

—REQUEST FOR PROPOSALS—

for the

CHIPPEWA COUNTY EDC MANUFACTURING BUILDING CONSTRUCTION AND RAIL SPUR EXPANSION

DESIGN-BID-BUILD ARCHITECTURAL AND ENGINEERING SERVICES

TO

Consulting Engineering firms

DUE

June 9, 2021, by 4 p.m. EST

REQUESTED BY

Chippewa County Economic Development Corporation
ATTN: Chris Olson, President
5019 W. Airport Dr.
Kincheloe, MI 49788

PROPOSAL & SELECTION TIMELINE

- **May 6, 2021:** RFP issued and advertised.
- **May 19, 2021:** Mandatory site walkthrough, 1 p.m., meet at CCEDC Office 5019 W. Airport Dr., Kincheloe, MI 49788 to travel to project location.
- **May 26, 2021:** Pre-proposal questions in writing due, must be emailed to the Chippewa County EDC (CCEDC) to chrisolson@chippewacountyedc.com. Responses will be sent electronically to all bidders.
- **June 9, 2021:** Window for accepting proposals closes at 4:00 p.m.
- **June 10-22, 2021:** Proposal review period.
- **July 6, 2021:** Public bid opening will be conducted at the CCEDC Board of Directors Meeting, 3pm, EST, Tuesday, July 6, 2021, at the EDC offices, 5019 W. Airport Dr., Kincheloe, MI 49788

The Chippewa County EDC reserves the right to accept and/or reject any or all bid proposals for any reason whatsoever it seems appropriate. A bid shall constitute an irrevocable offer for a period of sixty (60) days from the bid opening date or until the date of award, whichever is earlier. In the event that an award is not made by the CCEDC within sixty (60) days from the bid opening date, the bidder may withdraw the bid or provide a written extension of the bid.

THIS IS A QUALIFICATION-BASED SELECTION PROCESS.

**THE PRICE PROPOSAL MUST BE PLACED IN A SEALED ENVELOPE
SEPARATE FROM THE PROPOSAL.**

SUMMARY & BACKGROUND

Project Name: *Chippewa County EDC EDA Public Works Industrial Manufacturing building construction*

The Chippewa County EDC (CCEDC) has been awarded a grant from the U.S. Department of Commerce Economic Development Administration (EDA) to construct a 20,000 square foot building, for the primary purpose of industrial manufacturing space. The CCEDC is seeking to contract with a qualified engineering firm to prepare all final design plans, specifications, bid, and construction documents and to conduct all necessary and final inspections. These services shall be provided in accordance with all local, State, and Federal laws, regulations, and executive orders applicable to this grant program. This project is located near Kincheloe Road, on the west and northwest side, Kinross Charter Township, MI 49788, ~ GPS Coordinates of 46.268421, -84.481912

Full Proposal packets, which includes specific requirements and evaluation criteria, may be obtained by emailing chrisolson@chippewacountyedc.com. All bids must be sealed and have the following information outside of the bid packet:

One (1) original and three (3) physical copies and 1 thumb drive, must be in a sealed package, clearly marked **RFP #21-EDAPW**, and delivered to:

Chippewa County EDC
C/O Chris Olson, President
Project #21-EDAPW
5019 W. Airport Dr., Kincheloe, MI 49788

Proposals must be received by no later than 4:00 pm, June 9, 2021. Submittals received after this deadline will not be considered.

The CCEDC reserves the right to accept and/or reject any or all bid proposals for any reason whatsoever it seems appropriate. A bid shall constitute an irrevocable offer for a period of sixty (60) days from the bid opening date or until date of award, whichever is earlier. In the event that an award is not made by the CCEDC within sixty (60) days from the bid opening date, the bidder may withdraw the bid or provide a written extension of the bid.

Request for Qualifications (RFQ) for Engineering Services

The Chippewa County EDC is seeking to enter into an engineering services contract with a licensed engineering firm. The following outlines this request for qualifications.

- I. **Project Description** – The CCEDC was awarded a grant from the U.S. Economic Development Administration (EDA) to construct a 20,000 square foot manufacturing facility, designed into the flexible space arrangements and expansion of an existing railroad spur to serve the facility, as well as all associated infrastructure to connect the building to road, water, sewer, electric, natural gas and broadband in the project vicinity. The grant will fund 80% of the construction (EDA Investment #06-01-06245), with the CCEDC contributing the remaining 20% of the funds.

All elements of the design and construction process must meet the Standard Terms and Conditions of the EDA. Particular attention will be paid to Consultants to have experience with, and competence in, architectural design and construction methodology that provide for a rapidly-constructed, cost-effective, aesthetically pleasing structure suitable for its intended multiple uses.

- II. **Scope of Work** – In accordance with the terms and conditions of the Contract, the Design-Build Contractor (DBC) shall perform the work of this Request for Proposal (RFP) for the Chippewa County EDC (CCEDC) as described below. The mandated project completion date from the EDA is July 19, 2024. Please

include a schedule in your proposal. The schedule will be finalized in consultation with the selected Consultant to insure project continuity and achieve the best results in a reasonable period of time. The work to be performed by the Consultant will include all architectural and engineering services required for the construction of the aforementioned facility. The scope of work will be in a single, not to exceed, contract.

- All Architect-Engineer (A-E) Services required in this RFP shall be performed by licensed Architects and Engineers registered in the State of Michigan.
- The Design-Build Contractor (DBC) shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules, and regulations, or lawful orders of public authorities and requirements by the U.S. Department of Commerce EDAG grant provisions. If the Design-Build Contractor (DBC) performs Work contrary to applicable laws, statutes, ordinances, codes, rules, and regulations, and lawful orders of public authorities, the Design-Build Contractor (DBC) shall assume responsibility for such Work and shall bear the costs attributable to correction. The most stringent of applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities shall apply and prevail.
- In addition, to the above statement construction must also comply with EDA funding requirements which include but is not limited to:
 - The access requirements of the Americans with Disabilities Act (P.L.101-336) if applicable;
 - Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. §794) if applicable;
 - The Flood Disaster Protection Act of 1973 (P.L. 93-234) if applicable;
 - The Earthquake Hazards Reduction Act of 1977 (P.L. 95-124) if applicable.
 - Adherence to appropriate standards or guides developed by such professional organizations as the American Consulting Engineers Council (ACEC), American Society of Civil Engineers (ASCE),
 - National Society of Professional Engineers (NSPE), and/or American Institute of Architects (AIA) may be used where the Recipient does not have standard procurement documents.
 - Compensation cannot be based on the use of the cost-plus-a-percentage-of-cost or percentage of construction cost form of compensation. (These forms of compensation are not eligible for EDA participation)
- The A/E's fee covers all services necessary for the successful execution of the project, including consultations, surveys, soil investigations, supervision, "as-built" drawings, arrow diagram (CPM/PERT), for example) where applicable, and incidental costs.
- Regardless of who furnishes the construction inspector, the agreement requires the A/E to make sufficient visits to the project site to determine, in general, if the work is proceeding in accordance with the construction contract.
- Perform initial surveys, soil investigations, etc. as needed for design
- Prepare preliminary and final design plans and specifications
- Prepare bid and final contract documents and receive approvals as applicable
- Coordinate bid process and contract award
 - The Consultant will work with CCEDC to ensure compliance with the federal requirements identified in the attached Checklist for Bid Document Review, including the suggested and required bid package documents and development of the package for EDA approval/processing prior to advertisement.
 - Assure construction contract compliance with EDA grant requirements

