complete disclosure of the financial results of the functions/services performed under this contract in accordance with the reporting requirements as set forth in this Contract and attachment(s) thereto;

(ii) Records that identify the source and application of funds for activities/functions/services performed pursuant to this contract. These records shall contain information pertaining to federal and/or state funds received, obligations, unobligated balances, if applicable, assets, liabilities, expenditures and income;

(iii) Effective control over and accountability for all funds, property, and other assets. The Second Parties shall safeguard all such assets and shall assure that they are used solely for authorized purposes in the provision of functions/services under this contract;

(iv) Procedures for determining reasonableness, and allow ability of costs in accordance with the terms and conditions of this Contract and any attachment(s) thereto; and

(v) Accounting records that are supported by source documentation.

Section 4.08 KRS45A.695

The state agency certifies that it is in compliance with the provisions of KRS 45A.695. "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract."

Section 4.09 Access to Records

The contractor, as defined in KRS 45A.030 (9) agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the contract and shall be exempt from disclosure as provided in KRS 61.878(1)(c). The contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884.

Section 4.10 Conflict of Interest Laws and Principles

The contractor certifies that he is legally entitled to enter into this contract with the Commonwealth of Kentucky, and by holding and performing the terms and conditions of this contract will not violate either any conflict of interest statute, KRS 45A.330-45A.340, 45A.990, KRS 164.390, or KRS 11A.040 of the Executive Branch code of ethics, relating to the employment of former public servants.

Section 4.11 Certification of Lobbying

(a) No state funds appropriated to the Second Parties pursuant to this contract shall be used to influence, either directly or indirectly, the introduction or modification of any federal or state legislation, or the outcomes of any federal, state or local election, referendum, or initiative.

(b) In addition, for any payment involving federal funds, the Second Parties certify to the best of their knowledge and belief, that for the receding contract period, if any, and for this current contract period:

No federal appropriated funds have been paid or will be paid, by or on behalf of the Second Part ies, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative contract.

(c) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative contract, the Second Party shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.

(d) The Second Parties shall require that the language of this certification be included in the award documents for all subawards at all tiers, including subcontractors, subgrants, and contracts under grants, loans, and cooperative contracts, and that all subrecipients shall certify and disclose accordingly.

(e) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for such failure.

Section 4.12 Violation of tax and employment laws

(a) KRS 45A.485 requires the contractor to reveal to the Commonwealth, prior to the award of

a contract, any final determination of a violation by the contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

(b) To comply with the provisions of KRS 45A.485, the contractor shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

(c) KRS 45A.485 also provides that, for the duration of any contract, the contractor shall be in continuous compliance with the provisions of those statutes which apply to the contractor's operations, and that the contractor's failure to reveal a final determination as described above or failure to comply with the above statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract and the contractor's disqualification from eligibility for future state contracts for a period of two (2) years.

(d) Contractor must initial one:

_____ The contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

_____ The contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). A list of such determination(s) is attached.

Article V. Time of Performance

Section 5.01 Effective Date

All Memorandum of Contracts are not effective until the secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been submitted to the government contract review committee. However, Memoranda of Contracts $50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes only as provided under KRS 45A.700.

KRS 45A.695(7) Payments on personal service contracts and memoranda of agreements shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the secretary of the Finance and

Administration cabinet or agency head, if the agency has been granted delegation authority by the secretary.

Section 5.02 Cancellation:

The state agency shall have the right to terminate and cancel this agreement at any time not to exceed thirty (30) days written notice served on the contractor by registered or certified mail.

Either party may cancel the contract at any time for cause or may cancel without cause on 30 days' written notice.

Section 5.03 Modifications to Contract

The agency reserves the right to modify this contract for the addition or deletion of requirements deemed necessary by the agency in accordance with KRS 45A.030 (2); KRS 45A.210 (1); (200 KAR 5:311).

Section 5.04 Notices

Any notice, transmittal, approval, or other official communication made under this Contract shall be in writing and shall be delivered by hand, facsimile transmission, or by mail to the other party.

