According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0572-0107. The time required to complete this information collection is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information including suggestions for reducing burden to: USDA-RUS, Attn.: Director, PDRA, 1400 Independence Ave., S.W., STOP, 1522, Washington, DC 20250-1522; and to the Office of Information and Regulatory Affairs, Paperwork Reduction Project (1910-1800), Office of Management and Budget, Washington, DC 20503.

U.S. Department of Agriculture
Rural Utilities Service

CONTRACT TO CONSTRUCT BUILDINGS

NOTICE AND INSTRUCTIONS TO BIDDERS

1. **Sealed proposals** *for the construction, including the supply of necessary labor, materials and equipment, of a building project of* _____ , *RUS designation* _____, *(hereinafter called the "Owner") will be received by the Owner on or before* _____ *o'clock* ____ *M.,* _____ *,20*____ *, at its office at* _____ *at which time and place the proposals will be publicly opened and read. Any proposals received subsequent to the time specified will be promptly returned to the Bidder unopened.*

2. **Obtaining Documents.** *The Plans, Specifications and Construction Drawings, together with all necessary forms and other documents for bidders may be obtained from the Owner, or from the Architect* _____ _____ *at the latter's office at* _____ *upon the payment of $* _____ *, which payment will not be subject to refund. The Plans, Specifications, and Construction Drawings may be examined at the office of the Owner or at the office of the Architect.*

3. **Manner of Submitting Proposals.** *Proposals and all supporting instruments must be submitted on the forms furnished by the Owner and must be delivered in a sealed envelope addressed to the Owner. The name and address of the Bidder, its license number if a license is required by the State, and the date and hour of the opening of bids must appear on the envelope in which the Proposal is submitted. Proposals must be completed in ink or typewritten. No alterations or interlineations will be permitted, unless made before submission, and initialed and dated. The successful Bidder will be required to execute two additional counterparts of the Proposal.*

4. **Due Diligence.** *Prior to the submission of the Proposal, the Bidder shall make and shall be deemed to have made a careful examination of the site of the project and of the Plans, Specifications, Construction Drawings, and forms of Contractor's Proposal and Contractor's Bond, and shall review the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, the kind of facilities required before and during the construction of the project, general local conditions, environmental and historic preservation considerations, and all other matters that may affect the cost and time of completion of the project. Bidder will be required to comply with all federal, state, and local laws, rules, and regulations applicable to its performance, including those pertaining to the licensing of contractors, and the Anti Kick-Back Act of 1986 (41 U.S.C. 51 et seq).*

5. **Proposals** *will be accepted only from those prequalified bidders invited by the Owner to submit a proposal.*

6. **The Time for Completion of Construction** *of the project is of the essence of the Contract and shall be as specified by the Architect in the Proposal.*

7. **Bid Bond.** *Each Proposal must be accompanied by a Bid Bond in the form attached hereto or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the Owner, in an amount equal to ten percent (10%) of the maximum bid price. Each Bidder agrees, provided its Proposal is one of the three low Proposals, that, by filing its Proposal together with such Bid Bond or check in consideration of the Owner's receiving and considering such Proposals, said Proposal shall be firm and*

binding upon each such Bidder and such Bid Bond or check shall be held by the Owner until a Proposal is accepted and a satisfactory Contractor's Bond is furnished (where required) by the successful Bidder and such acceptance has been approved by the Administrator, or for a period not to exceed sixty (60) days from the date hereinbefore set for the opening of Proposals, whichever period shall be the shorter. If such Proposal is not one of the three low Proposals, the Bid Bond or check will be returned in each instance within a period of ten (10) days to the Bidder furnishing same.