- **Construction Administration:**

- The Consultant will work with CCEDC to ensure compliance with federal requirements identified in the attached EDA Contracting Provisions for Construction Projects.
- The Consultant shall provide administration of the contract for construction as set forth in General Conditions of the Contract for Construction, current as of the date of the Consultant/Owner agreement.
- The Consultant shall ensure that the final design for the CCEDC project complies with all EDA grant requirements. Pursuant to this RFP, the “services” shall consist of, and the successful Consultant shall provide, architectural planning and engineering design services for the Project, including but not limited to, the following:
 - Concept Plans, Renderings, and Presentation Documents
 - Conduct one or more workshops/charettes with CCEDC staff, board, and regional partners to obtain input from CCEDC stakeholders.
 - Prepare concept plans for the site to determine the most feasible designs to support exterior and interior spaces that meet the needs of tenants and stakeholders
 - Develop preliminary (30%) color renderings of proposed layouts accurately depicting entryways, parking areas, facilities, rail spur alignment, and landscape buffers, and submit to CCEDC staff and interested stakeholders for review and comment.
 - Submit files with final color renderings and schematics in electronic format (PDF, JPG).
 - Present renderings (MS PowerPoint, charts, display boards, and color renderings) at a CCEDC Board meeting.
 - Assist in the selection of a primary design.
 - Refine project costs, including a line-by-line breakdown of all fees, architectural costs, construction costs, FF&E, technology, and contingencies.

- **Design Development:**

- Obtain any permits required for the design of the project, without markups.
- Prepare the final conceptual design, including a large-format display board and electronic files.
- Prepare the following documents:
 - Preliminary Engineering Report (PER; draft already completed), plans, schematics, sections and elevations, typical construction details, test-fit plan, and specifications that identify major materials and systems.
 - Obtain plans of all adjacent utility facilities and identify and precisely locate all utilities.
 - Coordinate with CCEDC staff to determine the location and depths of facilities for design purposes.
 - Determine where interferences with existing facilities may occur as a result of the construction of this Project and resolve any conflicts.

- **Plans, Specifications and Estimates (PS&E)**

- Prepare construction drawings containing title sheet, general note sheet, plan sheets, typical cross-section sheets, and detail sheets for the Project.
- Plot typical cross-sections to illustrate existing and proposed conditions.
- Prepare complete project specifications, including special provisions and proposal forms.
- Incorporate project specifications into construction contract documents, including a description for each bid item.
- Submit 70% PS&E construction documents, including structural calculations, for review.

- Address any comments generated from the 70% submittal.
- Based on the input received from the previous submittal, complete the design, and prepare final PS&E documents.
- Submit 100% PS&E construction documents, including structural calculations for review and to obtain preliminary approvals.
- Submit a final set of PS&E documents (printed and electronic formats) with necessary details and instructions to carry out work in accordance with the approved construction phasing.

- **Construction Documents and Plan Information**
 - Ensure plans and specifications comply with all applicable governmental and professional standards.
 - Develop a schedule for the construction of the Project.
 - Conduct all approved topographic and property surveys and combine them with available topographic surveys to create base maps for the Project.
 - Conduct all approved geotechnical investigations necessary for the construction of the Project.
 - Attend the pre-bid meeting, attend the pre-construction kickoff meeting, and assist the CCEDC in procurement activities, and management of the construction phase of the Project.

- **Construction Management:**
 - Provide transactional construction administration services, including monitoring general contractor and subcontractor pay applications.
 - Coordinate with future construction contractors on behalf of CCEDC.
 - Scheduling of pre-construction conferences.
 - Perform periodic site inspections
 - Prepare, review and approve change orders, as necessary.
 - Supervise any and all critical construction operations.
 - Coordinate with staff for CCEDC and interested stakeholders to provide full-time inspections and reporting.
 - Participation in final construction inspection.

- **Assistance during the Bidding Process**
 - The Consultant shall assist CCEDC during the bidding process. The Consultant shall respond to questions from prospective bidders, conduct pre-bid meetings as needed, and shall prepare written addenda as necessary.
 - The Consultant shall review all bids submitted and make appropriate recommendations on contractors' abilities to complete the work. The Consultant's review shall include the preparation of bid abstracts and a bid comparison document
 - The Consultant will be present at the bid opening.

- **Construction Administration & Inspection**
 - The construction administration services provided by the Consultant will be to assist with certain construction oversight services, including periodic on-site reviews.
 - The Consultant shall review and make determinations regarding contractors' Shop Drawings, Submittals, Requests for Information (RFIs), product substitutions, change orders and other related documents.
 - The Consultant shall call and participate in construction meetings.
 - The Consultant/Owner shall work with an independent plan checking firm to ensure accuracy of the plans.

- The Consultant shall provide coordination to governmental and funding agencies as required, and serve as representative for the coordination and communication activities with the general contractor, township, utility companies, and other agencies.
- The Consultant shall review the Contractor's Payment Request for accuracy.
- The Consultant shall review and negotiate construction change order requests and claims.
- **Final As-Built Drawings**
 - The Consultant shall assist the general construction contractor in recording and maintaining a set of "As-Built" drawings that will be finalized into a formal AutoCAD set and delivered electronically, plus an unbound Mylar hard copy to CCEDC upon completion of the project. An electronic copy of the construction specifications shall also be provided to CCEDC.
- **Substantial completion and final inspection**
 - Submit written certification that project, or designation portion of the project, is substantially complete, and request in writing a final inspection. Upon receipt of a written request that the project is substantially complete, the CONTRACT ADMINISTRATOR will proceed with inspection within 10 days of receipt of request or will advise the DESIGN BID BUILD CONTRACTOR of items that prevent the project from being designated as substantially complete.

Please specify actual tasks to be performed under each of these categories in your response.

