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SPECIAL PROVISIONS

DIVISION "A"

A-1 NOTICE TO BIDDERS:

There is a standard deposit required for all paper plans and proposals provided by the Hennepin County Transportation Department for distribution through the Hennepin County Purchasing office. The deposit amount will be determined in accordance with the following schedule:

DEPOSIT FOR PLANS

TOTAL NO. OF SHEETS IN PLAN	DEPOSIT AMOUNT
151 and over	\$50.00

DEPOSIT FOR PROPOSAL

TOTAL NO. OF PAGES IN PROPOSAL	DEPOSIT AMOUNT
101 and over	\$25.00

Refunds of said deposit will be made to firms and individuals who have returned complete sets of the plans and proposals obtained from Hennepin County Purchasing office (not off of the eGram website), unmarked and in good condition, within twenty-one (21) calendar days following the bid taking. No refunds will be made to firms and individuals not on the plan holders list for this project.

A-2 SPECIFICATIONS WHICH APPLY:

The 2005 Edition of the Minnesota Department of Transportation "Standard Specifications for Construction" and all Supplements thereto, shall govern except as may be shown or noted in the plans or modified in the Special Provisions. All references to specific provisions of the Specifications shall be construed to include all current amendments thereto.

A-3 STANDARD PLATES:

All references to Standard Plates shall mean the "Standard Plates" of the Department of Transportation of the State of Minnesota.

A-4 LABOR PROVISIONS:

The Contractor shall have copies of these Labor Provisions on file at its job headquarters, and shall post a notice, approved by the Engineer, in a conspicuous place at the site of the work, informing its employees that these provisions are available for

their inspection. Copies of these provisions can be secured from the County Engineer without charge.

A-4.1 Employment Classifications

All employees on the project shall be classified as in one of the following four categories, according to the definitions given:

1. Executive or Administrative:

Employees in this category shall be classified according to the definitions for Executive and Administrative employees as adopted by the Secretary of Labor, and in effect at the time of invitation for bids.

2. Skilled:

Skilled labor shall include the operators of complex, heavy power equipment and skilled craftsmen at the journeyman grade.

3. Intermediate Grade:

Intermediate grade labor shall include: a) operators of power equipment except: complex, heavy power equipment, trucks of 1-1/2 tons or less (manufacturer's rated capacity), tractors of less than twenty horsepower (manufacturer's rated capacity) and passenger cars; and b) persons performing any other labor that requires considerable training and experience.

4. Unskilled:

Unskilled labor shall include: a) operators of trucks of 1-1/2 tons or less (manufacturer's rated capacity), operators of tractors of less than twenty horsepower (manufacturer's rated capacity), and operators of passenger cars; and b) helpers of journeyman craftsmen and all other labor which requires no special skill or experience or the exercise of discretion or judgment.

A-4.2 Labor Information

In the selection of labor, the Contractor may avail itself of the services of the Minnesota State Employment Service.

A-4.3 Minimum Wage Rates

The minimum hourly rates of wages required to be paid to the various laborers and mechanics employed by the Contractor and the sub-contractors in the construction work on the contract shall be an amount equal to the sum of the basic hourly wage rate plus applicable fringe benefits as certified by the Minnesota Department of Labor and Industry for State Funded Construction Projects for the appropriate contract area. These rates have been determined by the Minnesota Department of Labor and Industry

pursuant to the provisions set forth in Minnesota Statutes, Section 177.44. If no wage schedule is contained in the Contract, it is the responsibility of the Contractor to obtain a copy from the Minnesota Department of Labor and Industry prior to bidding.

From the time an hourly employee is required to report for duty at the site of the work until he/she is released or allowed to leave the site of the work, no deduction shall be made from his/her time for any delays of less than thirty consecutive minutes.

In the event the Contractor or subcontractor employs apprentice workers under the occupational training program of the State of Minnesota, Department of Education, or under the Division of Voluntary Apprenticeship of the State of Minnesota, Department of Labor and Industry, or under the U. S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, the Contractor may pay wages to such apprentice workers at hourly rates approved by the appropriate agency despite the hourly rates specified in the schedule of wage rates to be paid to any classification of labor. The ratio of apprentices to journeyman level employees on the job site must not be greater than the ratio permitted for the Contractor's entire work force under the registered program.