8. **Contractor's Bond.** *For a Contract in excess of $100,000, the Bidder agrees to furnish a Contractor's Bond in triplicate in the form attached hereto with sureties listed by the United States Treasury Department as Acceptable Sureties, in a penal sum not less than the contract price.*

9. **Failure to Furnish Contractor's Bond.** *Should the successful Bidder fail or refuse to execute such counterparts or to furnish a Contractor's Bond (where required) within ten (10) days after written notification of the acceptance of the Proposal by the Owner, the Bidder will be considered to have abandoned the Proposal. In such event, the Owner shall be entitled (a) to enforce the Bid Bond in accordance with its terms, or (b) if a certified check has been delivered with the Proposal, to retain from the proceeds of the certified check, the difference (not exceeding the amount of the certified check) between the amount of the Proposal and such larger amount for which the Owner may in good faith contract with another party to construct the project. The term "Successful Bidder " shall be deemed to include any Bidder whose Proposal is accepted after another Bidder has previously refused or has been unable to execute the counterparts or to furnish a satisfactory Contractor's Bond (where required.)*

10. **Debarment Certification**. *The Bidder must provide to the Owner a suspension and debarment certificate in the form attached hereto.*

11. **Contract is Entire Agreement.** *The Contract to be effected by the acceptance of the Proposal shall be deemed to include the entire agreement between the parties thereto, and the Bidder shall not claim any modifications thereof resulting from any representation or promise made at any time by any officer, agent or employee of the Owner or by any other person.*

12. **Minor Irregularities.** *The Owner reserves the right to waive minor irregularities or minor errors in any Proposal, if it appears to the Owner that such irregularities or errors were made through inadvertence. Any such irregularities or errors so waived must be corrected on the Proposal in which they occur prior to the acceptance thereof by the Owner.*

13. **Bid Rejection.** T*he Owner reserves the right to reject any or all Proposals.*

14. **Definition of Terms.** *The terms "Administrator, " " Architect, " "Completion of Construction," and "Completion of the Project" as used throughout this Contract shall be as defined in Article VI, Section 1, of the Proposal.*

15. **The Owner Represents:**

    a. *If by provisions of the Proposal the Owner shall have undertaken to furnish any materials for the construction of the project, such materials are on hand at locations specified or if such materials are not on hand they will be made available by the Owner to the successful Bidder at the locations specified before the time such materials are required for construction.*

    b. *Title to the property on which the Project is to be constructed has been obtained.*

    c. *All funds necessary for prompt payment for the construction of the project will be available.*

    If the Owner shall fail to comply with any of the undertakings contained in the foregoing representation or if any of such representations shall be incorrect, the Bidder will be entitled to an extension of time of completion for a period equal to the delay, if any, caused by the failure of the Owner to comply with such undertakings or by any such incorrect representation; provided the Bidder shall have promptly notified the Owner in writing of its desire to extend the time of completion in accordance with the foregoing; provided, however, that such

extension, if any, of the time of completion shall be the sole remedy of the Bidder for the Owner's failure, because of conditions beyond the control and without the fault of the Owner, to furnish materials in accordance with subparagraph a. above.

_____
Owner

*By*_____

_____
Title

_____*,20*____
Date

PROPOSAL

TO:

_____

_____*(hereinafter called the "Owner").*

ARTICLE 1--GENERAL

Section 1. Offer to Construct. *The undersigned (hereinafter called the "Bidder") hereby proposes to receive and install such materials and equipment as may hereinafter be specified to be furnished by the Owner, and to furnish all other materials and equipment, all machinery, tools, labor, transportation and other means required to construct the project in strict accordance with the Plans, Specifications and Construction Drawings for the prices hereinafter stated.*

*Item:*_____ *Price:*_____

*Item:*_____ *Price:*_____

*Item:*_____ *Price:*_____

*Item:*_____ *Price:*_____

Section 2. Purchase of Materials. *The Bidder will purchase all materials and equipment (other than Owner Furnished Materials) outright and not subject to any conditional sales agreements, bailment, lease or other agreement reserving unto the seller any right, title or interest therein. All such materials and equipment shall be new and become the property of the Owner when erected in place.*