- III. **Technical Expertise** – CCEDC is seeking to contract with a competent engineering firm, registered to practice in the State of Michigan. It is anticipated that the successful firm will have extensive knowledge and expertise in the following areas:
- Federally funded construction projects (specifically EDA Public Works grant projects);
 - Municipal projects located in this general region of the state;
 - Project construction management experience;
 - Adherence to appropriate standards or guides developed by such professional organizations as the American Consulting Engineers Council (ACEC), American Society of Civil Engineers (ASCE),
- IV. **Fees:**
- All proposals shall be a cost-reimbursement with an agreed maximum. The fee shall cover all services necessary for the successful execution of the project, including consultations, surveys, soil investigations, supervision, "as-built" drawings, arrow diagram where applicable, and incidental costs.
 - **Your Price Proposal MUST be submitted in a separate, SEALED envelope, clearly marked PRICE PROPOSAL. Failure to do so will result in your Proposal being rejected.**
 - Proposals should break out fees for the professional services in accordance with:
 - Basic architect/engineer services (not to exceed prevailing fees for comparable services in the Region)
 - Breakdown by task and personnel
 - Inspection services
 - Geotechnical, Survey, or other supporting engineering services for the design should be broken out separately,

- *Note: The contract for architect/engineer services may not be based on the use of the cost-plus-a percentage-of-cost or percentage of construction cost form of compensation.*
- Provide information on your preliminary fee structure based on the scope indicated above, including anticipated reimbursable costs.
- Submit a schedule of hourly rates by employee classification, including terms and rates of overtime for additional work if requested.

V. **Selection Process –**

This RFQ provides the information necessary to prepare and submit a **Statement of Qualifications (SOQ)** for consideration and ranking by the Chippewa County EDC using the point system described below. The evaluation committee will rank firms in order of the most qualified, based on demonstrated competence and qualifications to perform services, and then make a determination as to whether or not an informal meeting will be required of the top-ranking firms. Bids shall be submitted in a separate, SEALED, envelope, clearly marked **PRICE PROPOSAL**. The highest-ranking firm's separate price proposal will be opened during the public bid opening at 3:00 p.m. Local Time, **Tuesday, July 6, 2021**, at the CCEDC Office Building, 5019 W. Airport Dr., Kincheloe, MI 49788, to begin contract negotiations for a fair and reasonable price. The fee for basic services will be either fixed-price or a cost-reimbursement with an agreed maximum. The use of cost-plus-a-percentage-of-cost and percentage of construction costs forms of compensation are **specifically prohibited**.

By submitting its SOQ in response to this RFQ, the respondent accepts the evaluation process as outlined in the SOQ Requirements and Evaluation section which follows.

Selection Criteria	Maximum Points
ITEM 1: The Consultant's scope of work, methodology, and work plan.	25
ITEM 2: The Consultant's general experience, qualifications, and ability to perform timely execution of the project work as evidenced by previous, similar projects.	25
ITEM 3: The Consultant's professional credentials in architecture, civil engineering, and cost estimating, including the qualifications, expertise, and experience of individuals assigned to the project.	20
ITEM 4: Project Approach/Performance/Proposed Staffing	15
ITEM 5: The Consultant's direct experience with U.S. Department of Commerce Economic Development Administration (EDA) – funded projects.	5
ITEM 6: Cost proposal included in a separate, SEALED envelope, clearly marked PRICE PROPOSAL. Fees outlined as required in Item IV. Fees. Failure to do so will result in your Proposal being rejected.	5
TOTAL	100

VI. **Statement of Qualifications Requirements**

Respondents shall carefully read the information in the following evaluation criteria and submit a complete SOQ to all questions in this RFQ as formatted below:

Item 1: **Scope of work, proposed methodology and work plan** **25 pts**

Item 2: **General Qualifications and Availability** **25 pts**

- a) Provide the following information:
 - The legal name of the firm and FEIN.
 - Location of Office that will be conducting the work
 - Telephone and Fax Numbers

- Contact Persons and Primary Telephone Number
 - Size of Firm/Staff
 - Date of firm formation
 - Distance from CCEDC
 - Legal business description (Individual, Partnership, Corporation, Joint Venture, etc.)
 - Provide a summary of any litigation, claim(s), or contract disputes filed by or against the firm in the past five (5) years which is related to the services that the firm provides in the regular course of business.
 - A copy of your current certificate of insurance for professional liability.
 - A statement of conflicts (if any) the proposing entity or key employees may have regarding these services. The statement should include conflicts, as well as any working relationships that may be perceived by disinterested parties as a conflict. If no potential conflicts of interest are identified, please state so.
 - System for Award Management. The Consultant/Firm must not be debarred or suspended from the Excluded Parties
 - List System (EPLS) in the System for Award Management (SAM) and must have an active registration with the
 - System for Award Management (www.SAM.gov). Include verification that your company is registered and that the
 - The company's principal is not listed (is not debarred) through the System for Award Management (www.SAM.gov). **Enclose a printout of the search results that includes the record date.**
 - Certification Regarding Lobbying, enclosed in *Exhibit C*. Certification for Contracts, Grants, Loans, and
 - Cooperative Agreements is included in the RFP and must be submitted with the response.
 - Required Contract Provisions. Applicable provisions enclosed in *Exhibit D* must be included in all contracts executed as a result of this RFQ.
- b) Provide a statement on the availability and commitment of the firm, its' principal(s), and assigned professionals to undertake the project, reporting responsibilities, and how the firm will interface with the CCEDC's staff. Regular weekly, biweekly, or monthly project meetings will be required, depending upon the project.
- c) Provide a statement of interest for the project including a narrative describing the benefits that the CCEDC will realize in selecting the Respondent's firm or team, including the firm's specific expertise and unique qualifications, capabilities, specialized experience, best practices, or other factors that distinguish the Respondent from other Respondents.

Item 3: Consultant's Professional Credentials

25 pts

Set forth your experience and qualifications as they relate to the proposed project in terms of technical scope, tasks involved, deliverable products, and other elements of the work, as they relate to the evaluation criteria and all requirements of this RFP including the following:

- a) Provide an overview and brief history of the firm.
- b) Representative New Construction Projects – List a minimum of three (3) projects completed by your firm that best represents a similar scope, budget, program, and complexity. For each project, please include:
- Completion Date
 - Project name and location

- Services provided
- Date of completion or project status
- Budget
- Graphic Description
- Photographs
- Total Square Footage
- Cost per Square Foot – Exclude Site Costs and Architectural Fees
- Change order percentage
- Client name and contact person
- History of meeting project schedules and budget
- Detail cost savings or cost increases.
- Note the funding source and particular grant program is applicable

Item 4: Project Approach/Performance/Proposed Staff

20 pts

- a) Explain how the team will assess and design the project(s).
- b) Provide an example of a typical project schedule.
- c) Provide a minimum of five (5) references or reference statements with contact information for verification.
- d) Describe cost control methods you use and how you establish cost estimates.
- e) List the steps in your standard change order procedure.
- f) Please list the cost per square foot for your new construction projects in the past five years. Please exclude all Site Costs and Professional Fees.
- g) For projects completed in the last five years please list the Cost Estimate, Bid Amount, and Difference. Please list any changes in scope if appropriate and if this change in scope resulted in an increase in your fee.
- h) Unique Qualifications – Please state why your firm should be selected by the CCEDC.
- i) Organizational chart for personnel (including any sub - consultants) who are to work on this project including licensure information.
- j) Names and roles of key personnel proposed to work on this project and their office locations.
- k) Include resumes for all key personnel and indicate any individuals who have had previous experience on similar projects.
- l) Provide staffing size by areas of expertise.
- m) Provide staff availability to perform services.