A Contractor or subcontractor may discharge its minimum hourly rate obligation as defined above by: 1) making cash payments to the employee plus payments to a bona fide employee's fringe benefit program, funded or unfunded, the sum of which is equal to the minimum hourly rate, or 2) making payments in cash to the employee in the amount equal to the minimum hourly rate.

While the rates shown are the minimum hourly rates required for the life of this contract, this is not a representation that labor can be obtained at these rates. It is the responsibility of bidders to inform themselves as to local labor conditions and prospective changes or adjustments of wage rates. No increase in the contract price shall be allowed or authorized due to payment of rates greater than those listed.

All cash payments due to mechanics and laborers employed or working upon the site of the work shall be paid unconditionally and not less often than once a week, and without subsequent deductions or rebate on any account despite any contractual relationship that may be alleged to exist between the Contractor or subcontractor and such laborers and mechanics.

The wage schedule and appropriate posters (e.g. Mn/DOT poster TP-02126-04 (5-03)) shall be kept posted by the Contractor at the site of the work in a conspicuous place where it can be easily seen by the workers.

The County of Hennepin may withhold or cause to be withheld from the Contractor part of the amount due to the Contractor as may be considered necessary to ensure payment to laborers and mechanics employed by the Contractor or any subcontractor on the work the full amount of the minimum hourly rates required by the contract.

In the event it is determined that the successful bidder or any of its subcontractors have failed to comply with the prevailing wage rates established by said Department, the successful bidder shall pay to Hennepin County (or Hennepin County may withhold and keep monies due the successful bidder) as liquidated damages an amount equal to five percent (5%) of the contract amount. Said liquidated damages shall be in addition to any other liquidated damages assessed against the successful bidder under these specifications.

A-4.4 Prevailing Hours of Labor

The Prevailing Wages for State Funded Construction Contracts issued by the Minnesota Department of Labor and Industry, which are attached to this proposal, set forth the prevailing hours of labor as eight (8) hours per day and forty (40) hours per week. In no event shall the overtime be pyramided. According to Minnesota Statutes Section 177.44, Subdivision 1, employees may not be allowed or required to work longer than the prevailing hours of labor unless the employee is paid for all hours more than the prevailing hours at a rate of at least 1-1/2 times his/her hourly basic rate of pay.

The laborer or mechanic must be paid at least the prevailing wage rate in the same or most similar trade or occupation in the area.

A-5 REQUIRED CONTRACT PROVISIONS:

These contract provisions shall apply to all work done on the contract by the Contractor with its own organization and with the assistance of employees under its immediate superintendence and to all work done on the Contract by piecework, station work or by subcontract.

The Contractor shall insert in each of its written subcontracts or purchase orders all stipulations contained in these Required Contract Provisions and a clause requiring its subcontractors to include these Required Contract Provisions in any lower tier subcontracts that they may enter, with a clause requiring the inclusion of these provisions in any further subcontracts that may in turn be made. The Required Contract Provisions shall in no instance be incorporated by reference.

A breach of any of the stipulations contained in these Required Contract Provisions may be grounds for termination of the Contract.

A-5.1 Statements and Payrolls

A. Payrolls and payroll records:

1. Payrolls and basic records relating thereto shall be maintained during the work and preserved for three years after that for all laborers, mechanics, apprentices, trainees, watchpersons and guards working at the site of the work.