Section 3. Description of Contract. *The Notice and Instructions to Bidders, Plans, Specifications, and Construction Drawings, which by this reference are incorporated herein, together with the Proposal and Acceptance constitute the Contract. The Plans, Specifications, and Construction Drawings, including maps, special drawings, and approved modifications in standard specifications are attached hereto and identified as follows:*

_____

_____

_____

_____

_____

Section 4. Due Diligence. *The Bidder has made a careful examination of the site of the project to be constructed and of the Plans, Specifications, Construction Drawings, and form of Contractor's Bond attached hereto, and has become informed as to the location and nature of the proposed construction, the transportation facilities, the kind and character of soil and terrain to be encountered, and the kind of facilities required before and during the construction of the project, and has become acquainted with the labor conditions, federal, state, and local laws, rules, and regulations applicable to its performance.*

Section 5. License. *The Bidder warrants that a Contractor's License is* ☐*, is not* ☐ *required, and if required,*

it possesses Contractor's License No. _____for the State of_____

in which the project is located and said license expires on _____ ,20___ .

Section 6. Warranty of Good Faith. *The Bidder warrants that this Proposal is made in good faith and without collusion or connection with any person or persons bidding for the same work.*

Section 7. Financial Resources.

a. The Bidder warrants that it has or will obtain the financial resources necessary to ensure completion of the project.

b. The Bidder agrees that in the event this Proposal is accepted and a Contractor's Bond is required, it will furnish a Contractor's Bond in the form attached hereto, in a penal sum not less than the maximum Contract price, with a surety or sureties listed by the United States Department of Treasury as Acceptable Sureties.

Section 8. Taxes. *The prices in this Proposal include provisions for the payment of all monies which will be payable by the Bidder or the Owner in connection with the construction of the project on account of taxes imposed by any taxing authority upon the sale, purchase or use of materials, supplies and equipment, or services or labor of installation thereof to be incorporated in the project. The Bidder agrees to pay all such taxes, except taxes upon the sale, purchase or use of Owner Furnished Materials. The Bidder will furnish to the appropriate taxing authorities all required information and reports pertaining to the project, except as to the Owner Furnished Materials.*

ARTICLE II--CONSTRUCTION

Section 1. Time and Manner of Construction.

a. The Bidder agrees to commence construction of the project on a date (hereinafter called the "Commencement Date") which shall be determined by the Architect after notice to the bidder in writing of approval of the contract by the Administrator, if approval of the Administrator is required, and notice in writing from the Bidder that the Bidder has sufficient materials to warrant commencement and continuation of construction, but in no event will the Commencement Date be

later than_____ calendar days after date of approval of the contract by the Administrator, if approval of the Administrator is required. The Bidder further agrees to prosecute diligently and to complete construction in strict accordance with the Plans,

Specifications and Construction Drawings within _____ calendar days after Commencement Date.

b. The time for Completion of Construction shall be extended for the period of any reasonable delay which is due exclusively to causes beyond the control and without the fault of the Bidder, including Acts of God, fires, floods, inability to obtain materials and acts or omissions of the Owner with respect to matters for which the Owner is solely responsible: Provided, however that no such extension of time for completion shall be granted the Bidder unless within ten (10) days after the happening of any event relied upon by the Bidder for such an extension of time the Bidder shall have made a request therefore in writing to the Owner, and provided further that no delay in such time of completion or in the progress of the work which results from any of the above causes except acts or omissions of the Owner, shall result in any liability on the part of the Owner.

c. The Owner, acting through the Architect with the approval of the Administrator, if approval of the Administrator is required, may from time to time during the progress of the construction of the

project make such changes, additions or subtractions from the Plans, Specifications, Construction Drawings, and sequence of construction as conditions may warrant: Provided, however, that if any change in the construction to be done shall require an extension of time, a reasonable extension will be granted if the Bidder shall make a written request therefore to the Owner within (10) days after any such change is made. And provided further, that if the cost to the Bidder of construction of the project shall be materially increased by any such change or addition, the Owner shall pay the Bidder for the reasonable cost thereof in accordance with a Construction Contract Amendment signed by the Owner and the Bidder and approved by the Administrator, if approval by the Administrator is required, but no claim for additional compensation for any such change or addition will be considered unless the Bidder shall have made a written request therefore to the Owner prior to the commencement of work in connection with such change or addition.