Item 5: Direct experience with EDA funded projects

5 pts

- a) All elements of the design and construction process must meet the Standard Terms and Conditions of the EDA. Particular attention will be paid to Consultants to have experience with, and competence in, architectural design and construction methodology that provide for a

rapidly constructed, cost-effective, aesthetically pleasing structure suitable for its intended multiple uses.

Item 6: **Fees:**

- a) All proposals shall be a cost-reimbursement with an agreed maximum. The fee shall cover all services necessary for the successful execution of the project, including consultations, surveys, soil investigations, supervision, “as-built” drawings, arrow diagram where applicable, and incidental costs.
- b) **Your Price Proposal MUST be submitted in a separate, SEALED envelope, clearly marked PRICE PROPOSAL. Failure to do so will result in your Proposal being rejected.**
- c) Proposals should break out fees for the professional services in accordance with:
 - 1) Basic architect/engineer services (not to exceed prevailing fees for comparable services in the Region)
 - 2) Breakdown by task and personnel
 - 3) Inspection services
 - 4) Geotechnical, Survey, or other supporting engineering services for the design should be broken out separately,
 - i. *Note: The contract for architect/engineer services may not be based on the use of the cost-plus-a percentage-of-cost or percentage of construction cost form of compensation.*
 - 5) Provide information on your preliminary fee structure based on the scope indicated above, including anticipated reimbursable costs.
 - 6) Submit a schedule of hourly rates by employee classification, including terms and rates of overtime for additional work if requested.

VII. **Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms.** – Small and minority businesses, women's business enterprises, and labor surplus area firms are encouraged to participate in this RFQ.

If the awarded firm (prime consultant) uses any subcontractors or sub-consultants, the following affirmative steps are required of the prime consultant:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

VIII. **Deadline for Submission** - The complete submittal package, consisting of 1 original and 3 physical copies and 1 thumb drive or CD, must be received no later than 4:00 pm on June 9, 2021, at the following address: 5019 W. Airport Dr., Kincheloe, MI 49788 Attn: Chris Olson, President. Submittals received after this deadline will not be considered.

IX. Other Requirements - Other requirements outlined below:

1.1.1 Davis Bacon Act

All laborers and mechanics employed by subcontractors employed in the construction, alteration, or repair, including painting or decorating of buildings or other facilities in connection with this contract or subcontracts under this contract shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Government of Labor in accordance with Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended. The contractor will be required to submit certified payrolls in a timely manner.

1.1.2 Certification from Debarment

The contractor must provide a Certification from Debarment form for the contractor and each of its subcontractors under this contract with its bid.

In connection with the performance of work under this contract, the contractor shall not subcontract with a subcontractor who, at the time of the subcontract award, is listed on the List of Parties Excluded from Federal Procurement or Non-procurement programs, unless authorized by the Government in accordance with Subpart 9.4 of the Federal Acquisition Regulations.

The Contractor shall provide CCEDC with, in accordance with FAR Clause 52.209.5 “Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters” – the required certification from all proposed subcontractors to CCEDC for review, prior to the contract being executed. The Certification from Debarment form will be attached to Part 2 of the RFP which will be provided to bidders at the mandatory site inspection. The Certification from Debarment form must be submitted with the bid.

1.1.3 Insurance Requirements

A. Insurance Requirements: The following insurance requirements must be submitted to the CCEDC prior to commencement of any work on the Minimum Scope of Insurance Coverage Coverage shall include:

1. Commercial General Liability Insurance; to include Contractual Liability coverage.
2. Workers Compensation and Employer’s Liability Insurance.
3. Professional Liability Insurance.
4. Automobile Liability Insurance.
5. Cyber Liability is needed if there is storage and transmittal of sensitive data.
6. Builders Risk Insurance for the amount of project.

B. Minimum Limits of Insurance

The contractor shall maintain limits no less than:

1. General Liability: \$1,000,000.00 per occurrence for bodily injury, personal injury, and property damage; at least \$2,000,000.00 in the aggregate.
2. Worker’s Compensation statutory limits and Employer’s Liability: \$1,000,000.00 per accident for bodily injury or disease.
3. Professional Liability: \$1,000,000.00 per occurrence.
4. Automobile Liability: Must meet State of Michigan minimum requirements.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by CCEDC.

D. Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The CCEDC, 5019 W. Airport Dr., Kincheloe, MI 49788, its agents, officers, officials, employees, and volunteers are to be named as additional insured’s with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of the contractor; and with respect to liability arising out of work or operations performed by or

on behalf of the contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the contractor's insurance, or as a separate owner's policy.

2. For any claims related to this project, the contractor's insurance coverage shall be primary insurance with respect to the CCEDC, its agents, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by CCEDC, its agents, officers, officials, employees, or volunteers shall be in excess of the contractor's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled or reduced by either party or modified in any way, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to CCEDC.

E. Waiver of Subrogation

The Workers' Compensation and General Liability policies are to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against CCEDC, its agents, officers, officials, employees, and volunteers for losses paid under the terms of the policy which arises from the work performed by the named insured for CCEDC.

F. Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

G. Verification of Coverage

The contractor shall furnish CCEDC with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by CCEDC before work commences. CCEDC reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

1.1.4 Adherence to 2 CFR Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts under Federal Awards

Any contract forthcoming as a result of this Request for Qualifications must adhere to those provisions identified in 2 CFR Appendix II to Part 200. Please carefully review the provisions, also listed under the "attachments section."

1.1.5 Progress Meetings

The DESIGN BID BUILD CONTRACTOR shall participate in a weekly telephone conference or web calls with the CONTRACT ADMINISTRATOR, and other project team members to update them on the following meeting agenda items:

- Approval of minutes of previous meetings
- Submittal status
- Requests for Information (RFI's) and issues
- Modifications
- Work in progress and projected work
- Schedule Update (Gantt Chart)
- States of Project Record Drawings and O&M Manuals
- Other business relating to work

The DESIGN BID BUILD CONTRACTOR will submit progress reports not less frequently than quarterly to the CCEDC covering the general progress of the job and describing any problems or factors contributing to delay.