2. The payroll records shall contain name, social security number and address of each such employee, his/her correct classification, rates of pay, daily and weekly number of hours worked, deductions made and actual wages paid. Wherever it is found that the wages of any laborer or mechanic include the amount of any costs anticipated in providing benefits under a plan or program, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been expressed in writing to the laborers or mechanics affected and records that show the costs anticipated or the actual cost incurred in providing such benefits.
3. The payrolls shall contain the following information:
 - a. The employee's full name, address and social security number. The employee's full name and social security number need only appear on the first payroll on which his/her name appears. The employee's address need only be shown on the first submitted payroll on which the employee's name appears, unless a change of address requires a submittal to reflect the new address.
 - b. The employee's classification, including labor code and description.
 - c. Entries showing the employee's basic hourly wage rate and, where applicable, the overtime hourly rate. The payroll should show separately the amounts of employee and employer contributions to fringe benefit funds and/or programs. Any fringe benefits paid to the employee in cash must be shown. There is no prescribed or mandatory form for showing the above information on payrolls.
 - d. The employee's daily and weekly hours worked in each classification including actual overtime hours worked (not adjusted).
 - e. The itemized deductions made; and
 - f. The net wages paid.
 - g. The Contractor shall submit weekly all payrolls to the County Engineer or its designated representative. The copy shall be accompanied by a statement signed by the employer or it's agent showing that the wage rates contained therein are not less than those determined by the Department of Labor and Industry, and that the classification set forth for each laborer or mechanic conform with the work he/she performed, i.e., Form Mn/DOT 21658.
4. The Contractor shall make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of the County of Hennepin, the Minnesota Department of Transportation, and

the Department of Labor and Industry, and shall allow such representatives to interview employees during working hours on the job.

5. The wages of labor shall be paid in legal tender of the United States, except that this will be considered satisfied if payment is made by negotiable check, on a solvent bank, which may be cashed readily by the employee in the local community for the full amount, without discount or collection charges of any kind. Where checks are used for payment, the Contractor shall arrange for them to be cashed and shall give information regarding such arrangements.
6. No fee of any kind shall be asked or accepted by the Contractor or any of its agents from any person as a condition of employment on the project.
7. No laborers shall be charged for any tools in doing their respective duties except avoidable loss or damage thereto.
8. Every employee on the work covered by this Contract shall be allowed to lodge, board and trade where and with whom he/she elects, and neither the Contractor nor its agents, nor its employees shall, directly or indirectly, require as a condition of employment that an employee shall lodge, board or trade at a particular place or with a particular person.
9. No charge shall be made for any transportation furnished by the Contractor, or its agents, to any person employed on the work.
10. No individual shall be employed as a laborer or mechanic on this Contract except on a wage basis, but this shall not be construed to prohibit the rental of teams, trucks or other equipment from individuals.

A-6 **PROPOSAL:**

1. Purchased Paper Plans and Proposals/Paper Bid Submissions

The paper bid Proposal form will be furnished by Hennepin County.

The envelope containing the bid shall be addressed to the office of Hennepin County Purchasing and Contract Services Division, A-1730 Government Center, Minneapolis, Minnesota 55487-0175, and the envelope shall bear the inscription:

BID FOR: LYNDALE AVENUE IN MINNEAPOLIS, CP 9842

TO BE OPENED AT 2:00 O'CLOCK P.M. ON TUESDAY, _____, 2011.

The bid shall be typed, printed or written in ink and shall be accompanied by a certified check or bidder's bond payable to the Hennepin County Treasurer in the sum of five percent (5%) of the amount of the price bid. The County of Hennepin reserves the right to reject any or all proposals.

2. Electronic Bidding

Electronic bids shall be submitted (through the eGram bidding system) using eBidVault at: <https://bidvault.mn.uccs.com/> with all requirements as stated in Division A and Division S of the Special Provisions to govern.

A-7 PAYMENT; MONIES WITHHELD FROM PAYMENTS:

Payment will be made by the County of Hennepin in the manner provided by law for payment of claims against the County. As set forth in more detail in another part of these specifications, (1) all contractors are advised that all contract payments under the awarded contract are subject to the County of Hennepin deducting a portion therefrom to help assure protection of the County's interests, and (2) out-of-state contractors are advised that in addition to any aforesaid contract deduction, contract payments under the awarded contract, if over or expected to be over \$100,000, are also subject to the County deducting another amount to help ensure payment of applicable Minnesota taxes. (Under the appropriate circumstances, the aforesaid withholdings may be avoided.) Further, all contractors have important retainage obligations for applicable Minnesota taxes with respect to their out-of-state subcontractors performing construction work on the herein project pursuant to subcontracts over \$100,000.