Section 2. Environmental Protection. *The Bidder shall perform the work in compliance with all applicable Federal, State, and local Environmental Laws. For purposes of this Agreement, the term "Environmental Laws" shall mean all Federal, state, and local laws including statutes, regulations, ordinances, codes, rules, and other governmental restriction and requirements relating to the environment or solid waste, hazardous substances, hazardous waste, toxic or hazardous material, pollutants or contaminants including, but not limited to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601, et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251, et seq., and the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, et seq., now or at any time hereafter in effect.*

Section 3. Tools, Equipment, and Qualified Personnel. *The Bidder agrees that in the event this Proposal is accepted it will make available for use in connection with the proposed construction all necessary tools and equipment and qualified supervisors and workers.*

Section 4. Supervision and Inspection.

a. The Bidder shall give sufficient supervision to the work, using its best skill and attention. The Bidder will carefully study and compare all drawings, specifications and other instructions and will at once report to the Owner any error, inconsistency or omission which it may discover. The Bidder shall cause the construction work on the project to receive constant supervision by a competent superintendent (hereinafter called the "Superintendent') who shall be present at all times during working hours where construction is being carried on. The Bidder shall also employ, in connection with the construction of the project, capable, experienced and reliable supervisors and such skilled workers as may be required for the various classes of work to be performed. The Bidder shall be solely responsible for the means and methods of construction and for the supervision of the Bidder's employees.

b. The Owner reserves the right to require the removal from the project of any employee of the Bidder if in the judgment of the Owner such removal shall be necessary in order to protect the interest of the Owner. The Owner shall have the right to require the Bidder to increase the number of its employees and to increase or change the amount or kind of tools and equipment if at any time the progress of the work shall be unsatisfactory to the Owner; but the failure of the Owner to give any such directions shall not relieve the Bidder of its obligations to complete the work within the time and in the manner specified in this Proposal.

c. The construction of the project and all materials and equipment used therein, shall be subject to the inspection, tests, and acceptance by the Owner and the Administrator and the Bidder shall furnish all information required by the Owner or by the Administrator concerning the nature or source of any materials incorporated or to be incorporated in the project. All Bidder procedures and records pertaining to the work shall be made available to the Owner and the Administrator for review prior to such inspections and tests. The Bidder shall provide all reasonable facilities necessary for such inspection and tests and shall maintain an office at the site of the project, with telephone service where obtainable and at least one office employee to whom communications from the Owner may be delivered. Delivery of such communications in writing to the employee of

the Bidder at such office shall constitute delivery to the Bidder. The Bidder shall have an authorized agent accompany the Architect when final inspection is made and, if requested by the Owner, when any other inspection is made. The performance of such inspections or tests by the Owner or the Administrator shall not relieve the Bidder of its obligations to perform the work in accordance with the requirements of this Contract.

d. In the event that the Owner, or the Administrator, shall determine that the construction contains or may contain numerous defects, it shall be the duty of the Bidder and the Bidder's Surety or Sureties, if any, to have an inspection made by an architect or engineer approved by the Owner and the Administrator, if approval by the Administrator is required, for the purpose of determining the exact nature, extent and location of such defects.

e. The Architect may recommend to the Owner that the Bidder suspend the work wholly or in part for such period or periods as the Architect may deem necessary due to unsuitable weather or such other conditions as are considered unfavorable for satisfactory prosecution of the work or because of the failure of the Bidder to comply with any of the provisions of the Contract: Provided, however, that the Bidder shall not suspend work pursuant to this provision without written authority from the Owner so to do. The time of completion hereinabove set forth shall be increased by the number of days of any such suspension, except when such suspension is due to the failure of the Bidder to comply with any of the provisions of this Contract. In the event that work is suspended by the Bidder with the consent of the Owner, the Bidder before resuming work shall give the Owner at least twenty-four (24) hours notice thereof in writing.