X. **Attachments** – Attachments include Attachment A –Rail Spur and Building Site Plan, Attachment B – Floor Plan and Building Section, Attachment C - Certification Regarding Lobbying (CD-511),

XI. **Payments - Progress Payments**

Design Phase – Progress payments during the design phase of the work will be based on submission, review, and acceptance of design deliverables.

Construction Phase - Progress payments during construction will be based on the percentage of work completed on items listed on the approved schedule of values. Actual construction completed and in place will form the basis for payment. Verification of the % complete shall be initiated by the Contractor under the direction of the Owner’s Representative unless the Owner’s Representative waives this requirement in writing in a specific instance.

The Contractor shall make the computations for payment based on CCEDC’s verification of work completed and in place for any periods for which progress payments are requested.

The Contractor shall furnish the originals of all field notes and all other records relating to the basis for payment, to the Owner’s Representative, who shall use them as necessary to determine the final amount of progress payments. The Contractor shall retain copies of all such material furnished to the Owner’s Representative.

Project scope and Preliminary Engineering report will be provided to bidders at the:

MANDATORY SITE INSPECTION:

1:00 p.m. Local Time Wednesday, May 19, 2021

Project site – Kincheloe Road, Kincheloe, MI 49788 (see enclosed project site map). Meet at CCEDC offices, 5019 W. Airport Dr., Kincheloe, MI 49788, and then travel to the project location.

REQUEST FOR PROPOSAL & PROJECT TIMELINE

Below is the timeline for this project.

- **May 6, 2021:** RFP issued and advertised.
- **May 19, 2021:** Mandatory site walkthrough, 1 p.m.
- **May 26, 2021:** Pre-proposal questions in writing due, must be emailed to the Chippewa County EDC (CCEDC) to chrisolson@chippewacountyedc.com. Responses will be sent electronically to all bidders.
- **June 9, 2021:** Window for accepting proposals closes at 4:00 p.m.
- **June 10-22, 2021:** Proposal review period.
- **July 6, 2021:** Public bid opening will be conducted at the CCEDC Board of Directors Meeting, 3pm, EST, Tuesday, July 6, 2021, at the EDC offices, 5019 W. Airport Dr., Kincheloe, MI 49788
- **August 1, 2021:** Suggested project commencement.
- **August 2021 – January 2022:** Design Period.
- **August 2021 – January 2022:** Obtain required permits
- **February-March 2022:** Solicitation of Bids and Award of Construction
- **July 2022 – Construction Starts**
- **July 2024 – Construction Completed**
- **October 2024:** Authorized Award End Date.

PRICE PROPOSAL

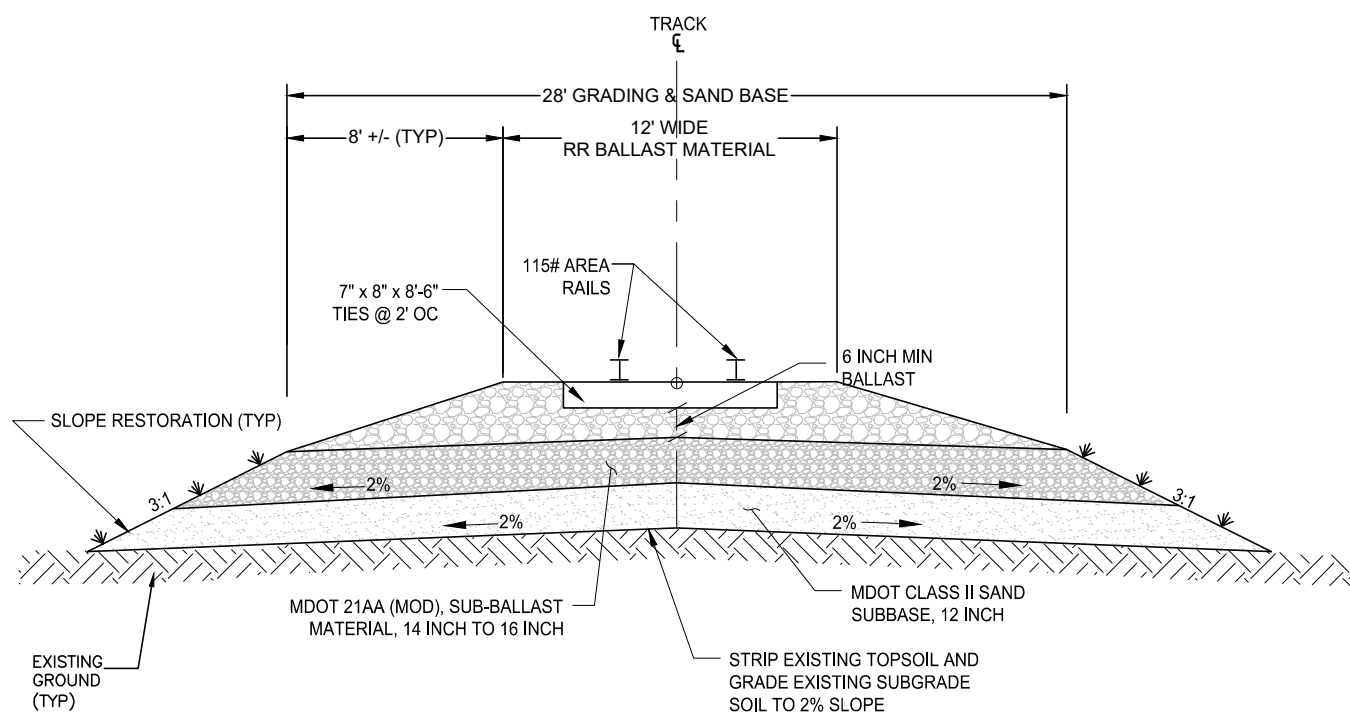
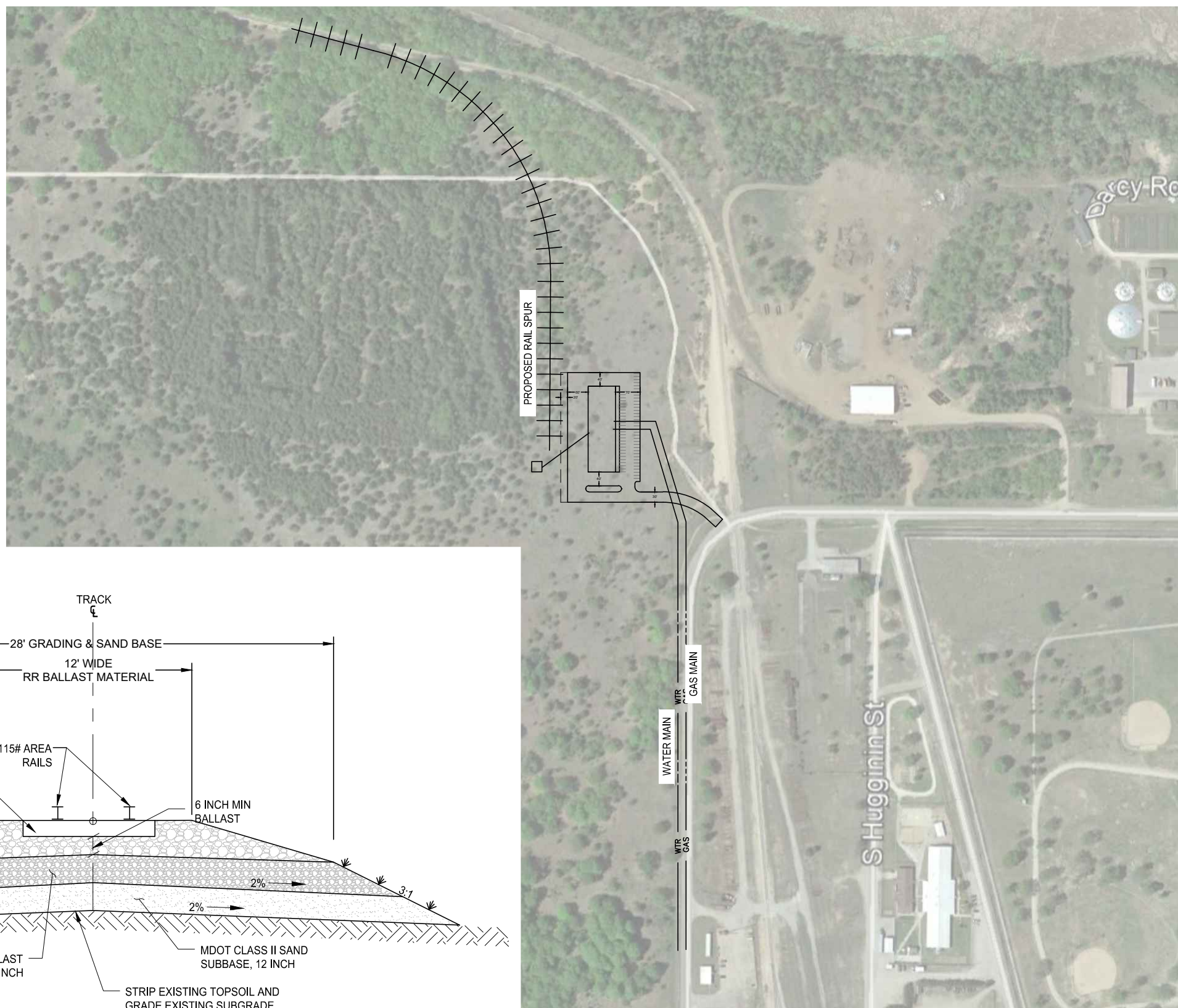
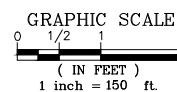
Proposals must contain a bid in a sealed envelope separate from the project proposal. The bid proposal shall include anticipated schedule and time/material cost estimates, which should not occur prior to October 9, 2019 (in the event they do, an explanation must be provided). Unit rates on which costs are based should be included. Please refer to Addendum #1 when preparing your price proposal (examples for the prime contractor and sub-contractors are provided).