A-8 WITHDRAWAL OF BIDS:

No bid may be withdrawn for a period of 60 days from the opening thereof, and a bid once delivered to the formal custody of Hennepin County may not be returned until after the bids are opened and acknowledged.

A-9 RECORD EXAMINATION:

In addition to any other related provisions of the Contract, the books, records, documents, and accounting procedures and practices of the Contractor relevant to the Contract shall be subject to examination by the County and the Auditor of the State of Minnesota.

A-10 SUBMITTAL OF AFFIRMATIVE ACTION DOCUMENTS:

When required, a Hennepin County Affirmative Action Plan and Subcontractor Participation Form shall be submitted by the apparent low bidder. These documents shall be submitted within four days of 'notification of apparent low bid'. These documents can be downloaded from the Hennepin County Purchasing and Contract Services Division website www.hennepin.us (go to "Your County Government", then to "Doing Business With Hennepin", then to "Contract Opportunities", look under Downloadable Forms on the right side of the page), or use <http://www.hennepin.us/contractopportunities>. A plan must be completed and signed. Any additional document or other information concerning a Plan and requested of the apparent low bidder by the County shall be furnished to the County by the date set forth in the County's communication making such request. A Contract will not be awarded

unless the required Plan and requested Plan information, as aforesaid, is first approved by the County.

A-11 AFFIRMATIVE ACTION POLICY:

AFFIRMATIVE ACTION REQUIREMENTS

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

"In accordance with Hennepin County's policies against discrimination, Contractor agrees that it shall not exclude any person from full employment rights or participation in or the benefits of any program, service or activity on the grounds of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status; or national origin; and no person who is protected by applicable Federal or State laws against discrimination shall be otherwise subjected to discrimination."

If this Agreement is for a sum over \$100,000 or is one of several contracts with said CONTRACTOR within a 12-month period totaling more than \$100,000, or is amended to exceed \$100,000, and a written exemption was not granted or was withdrawn by the County's Purchasing & Contract Services (PCS) Manager, Contractor agrees to complete and submit for approval an Affirmative Action Plan (AA Plan) which contains the following goals:

CONSTRUCTION EMPLOYMENT GOALS

Minority (skilled and unskilled combined)	11%
Women (skilled and unskilled combined)	6.0%

The AA Plan must be complete and signed. The contract will not be awarded unless the required AA Plan and any related information has been approved by PCS or a written exemption from these requirements has been granted.

A-12 REPORTING REQUIREMENTS:

Approved AA Plans shall be monitored for compliance by PCS. Contractor shall submit a monthly Employment Utilization Report (which is available upon request from the Hennepin County Highway Department or via the Hennepin County Purchasing and Contract Services Division website www.hennepin.us (go to "Your County Government", then to "Doing Business With Hennepin", then to "Contract Opportunities", look under Downloadable Forms on the right side of the page). PCS may, at any intervals deemed necessary, make on-site reviews to ascertain compliance with these requirements.

A-13 GOOD FAITH EFFORTS:

If the construction AA employment goals are not met, the County will require the Contractor to demonstrate that good faith efforts have been made to meet the goals. To

determine whether a Contractor has demonstrated good faith efforts, PCS may require the Contractor to provide documentation that the company has actively and aggressively attempted to meet its AA goals. If the County determines that the Contractor has failed to demonstrate the same, and/or if the Contractor has failed to submit employment reports and/or information required by the PCS Manager, and/or the Contractor has engaged in discriminatory practices, the County may, in its sole discretion, withhold up to fifteen percent (15%) of the contract price until such time as the Contractor is determined to have submitted the required reports and/or information and/or Contractor has demonstrated good faith efforts, as determined by the County.