Section 5. Defective Materials and Workmanship.

a. The acceptance of any materials, equipment (except Owner Furnished Materials) or any workmanship by the Owner or the Architect shall not preclude the subsequent rejection thereof if such materials, equipment, or workmanship shall be found to be defective after delivery or installation, and any such materials, equipment or workmanship found defective before final acceptance of the construction shall be replaced or remedied, as the case may be, by and at the expense of the Bidder. Any such condemned material or equipment shall be immediately removed from the site of the project by the Bidder at the Bidder's expense. The Bidder shall not be entitled to any payment hereunder so long as any defective materials, equipment or workmanship in respect to the project, of which the Bidder shall have had notice, shall not have been replaced or remedied, as the case may be.

b. Notwithstanding any certificate which may have been given by the Owner or the Architect, if any materials, equipment (except Owner Furnished Materials) or any workmanship which does not comply with the requirements of this Contract shall be discovered within one (1) year after Completion of Construction of the project, the Bidder shall replace such defective materials or equipment or remedy any such defective workmanship within thirty (30) days after notice in writing of the existence thereof shall have been given by the Owner. If any such defective materials, equipment, or workmanship so replaced or repaired is found to be defective within one year after the completion of the replacement or repair, the Bidder shall replace or remedy such defective materials, equipment, or workmanship. In the event of failure by the Bidder so to do, the Owner may replace such defective materials or equipment or remedy such defective workmanship, as the case may be, and in such event the Bidder shall pay to the Owner the cost and expense thereof .

ARTICLE III---PAYMENTS AND RELEASE OF LIENS

Section 1. Payments to Bidder.

a. On or before the fifth (5) day of each calendar month, the Bidder will make application for payment, and the Owner, on or before the fifteenth (15) day of such month, shall make partial payment to the Bidder for construction accomplished during the preceding calendar month and certified to by the Bidder, recommended by the Architect and approved by the Owner solely for

the purposes of payment: Provided, however, that such approval shall not be deemed approval of the workmanship or materials. Only ninety percent (90%) of each such estimate approved during the construction of the project shall be paid by the Owner to the Bidder prior to Completion of the project, Upon completion by the Bidder of the construction of the project, the Architect will prepare an inventory of the project showing the total number and character of Construction Units and, after checking such inventory with the Bidder, will certify it to the Owner. Upon the approval by the Owner and the Administrator, if the approval of the Administrator is required, of a Certificate of Completion in the form attached hereto, showing the total cost of the construction performed, the Owner shall make payment to the Bidder of all amounts to which the Bidder shall be entitled thereunder which shall not have been paid: Provided, however, that such final payment shall be made not later than ninety (90) days after the date of Completion of Construction of the project, as specified in the Certificate of Completion, unless withheld because of the fault of the Bidder.

b. Interest at the rate of_____percent[1] (_____%) per annum shall be paid by the Owner to the Bidder on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date; provided the delay in payment beyond the due date is not caused by any condition within the control of the Bidder. The due date for purposes of such monthly payment or interest on all unpaid balances shall be the fifteenth (15) day of each calendar month provided (1) the Bidder on or before the fifth (5) day of such month shall have submitted its certification of Construction Units completed during the preceding month and (2) the Owner on or before the fifteenth (15) day of such month shall have approved such certification. If for reasons not due to the Bidder's fault, such approval shall not have been given on or before the fifteenth (15) day of such month, the due date for purposes of this subsection b shall be the fifteenth (15) day of such month notwithstanding the absence of the approval of the certification.