BIDDER QUALIFICATIONS

Those submitting a proposal should also submit the following:

- Description of the company, including relevant experience on similar projects.
- Qualifications of staff who will be working on this project.
- Examples of previously completed work—both related and unrelated.
- Testimonials from previous clients.
- Federal identification number.

LEGEND			
	SOIL BORING		HAND BORING
	SANITARY MANHOLE		HYDRANT
	WATER SHUTOFF		BENCHMARK
	UTILITY POLE		GUY POLE
	TELEPHONE PEDESTAL		GUY WIRE
	ELECTRICAL PEDESTAL		IRON PIN
	LIGHT POLE		CONTROL POINT
	WATER VALVE		TEST PIT
	TREE (CONIFER)		SINGLE POLE SIGN
	TREE (DECIDUOUS)		DOUBLE POLE SIGN
	FUEL OIL TANK		FLAG POLE
	WATER WELL		EXISTING BITUMINOUS
	PROPANE TANK		
OHT ----- OVERHEAD TELEPHONE LINE			
OHE ----- OVERHEAD ELECTRIC LINE			
LPG ----- LP GAS LINE			
WTR ----- WATER LINE			
UGT ----- UNDERGROUND TELEPHONE LINE			
UGE ----- UNDERGROUND ELECTRIC LINE			
SAN ----- SANITARY SEWER			
----- PROPERTY BOUNDARY			
----- TREE LINE			
----- EDGE OF GRAVEL			
----- CONSTRUCTION FENCE			