A-14 **SUBCONTRACTOR COMPLIANCE WITH AA:**

The Contractor shall insert in all of its subcontracts over \$100,000, which have not been granted an Exemption or which have had any such exemption withdrawn, clauses requiring the Subcontractor's compliance with the following:

Furnish the Contractor with an AA Plan containing the construction employment goals established above.

Submit to the County's PCS Manager all information and reports requested by Hennepin County; and

Comply with the Hennepin County Board's policies with regard to non-discrimination and affirmative action (AA). It shall be the responsibility of the Contractor to monitor and enforce Subcontractor's compliance with this paragraph. It is understood, however, that the County may take such steps as it deems appropriate to ascertain Subcontractor's compliance with this paragraph and further, if the County determines that Subcontractor is not in compliance, the County may require the Contractor to take appropriate measures to bring Subcontractor into compliance.

A-15 **EXEMPTIONS:**

The County exempts certain contracts from the AA requirements. Exemptions for construction contracts over \$100,000 granted when any of the following conditions apply:

Contract or subcontract is for purchase of supplies or services unrelated to Hennepin County Construction projects;

Contracts where the County is the recipient of funds;

Contracts for emergency or life-safety (threatening) related purchases. Such contracts must contain the County's non-discrimination clause;

Contracts with firms, who as members of associations with signed County agreements respecting alternative affirmative action procedures, submit a letter indicating their active membership status in that association.

A-16

SBE PROGRAM: REQUIREMENTS:

Hennepin County is committed to providing equal opportunity in contracting and to a goal of increased participation of SBE firms in contracting and subcontracting. An SBE goal of up to a maximum of 25% may be set on this project, based on the project's scope of work afforded by the opportunity and upon the availability of SBE firms.

Hennepin County's SBE participation goal for this contract is 25%. The following conditions apply in determining compliance:

- a. The total payments made under a contract or subcontract to certified SBEs, will be counted toward the applicable goal.
- b. In the case of a joint venture, that portion of the payments attributable to the participation and control of the SBE partner in the joint venture will be counted toward the applicable goal.
- c. Only payments to SBEs that perform a commercially useful function in the work of a contract or subcontract may be counted toward the small business utilization goals. SBEs are considered to perform a commercially useful function when they are responsible for execution of work directly applicable to the project and carry out their responsibilities by actually supplying labor or material to, or managing or supervising the work involved.
- d. Total payments for materials and supplies may be counted toward SBE participation goals if the SBEs assume the actual and contractual responsibility for providing the materials and supplies.
- e. The Contractor must receive written approval from the Hennepin County Project Manager and Hennepin County's PCS Manager before making any changes to the previously approved SBE Subcontractor Participation Form.
- f. The Contractor's commitment to a specified participation level is to meet the required participation levels, and is not intended and shall not be used to discriminate against any qualified company or group of companies.
- g. Only SBEs that are recognized as certified by Hennepin County will be counted towards the Contractor's SBE goals.
- h. With written notification that a Contractor is the Apparent Low Bidder(s), they will be required to submit a Hennepin County SBE Subcontractor Participation Form (which is available upon request from the Hennepin County Highway Department or via the Internet at <http://www.co.hennepin.mn.us/contractopportunities> listing all Subcontractors that they will have on the job and indicating the contract amount for each. In addition, Contractor must require all tiered Subcontractors to complete the SBE Subcontractor Participation Form. These Subcontractor Participation Forms must

also be submitted along with the Prime Contractor's Participation Forms to PCS. If any Apparent Low Bidder is unable to meet the SBE required participation goal, it shall submit a detailed statement of its good-faith efforts. The good-faith effort statement shall identify all efforts made to achieve the SBE participation goal. Failure to either meet the SBE participation goal or demonstrate sufficient good-faith efforts may be cause to reject the contract award to the Apparent Low Bidder.

A-17 **SOLICITATION AND PARTICIPATION:**

Contractors agree to make good faith efforts to solicit the participation of SBE's to meet the SBE participation goal.