c. Interest at the rate of_____percent[2] (_____%) per annum shall be paid by the Owner to the Bidder on the final payment for the project or any completed Section thereof commencing fifteen (15) days after the due date. The due date for purposes of such final payment or interest on all unpaid balances shall be the date of approval by the Owner of all of the documents requiring such approval, as a condition precedent to the making of final payment, or ninety (90) days after the date of Completion of Construction of the project, as specified in the Certificate of Completion, whichever date is earlier.

d. No payment shall be due while the Bidder is in default in respect of any of the provisions of this Contract and the Owner may withhold from the Bidder the amount of any claim by a third party against either the Bidder or the Owner based upon an alleged failure of the Bidder to perform the work hereunder in accordance with the provisions of this Contract.

e. The Owner and the Administrator shall have the right to inspect all payrolls, invoices of materials, and other data and records of the Bidder and of any subcontractor, relevant to the construction of the project.

Section 2. Release of Liens and Certificate of Contractor. *Upon the completion by the Bidder of the construction of the project but prior to final payment to the Bidder, the Bidder shall deliver to the Owner, in duplicate, releases of all liens and of rights to claim any lien, in the form attached hereto from all manufacturers, material suppliers, and subcontractors furnishing services or materials for the project and a certificate in the form attached hereto to the effect that all labor used on or for the project or such Section has been paid and that all such releases have been submitted to the Owner.*

Section 3. Payments to Material Suppliers and Subcontractors. *The Bidder shall pay each material supplier, if any, within five (5) days after receipt of any payment from the Owner, the amount thereof allowed the Bidder for and on account of materials furnished or construction performed by each material supplier or each subcontractor.*

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1 The Owner shall insert a rate equal to the lowest "Prime Rate" listed in the "Money Rates" section of the Wall Street Journal on the date such invitation to bid is issued.
2 See Footnote 1.

ARTICLE IV--PARTICULAR UNDERTAKINGS OF THE BIDDER

Section l. Protection to Persons and Property. *The Bidder shall at all times take all reasonable precautions for the safety of employees on the work and of the public, and shall comply with all applicable provisions of federal, state, and local laws, rules, and regulations and building and construction codes, in addition to the safety rules and procedures of the Owner.*

The following provisions shall not limit the generality of the above requirements:

a. The Bidder shall at all times keep the premises free from accumulations of waste materials or rubbish caused by its employees or work, and at the completion of the work the Bidder shall remove all rubbish from and about the Project and all its tools, scaffolding and surplus materials and shall leave the work "broom clean." The Bidder shall dispose of waste material by burying it on the work site or in a manner approved by local authorities, but shall not dispose of any waste materials or rubbish by open burning. The Bidder shall provide chemical sanitary facilities which may be required.

b. The Bidder shall transport and store all material in facilities and vehicles which are designed to protect the material from damage. The Bidder shall ensure that all vehicles, trailers, and other equipment used comply with all applicable licensing, traffic, and highway requirements.

c. The Bidder shall provide and maintain all such guard lights and other protection for the public as may be required by applicable statutes, ordinances and regulations or by local conditions.

d. The project, from the commencement of work to completion, or to such earlier date or dates when the Owner may take possession and control in whole or in part as hereinafter provided shall be under the charge and control of the Bidder and during such period of control by the Bidder all risks in connection with the construction of the project and the materials to be used therein shall be borne by the Bidder. The Bidder shall make good and fully repair all injuries and damages to the project or any portion thereof under the control of the Bidder by reason of any act of God or other casualty or cause whether or not the same shall have occurred by reason of the Bidder's negligence.