2 PROPOSED RAIL SPUR SECTION
NO SCALE

1 PROPOSED SITE OVERVIEW
SCALE: 1" = 150'



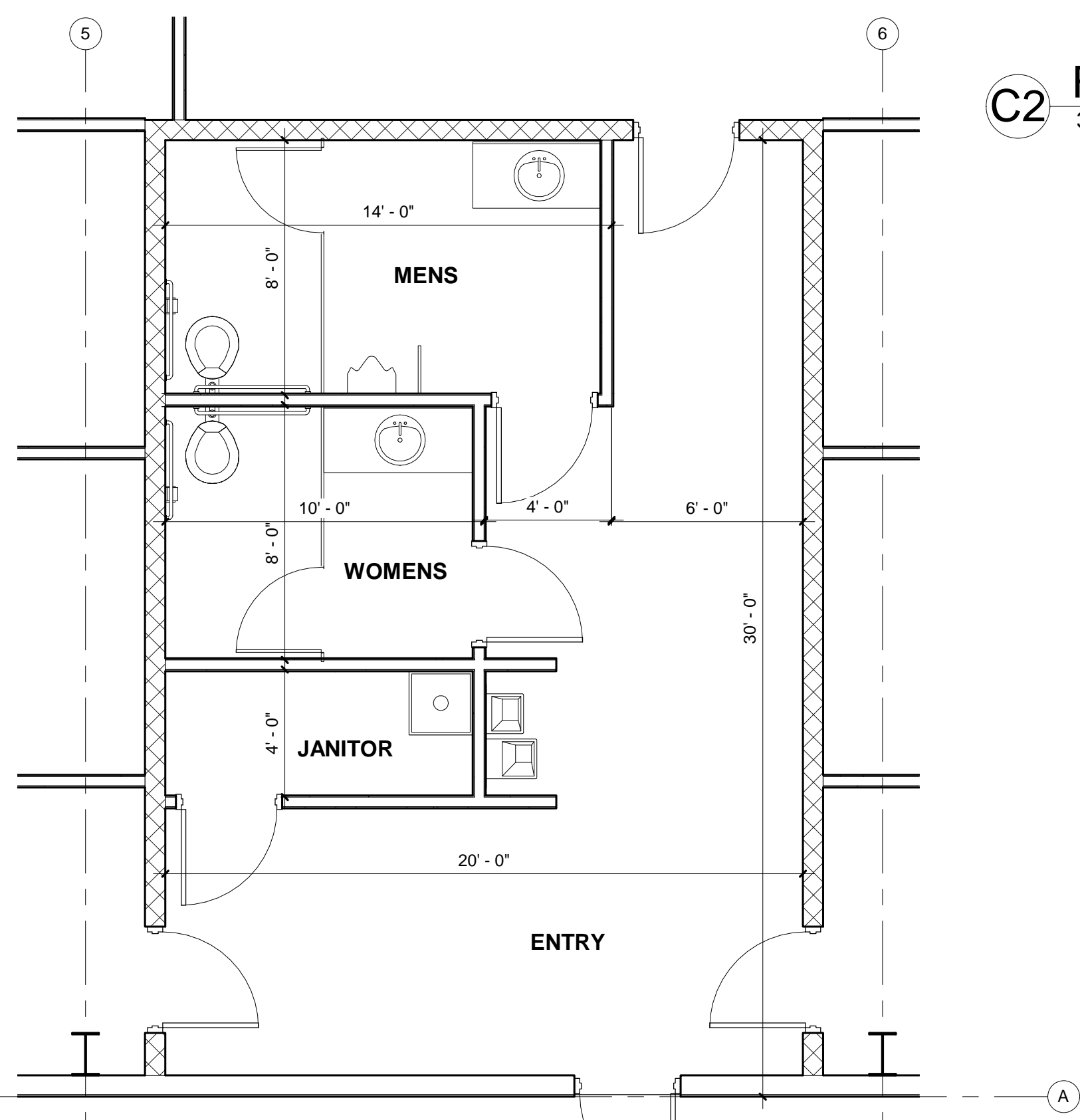
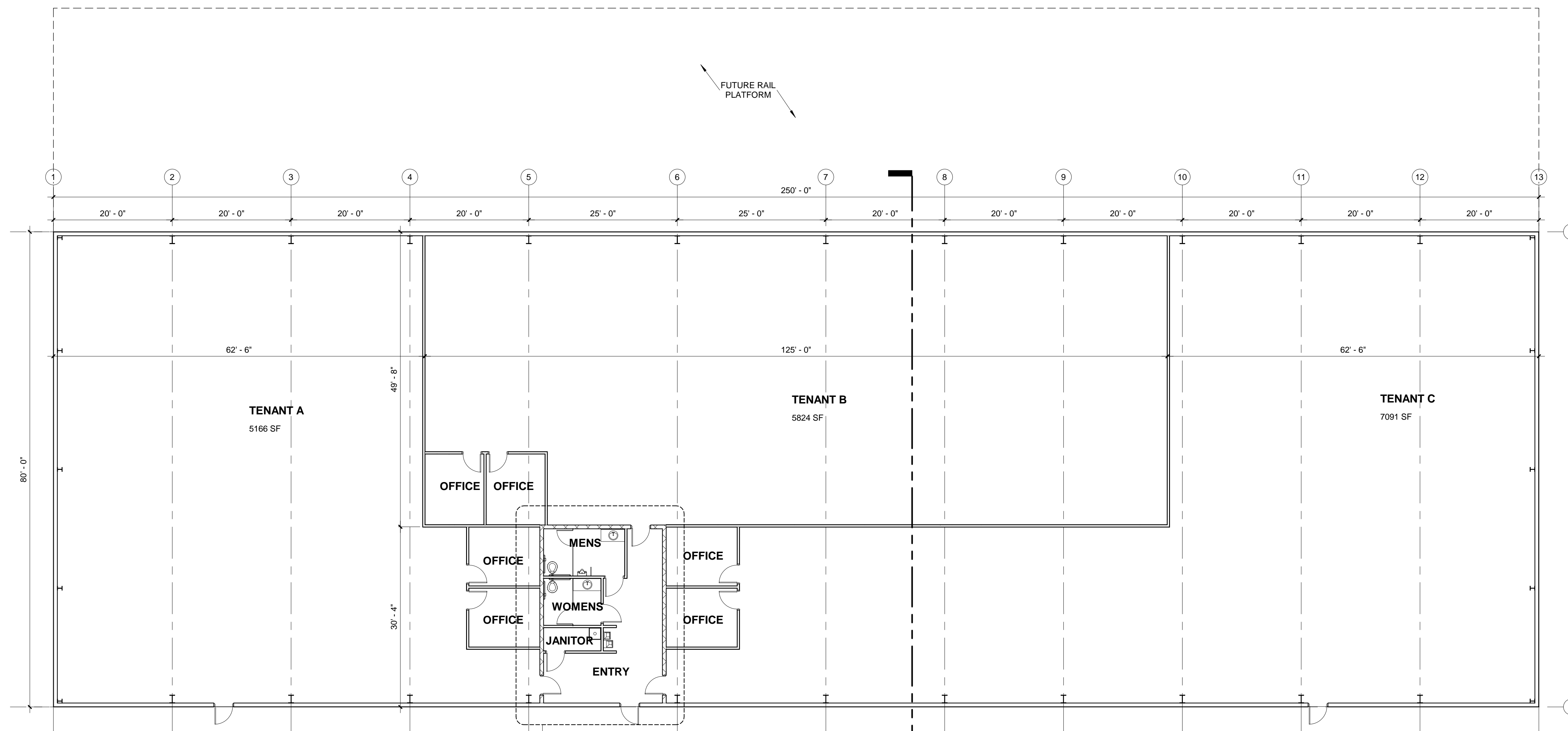
EDC BUILDING
CHIPPEWA COUNTY EDC
KINROSS, MI