- a. The Apparent Low Bidder understands that the SBE participation goal must be maintained throughout the life of its Contract. Further, credit toward the required SBE participation level will not be counted unless the SBEs utilized are recognized as certified by Hennepin County.
- b. Contractors and all tier subcontractors and suppliers shall establish and maintain records and submit regular reports, as required.
- c. Hennepin County Purchasing and Contract Services (PCS) maintains a current listing of certified SBEs. This list can be obtained from PCS by calling (612) 348-2528, or by accessing the following web site at www.govcontracts.org. Bidders are encouraged to inspect these lists to assist in locating SBEs for the work.

A-18 **SBE REPORTING REQUIREMENTS:**

Contractors shall submit Subcontracting Payment Forms (see attached) to PCS to confirm payments to all Subcontractors.

A-19 **EXEMPTIONS FROM SBE REQUIREMENTS:**

A request for an exemption from the SBE goal requirement must be made to the Project Manager or PCS Manager. The PCS Manager must approve all exemptions. The Contractor may request an exemption based upon any one of the following situations:

a. Contracts with Government Jurisdictions

This exemption applies when another government jurisdiction or quasi-governmental agency is contracting with the county.

b. Emergency-Related Purchases

This exemption applies for emergency or life-safety (threatening), related purchases authorized by the County Administrator, Deputy Administrator, or the Purchasing Manager.

c. Sole-Source or Unique Goods, Commodities, or Services

This exemption applies to requests for bids/proposals in which the scope is necessarily written such that there is only one source, regardless of the marketplace that possesses the capability to perform the contract.

d. Self-Performance

This exemption applies to prime contractors who self-perform more work than the stated goal allows. For example, at 100%, the goal is waived, at less than 100%, the goal could be reduced to reflect the actual opportunity for subcontracting.

e. Other Special Circumstances

These would be evaluated on a case-by-case basis, after Contractor's submittal of a detailed written petition.

A-20

GOOD FAITH EFFORTS DURING BID EVALUATION PROCESS:

- a. If the SBE participation goal is not met based on the information provided on the SBE Subcontractor Participation Form, the Apparent Low Bidder must demonstrate good-faith efforts in accordance with the following guidelines:
- b. Verification that the Apparent Low Bidder rejected SBEs because they did not submit the lowest bid or they were not qualified. Such verification shall include a verified statement of the amounts of all bids received from potential subcontractors on the project and that the Apparent Low Bidder rejected SBEs because they did not submit the lowest bid from among such bids or they were not qualified. For each SBE found to be not qualified, the verification shall include a statement giving the Apparent Low Bidder's reason for its conclusion.
- c. Verification of efforts to provide timely written or telephone notice to all appropriate SBEs within identified subcontracting categories listed in the most current, approved certification directory. If the Apparent Low Bidder has purchased project plans seven (7) calendar days or fewer before bids are due, documented phone calls in lieu of written notice may be permitted.
- d. Verification of efforts to subcontract, consistent with industry practice, with the SBEs whom the Apparent Low Bidder has contacted, or who have contacted the Apparent Low Bidder. Include the names, addresses, and telephone numbers of all SBEs contacted; a description of efforts made to subcontract; and a description of the information provided to the SBE regarding the plans and specifications for the portion of the work to be performed by subcontractors. If attempts to subcontract actually occurred, provide the dates and places of such process and a description of the outcome.
- e. Verification that the Apparent Low Bidder attempted to recruit SBEs from at least the same geographic area from which it attempted to recruit other subcontractors.
- f. Verification that, consistent with industry practice, the Apparent Low Bidder gave SBEs necessary access to and adequate time to review all necessary project plans,

drawings, specifications and other documents, as well as adequate time to prepare subcontract bids.