Section 5.05 Disputes

Disputes concerning contract claims and performance will be addressed in accordance with KRS Chapter 45A.

Section 5.06 Pricing

The total contract amount is $3,000,000.00, which is comprised of a 50% federal share, plus a 50% local share. Payments from the contract will be made through the reimbursement process, whereby the Second Party provides backup for expenditures and is reimbursed after review by the First Party.

Article VI. Federal Representations and Certifications

Section 6.01 Non-discrimination

(a) The Second Parties agree that no person shall be denied benefits of, or otherwise be

subjected to discrimination in connection with the Second Party's performance under this Contract, on the grounds of race, religion, color, national origin, sex or handicap. Accordingly and to the extent applicable, the Second Party covenants and agrees to comply with the follow:

(i) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(ii) Executive Order 11246 and Department of Labor regulations issued thereunder (41 CFR Part 60);

(iii) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(iv) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(b) DISCRIMINATION (Because of race, religion, color, national origin, sex, age, or disability) PROHIBITED. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the Second Party agrees as follows:

(i) The Second Parties will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Second Parties agree to provide, upon request, needed reasonable accommodations. The Second Party will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, age or disability. 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 compensations; and selection for training, including apprenticeship. The Second Parties agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

(ii) The Second Parties will, in all solicitations or advertisements for employees placed by or on behalf of the Second Parties, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age or disability.

(iii) The Second Parties will send to each labor union or representative of workers with which he has a collective bargaining contract or other contract or understanding, a notice advising the said labor union or workers' representative 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. The Second Parties will take such action with respect to any subcontract or

purchase order as the First Party or federal administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

(iv) The Second Parties will comply with all provisions of Presidential Executive Order no. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

(v) The Second Parties will furnish all information and reports required by Presidential Executive Order no. 11246 of September 24, 1965, as amended, and by the rules,

(vi) 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.

(vii) 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 cancelled, terminated or suspended in whole or in part and the Second Party may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Presidential Executive Order no. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

(viii) The Second Parties will include the provisions of paragraphs (1) through (7) of Section 202 of Presidential Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to Section 204 of Presidential Executive Order no. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Second Parties will take such action with respect to any subcontract or purchase order as the First Party or administering federal agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Second Parties become involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the First Party or federal agency, the Second Parties may request the United States to enter into such litigation to protect the interests of the United States.

Section 6.02 Lobbying

(a) The Second Parties agree that they will not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the

entering into of any cooperative contract; and, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative contract.

(b) The Interim Final Rule, New Restrictions on Lobbying, issued by the United States Office of Management and Budget is incorporated by reference.

Section 6.03 Drug-Free Work Place

(a) The Second Parties agree that they will comply with the provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free workplace.

(b) The Final Rule, Government-Wide Requirements for Drug-Free Workplace (Grants), issued by the United States Office of Management and Budget is incorporated by reference and the Second Party covenants and agrees to comply with all the provision thereof, including any amendments to the Final Rule that may hereafter be issued.

Section 6.04 Environmental Standards

(a) The Second Parties agree that their performance under this contract shall comply with: the requirements of Section 114 of the Clean Air Act (42 U.S.C. 7414) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1318), that relate generally to inspection, monitoring, entry reports and information, and with all regulations and guidelines issued thereunder; the Resources Conservation and Recovery Act (RCRA); the Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA); the National Environmental Policy Act (NEPA); and any applicable Federal, State, or Local environmental regulation.

(b) The Second Parties shall insure that no facility used in their performance under this contract is listed on the Environmental Protection Agency (EPA) list of violating facilities pursuant to 40 CFR Part 15 without the concurrence of the First Party. The Second Parties shall notify the Second of the receipt of any communication from EPA indicating that a facility to be or being used in its performance under this Contract is under consideration for listing on the EPA list of violating facilities.

Section 6.05 Preference for U.S. Flag Carriers

The Second Parties agree to comply with 46 U.S.C. 1241(b) and regulations issued thereunder (46 CFR Part 381) concerning the use of privately owned United States flag commercial vessels.

Section 6.06 Debarment and Suspension

(a) The Second Parties shall not make any award or permit any award (subgrant 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".