ISSUED FOR:	DATE:
GRANT SUBMITTAL	04-30-20

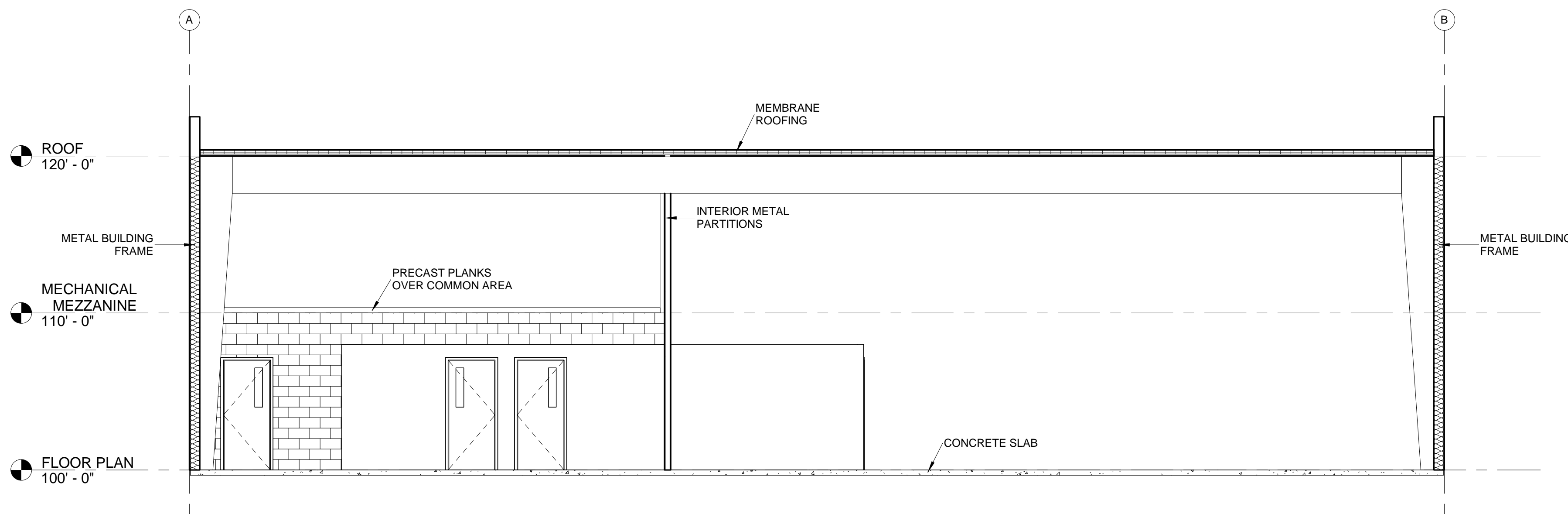
EDC BUILDING	PROJECT NO:	DESIGNED BY:	DRAWN BY:	CHECKED:	APPROVED:
	C203-00278	HMS	HMS	GK	JG

PROPOSED SITE OVERVIEW

C102



C2 FLOOR PLAN
3/32" = 1'-0"



A3 BUILDING SECTION
3/16" = 1'-0"

A1 ENLARGED COMMON AREA
1/4" = 1'-0"



EDC BUILDING
CHIPPEWA COUNTY EDC
KINROSS, MI

DATE:
4-15-20

ISSUED FOR:
OWNER REVIEW

EDC BUILDING
CHIPPEWA COUNTY EDC
PROJECT NO: C203-00278
DESIGNED BY: KC DC KC JG
DRAWN BY: DC KC JG
CHECKED: KC JG
APPROVED: JG

FLOOR PLANS & BUILDING SECTION

A101

Applicants should also review the instructions for certification included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements under 15 CFR Part 28, 'New Restrictions on Lobbying.' The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Commerce determines to award the covered transaction, grant, or cooperative agreement.

LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 15 CFR Part 28, for persons entering into a grant, cooperative agreement or contract over \$100,000 or a loan or loan guarantee over \$150,000 as defined at 15 CFR Part 28, Sections 28.105 and 28.110, the applicant certifies that to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, 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 agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) 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 agreement, the undersigned shall complete and submit Standard Form-LLL, 'Disclosure Form to Report Lobbying,' in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 by 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 each such failure occurring on or before October 23, 1996, and of not less than \$11,000 and not more than \$110,000 for each such failure occurring after October 23, 1996.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above applicable certification.

* NAME OF APPLICANT

* AWARD NUMBER

* PROJECT NAME

Prefix:	* First Name:	Middle Name:
<input type="text"/>	<input type="text"/>	<input type="text"/>

* Last Name:	Suffix:
<input type="text"/>	<input type="text"/>

* Title:

* SIGNATURE:

* DATE:

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

Approved by OMB
0348-0046

1. * Type of Federal Action: <input type="checkbox"/> a. contract <input checked="" type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. * Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input checked="" type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. * Report Type: <input checked="" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
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4. Name and Address of Reporting Entity:
 Prime SubAwardee

* Name

* Street 1 Street 2

* City State Zip

Congressional District, if known:

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

6. * Federal Department/Agency: <input type="text"/>	7. * Federal Program Name/Description: <input type="text"/> CFDA Number, if applicable: <input type="text"/>
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8. Federal Action Number, if known: <input type="text"/>	9. Award Amount, if known: \$ <input type="text"/>
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10. a. Name and Address of Lobbying Registrant:

Prefix * First Name Middle Name

* Last Name Suffix

* Street 1 Street 2

* City State Zip

b. Individual Performing Services (including address if different from No. 10a)

Prefix * First Name Middle Name

* Last Name Suffix

* Street 1 Street 2

* City State Zip

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* Signature:

* Name: Prefix * First Name Middle Name
* Last Name Suffix

Title: Telephone No.: Date:

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

Requirements under the Uniform Rules. A non-Federal entity's contracts must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. § 200.326. For some of the required clauses we have included sample language or a reference a non-Federal entity can go to in order to find sample language. Please be aware that this is sample language only and that the non-Federal entity alone is responsible ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. We do not include sample language for certain required clauses (remedies, termination for cause and convenience, changes) as these must necessarily be written based on the non-Federal entity's own procedures in that area.

1. Remedies.

- a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A.
- b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

2. Termination for Cause and Convenience.

- a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. Equal Employment Opportunity.

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.
- b. Key Definitions.

(1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

- c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- d. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:

“During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, 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.
- (2) 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, or national origin.
- (3) 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.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) 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.

(6) 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 as 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.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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."

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40

U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.

- c. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- d. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the next subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. As such, FEMA requires the following contract clause:

"Compliance with the Copeland "Anti-Kickback" Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. Contract Work Hours and Safety Standards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work

done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance**, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”
- b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by

FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

- c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

- a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“Clean Air Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal

government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.”

8. Debarment and Suspension.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ I; and Chapter IV, ¶ 6.d and Appendix C, ¶ 2. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; Chapter IV, ¶ 6.d and Appendix C, ¶ 2.
- d. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any nonprocurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:
 - (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.

- (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally-required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ J; 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, ¶ 4.
- c. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or

attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See Chapter IV, ¶ 6.c and Appendix C, ¶ 4.

d. The following provides a Byrd Anti-Lobbying contract clause:

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. 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 agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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 by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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 each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date"

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ K; 2 C.F.R. § 200.322; Chapter V, ¶ 7.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of

competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement is available at EPA’s Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.”

11. Additional FEMA Requirements.

- a. The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

b. Changes.

To be eligible for FEMA assistance under the non-Federal entity’s FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and

agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

12. DHS Seal, Logo, and Flags.

- a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).
- b. The following provides a contract clause regarding DHS Seal, Logo, and Flags: “The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

- a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor

will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

14. No Obligation by Federal Government.

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the Federal Government: “The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts: “The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.”