- g. Verification that, consistent with industry practice the Apparent Low Bidder's past practices on similar projects, the Apparent Low Bidder selected portions of the work to be performed by SBEs in order to achieve the project utilization levels. This includes consideration of structuring the contract into economically feasible units to facilitate meaningful SBE utilization as subcontractors or suppliers.
- h. Statement giving the reasons why the Apparent Low Bidder and each SBE contacted or each SBE that contacted the Apparent Low Bidder did not succeed in reaching a subcontracting agreement.
- i. Statement that the Apparent Low Bidder attended pre-bid meetings or otherwise obtained the information on subcontracting opportunities that is provided at such meetings.
- j. If PCS determines that the Apparent Low Bidder failed to meet the SBE participation goal and failed to successfully demonstrate good-faith efforts to meet the goal during the bid/proposal/contract evaluation process, Apparent Low Bidder will be notified in writing of the County's decision within five (5) business days of such determination. Apparent Low Bidder may appeal PCS' decision that the Apparent Low Bidder failed to meet the SBE participation goal and successfully demonstrate good-faith efforts to meet the goal.

To appeal, the Apparent Low Bidder must, within five (5) business days after receipt of the above-referenced written notice, appeal the decision to the County Administrator or designee. An appeal must be made in writing and shall be accompanied by any supporting documentation. If Apparent Low Bidder fails to submit an appeal within five (5) business days, PCS' determination shall remain in effect. The County may, at its option, enter into a contract with the next lowest bidder or other vendor meeting contract specifications or pursue such other measures as the County deems to be in its interest.

A-21

GOOD FAITH EFFORTS DURING CONTRACT PERFORMANCE:

- a. If Contractor fails to maintain the SBE participation goal during the performance of the contract and cannot demonstrate good-faith efforts in accordance with the following guidelines, Contractor may, at the County's sole option, be deemed in breach of contract and subject to sanctions.
- b. Verification that the Contractor entered into a contract with the SBE firm(s) identified on the SBE Subcontractor Participation Form to perform work on the project.
- c. Verification that, consistent with industry standards, the Contractor maintained communication with the SBE to insure that the SBE understood when to begin work and was available to fulfill its contractual agreement.

- d. Statement giving the reason(s) why the subcontractor/supplier contracted with to meet the SBE utilization goal did not fulfill its contractual agreement.
- e. Verification of efforts to replace a non-performing SBE by written or telephone notice to all appropriate SBEs within required subcontracting categories listed in the most current, approved certification directory.
- f. In all its contracts over \$100,000, Contractor shall insert clauses requiring the subcontractor to: (1) adopt the contract-specific designated goal; (2) submit all information and reports required by Hennepin County; and (3) comply with all Hennepin County Board policies with regard to SBE utilization. It shall be the responsibility of the Contractor to monitor and enforce subcontractor's Compliance with this paragraph.

The County may take such steps as it deems necessary and appropriate to ascertain compliance with the County's SBE requirements, and further, if the County determines that subcontractor is not in compliance, the County may require the Contractor to take appropriate measures to bring subcontractor into compliance.

A-22 **SANCTIONS:**

If the SBE participation goal is not met after contract award/approval, the County will require Contractor to successfully demonstrate that good-faith efforts have been made to meet their goal. If the County determines that the Contractor has failed to demonstrate good-faith efforts, and/or if the Contractor has failed to submit information required by PCS, and/or the Contractor has engaged in discriminatory practices, the County may, in its sole discretion, suspend, cancel, or terminate, in whole or in part, the aforesaid contract. Additionally, the County may, in its sole discretion, withhold up to fifteen (15) percent of the contract price until such time as the Contractor is determined to have submitted the required reports and/or information, and/or the Contractor has demonstrated good-faith efforts, as determined by the County.

A-23 **WORKFORCE ENTRY PROGRAM (WEP): OBJECTIVES**

The County is encouraging labor and industry to participate in meeting the increased demand for skilled trade persons while developing the County's economic resources by providing unemployed and under-employed Hennepin County residents the means to earn a better living. The County has established the Workforce Entry Program to attain these ends.

The Workforce Entry Program contemplates that the Contractor will provide employment opportunities in the construction trades for graduates of local jobs training programs.

A-24 **WEP: GOAL SETTING**

As part of the Contractor's obligations under the Workforce Entry Program (WEP), the Contractor shall make good faith efforts to hire 1-2 WEP apprentices to perform at least 500 hours each of labor for a total of at least 1,000 hours for this Project. In the event

the Contractor subcontracts a portion of the Contract work, Contractor shall determine how much of the WEP requirement will be fulfilled by the subcontractor; provided, however, that the Contractor shall retain the primary responsibility for meeting the WEP requirements imposed by this special provision. The Contractor shall ensure that these provisions are made applicable to such subcontract.