(b) The Final Rule, Government-Wide Debarment and Suspension (Non-procurement), issued by the United States Office of Management and Budget is incorporated by reference and the Second Party covenants and agrees to comply with all the provision thereof, including any amendments to the Final Rule that may hereafter be issued.

Section 6.07 Hatch Act

The Second Parties agree to comply with the Hatch Act (5 U.S.C. 1501 -1508 and 7324 - 7328), as implemented by the United States Office of Personnel Management at 5 CFR Part 151, which limits political activity of employees or officer of State or local governments whose employment is connected to an activity financed in whole or part with Federal funds.

Section 6.08 Buy American Act

The Second Parties agree that they will not expend any funds appropriated by Congress without complying with The Buy American Act (41 U.S.C. 10). The Buy American Act gives preference to domestic end products and domestic construction materials. In addition, the Memorandum of Understanding between the United States of America and the European Economic Community on Government Procurement, and the North American Free Trade Contract (NAFTA), provide the EC and NAFTA end products and construction materials are exempted from application of The Buy American Act.

Section 6.09 Copeland "Anti-Kickback" Act

The Second Parties agree that they will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in United States Department of Labor (29 CFR Part 3). As applied to this contract, the Copeland "Anti-Kickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, finance in whole or in part by the United States, to give up nay part of the compensation to which that person is entitled under a contract of employment. Section

Section 6.10 Purchasing and Specifications

The Second Parties certify that he/they will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he/they attempt in any way to influence any purchasing of services, commodities or equipment by the Commonwealth of Kentucky. For the purpose of this paragraph, "He" is construed to mean "They" if more than one person is involved and if a firm, partnership, corporation, or other organization is involved, then "He" is construed to mean any person with an interest therein.

Section 6.11 Confidentiality

The Second Parties agree that any employee or agent acting in its behalf will abide by the state and federal rules and regulations governing access to and use of information provided to the second party by the First Party in the administration of this contract.

Section 6.12 Audit Requirements

If the Second Party is a governmental entity, an institution of higher learning or other nonprofit institution, the Second Party shall procure an audit in accordance with the United State's Office of Management and Budget (OMB) Circular A-133, as amended. A copy of the Second Party's audit report(s) shall be submitted to the First Party as so identified and detailed, and in the prescribed timeframes as set forth in this Contract and in the attachment(s) to the contract.

Section 6.13 Applicable Law

This Contract is incidental to the implementation of a federal grant program. Accordingly, this Contract shall be governed by and construed according to Federal law as it may affect the right, remedies, and obligations of the United States.

Section 6.14 Governing Regulations

To the extent not inconsistent with the express terms of this Contract, the provisions of 49 CFR 18, Uniform Administrative Requirements for Grants and Cooperative Contracts and OMB Circular A-87 which are hereby incorporated by reference as if fully set forth herein, shall govern this Contract.

Section 6.15 Procurement

The acquisition of goods and services by the Contractor in performance of this Contract shall be according to applicable Commonwealth of Kentucky contracting procedures, the standards and procedures contained in applicable federal regulations (44 CFR, 49 CFR, 32 CFR, others).

Section 6.16 Environmental Requirements

The contractor is encouraged to integrate National Environmental Policy Act compliance and related legislation as implemented under 44 CFR in the execution and administration of this contract.

Section 6.17 Uniform Administrative Requirements

The contractor will follow the administrative requirements under OMB Circular No.A-102 and 49 CFR.

Section 6.18 Cost Principles

Determination of allowable cost for reimbursements will be determined as outlined in OMB Circular No.A-87 for local governments, A-21 for Educational Institutions or OMB Circular No.A-122 for Nonprofit Organizations and other applicable Federal Regulations.

Section 6.19 Contract Work Hours and Safety Standards Act

Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S. C. 327-330) as supplemented by Department of Labor Regulation.

Section 6.20 Patent Rights

This standard Patent Right Clause found at 37 CFR 401.12 is hereby incorporated by reference which governs rights to inventions made by non-profit organizations and small business firms under Government grants, contracts, and cooperative contracts.