(i) To the maximum extent permitted bylaw, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all claims, causes of action, losses, liabilities, and expenses (including reasonable attorney's fees) for personal loss, injury, or death to persons (including but not limited to Bidder's employees) and loss, damage to or destruction of Owner's property or the property of any other person or entity (including but not limited to Bidder's property) in any manner arising out of or connected with the Contract, or the materials or equipment supplied or services performed by Bidder, its subcontractors and suppliers of any tier. But nothing herein shall be construed as making Bidder liable for any injury, death, loss, damage, or destruction caused by the sole negligence of Owner.

(ii) To the maximum extent permitted by law, Bidder shall defend, indemnify, and hold harmless Owner and Owner's directors, officers, and employees from all liens and claims filed or asserted against Owner, its directors, officers, and employees, or Owner's property or facilities, for services performed or materials or equipment furnished by Bidder, its subcontractors and suppliers of any tier, and from all losses, demands, and causes of action arising out of any such lien or claim. Bidder shall promptly discharge or remove any such lien or claim by bonding, payment, or otherwise and shall notify Owner promptly when it has done so. If Bidder does not cause such lien or claim to be discharged or released by payment, bonding, or otherwise, Owner shall have the right (but shall not be obligated) to pay all sums necessary to obtain any such discharge or release and to deduct all amounts so paid from the amount due Bidder.

(iii) Bidder shall provide to Owner's satisfaction evidence of Bidder's ability to comply with the indemnification provisions of subparagraphs i and ii above, which evidence may include but may not be limited to a bond or liability insurance policy obtained for this purpose through a licensed surety or insurance company.

e. Any and all excess earth, rock, debris, underbrush and other useless materials shall be removed by the Bidder from the site of the project as rapidly as practicable as the work progresses.

f. Upon violation by the Bidder of any of the provisions of this section, after written notice of such violation given to the Bidder by the Architect or the Owner, the Bidder shall immediately correct such violation. Upon failure of the Bidder so to do the Owner may correct such violation at the Bidder's expense: Provided, however, that the Owner may, if it deems it necessary or advisable, correct such violation at the Bidder's expense without such prior notice to the Bidder.

g. The Bidder shall submit to the Owner monthly reports in duplicate of all accidents, giving such data as may be prescribed by the Owner.

Section 2. Insurance. *The Bidder shall take out and maintain throughout the period of this Agreement the following types and minimum amounts of insurance:*

a. Workers' compensation and employers' liability insurance, as required bylaw, covering all its employees who perform any of the obligations of the Bidder under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

b. Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

c. Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, nonowned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million each occurrence, and property damage limits of $1 million for each occurrence. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in subsection " b " and " c " of this Section . In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

The Owner shall be named as Additional Insured on all policies of insurance required in subsections " b " and " c " of this Section.

The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Bidder shall furnish the Owner a certificate evidencing compliance with the foregoing requirements which shall provide not less than (30) days prior written notice to the Owner of any cancellation or material change in the insurance.

Section 3. Delivery of Possession and Control to Owner. *Upon written request of the Owner the Bidder shall deliver to the Owner full possession and control of any portion of the project provided the Bidder shall have been paid at least ninety percent* (90%) *of the cost of construction of such portion. Upon such delivery of the possession and control of any portion of the project to the Owner, the risk and*

obligations of the Bidder as set forth in Article IV Section 1.d hereof with respect to such portion of the project so delivered to the Owner shall be terminated; Provided, however, that nothing herein contained shall relieve the Bidder of any liability with respect to defective materials and workmanship as contained in Article 11, Section 5 hereof.