The County may modify the required number of WEP hours and/or number of WEP apprentices when appropriate based on Contract amendments.

The WEP hours, where applicable, may be included in the Construction Employment Goals for minorities or women.

A-25

WEP: APPROVAL OF CONTRACTOR'S WEP PROGRAM

At the pre-construction meeting, the contractor shall submit a written Project WEP Program with the proposed number of WEP apprentices (by name if possible), hours, and work schedule for each WEP apprentice in each job classification for County review.

WEP apprentices selected by the Contractor shall be graduates of jobs training programs approved by the County. The County has approved the 100 Hard Hats Training Consortium. The cooperating agencies in this consortium include: American Indian OIC, East Lake OIC, Summit Academy OIC, Dunwoody Institute, and the Minneapolis Community and Technical College.

Please contact Alex Tittle at 612-278-6591 or atittle@saoic.org.

The Contractor shall not identify an employee as a WEP apprentice in any classification in which ne/she has successfully (1) completed an apprenticeship training course leading to journeyman status, or (2) in which he/she has been employed as a journeyman. The Contractor shall satisfy this requirement by including appropriate questions in the employee application or by other suitable means. Regardless of the method used, the Contractor's records shall document the findings in each WEP apprentice's case.

The minimum length and type of training for each apprenticeship classification will be as established in the Project WEP Program submitted by the Contractor and approved by the County. The County will approve a Project WEP Program if it is reasonably calculated to meet the WEP goals of the Contractor and will qualify the average WEP apprenticeship for journeyman status in the classification concerned by the end of their WEP apprenticeship training period.

The Contractor shall furnish the WEP apprentice a copy of the program he/she will follow in providing the training. The Contractor shall provide each WEP apprentice with a certification showing the type and length of training satisfactorily completed.

A-26 **WEP: COMPLIANCE/MONITORING**

The Contractor shall identify WEP apprentices in the certified payroll documentation and workforce reports as required in the Contract.

A-27 **WEP: PREVAILING WAGE REQUIREMENTS**

WEP apprentices are subject to the Prevailing Wage Requirements unless they are registered in a bona fide apprenticeship program.

A-28 **WEP: GOOD FAITH EFFORTS**

The Contractor shall make good faith efforts to provide the required number of WEP hours and number of WEP apprentices for the Project. If the Contractor fails to meet the goals set forth herein, the contractor shall provide documented evidence of its good faith efforts, including documentation pertaining to recruitment, personnel actions including dismissal of WEP apprentices, training and promotion, rejection of applicants, and selection of WEP apprentices. Good faith efforts must include consulting with the County-approved jobs training programs.

A-29 **WEP: SANCTIONS**

If the WEP goal is not met after contract award/approval, the County will require Contractor to successfully demonstrate that good-faith efforts have been made to meet its goal. If the County determines that the Contractor has failed to demonstrate good-faith efforts, and/or if the Contractor has failed to submit information required by the county, the County may, in its sole discretion, suspend, cancel, or terminate, in whole or in part, the Contract. The County may, in its sole discretion, also withhold up to five (5) percent of the Contract price, in addition to normal retainage, until such time as the Contractor has demonstrated good-faith efforts, as determined by the County.

A-30 **RECYCLING PROGRAM:**

If the Contract between the County and Contractor is for a sum less than \$250,000, the County encourages the Contractor to develop and implement an office paper and newsprint recycling program.

If the Contract between the County and the Contractor is for a sum over \$250,000, the Contractor shall establish an office paper and newsprint recycling program which shall include a written plan available to the County at the County's request containing the following: description of the plan; person and position responsible for plan administration; types of paper collected and method of collection and transportation to a recycling center; an annual report summarizing collection efforts.

Any questions regarding recycling programs should be directed to the Department of Environmental Services at (612) 348-6358.