Section 4. Assignment of Guarantees. *All guarantees of materials and workmanship running in favor of the Bidder shall be transferred and assigned to the Owner prior to the time the Bidder receives final payment.*

ARTICLE V--REMEDIES

Section 1. Completion on Bidder's Default. *If default shall be made by the Bidder or by any subcontractor in the performance of any of the terms of this Proposal, the Owner, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Bidder and the Surety or Sureties, if any, upon the Contractor's Bond or Bonds a written notice requiring the Bidder to cause such default to be corrected forthwith. Unless within twenty (20) days after the service of such notice upon the Bidder such default shall be corrected or arrangements for the correction thereof satisfactory to both the Owner and the Administrator shall be made by the Bidder or its Surety or Sureties, if any, the Owner may take over the construction of the project and prosecute the same to completion by Contract or other wise for the account and at the expense of the Bidder, and the Bidder and its Surety or Sureties, if any, shall be liable to the Owner for any cost or expense in excess of the Contract price occasioned thereby. In such event the Owner may take possession of and utilize, in completing the construction of the project, any materials, tools, supplies, equipment, appliances, and plant belonging to the Bidder or any of its subcontractors, which may be situated at the site of the project. The Owner in such contingency may exercise any rights, claims or demands which the Bidder may have against third persons in connection with this Contract and for such purpose the Bidder does hereby assign, transfer and set over unto the Owner all such rights, claims and demands.*

Section 2. Liquidated Damages. *The time of the Completion of Construction of the project is of the essence of the Contract. Should the Bidder neglect, refuse or fail to complete the construction within the time herein agreed upon, after giving effect to extensions of time, if any, herein provided, then, in that event and in view of the difficulty of estimating with exactness damages caused by such delay, the Owner shall have the right to deduct from and retain out of such moneys which may be then due, or which*

may become due and payable to the Bidder the sum of _____ dollars _____ per day for each and every day that such construction is delayed in its completion beyond the specified time, as liquidated damages and not as a penalty if the amount due and to become due from the Owner to the Bidder is insufficient to pay in full any such liquidated damages, the Bidder shall pay to the Owner the amount necessary to effect such payment in full: Provided, however, that the Owner shall promptly notify the Bidder in writing of the manner in which the amount retained, deducted or claimed as liquidated damages was computed.

Section 3. Cumulative Remedies. *Every right or remedy herein conferred upon or reserved to the Owner or the Government or the Administrator shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election: Provided, however, that the provisions of Section 2 of this Article shall be the exclusive measure of damages for failure by the Bidder to complete the construction of the project within the time herein agreed upon.*

ARTICLE Vl--MISCELLANEOUS

Section 1. Definitions.

a. The term "Administrator " shall mean the Administrator of the Rural Utilities Service of the United States of America and his or her duly authorized representative or any other person in whom or authority in which may be vested the duties and functions which the Administrator is

now authorized by law to perform. If the project is financed wholly or in part by the Rural Telephone Bank, an agency of the United States of America, the references in this Contract to the "Administrator " shall mean the "Governor" of the Rural Telephone Bank as well.

b. The term "Architect" shall mean the Architect employed by the Owner, to provide architectural services for the project and said Architect's duly authorized assistants and representatives.

c. The term "Completion of Construction" shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof except the Bidder's obligations in respect of Releases of Liens and Certificate of Contractor under Article III, Section 2 hereof and other final documents. The term "Completion of the Project " shall mean full performance by the Bidder of the Bidder's obligations under the Contract and all amendments and revisions thereof. The Certificate of Completion, signed by the Architect and approved in writing by the Owner and the Administrator, if approval by the Administrator is required, shall be the sole and conclusive evidence as to the date of Completion of Construction and as to the fact of Completion of the Project.

Section 2. Materials and Supplies. *In the performance of this contract there shall be furnished only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States or in any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or in any eligible country substantially all from articles, materials, or supplies mined, produced or manufactured, as the case may be, in the United States or in any eligible country; provided that other articles, materials, or supplies may be used in the event and to the extent that the Administrator shall expressly in writing authorize such use pursuant to the provisions of the Rural Electrification Act of 1938, being Title IV of Public Resolution No. 122, 75th Congress, approved June 21, 1938. For the purposes of this section, an "eligible country " is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and suppliers to the markets of that country, as determined by the Unites States Trade Representative. The Bidder agrees to submit to the Owner such certificates with respect to compliance with the foregoing provision as the Administrator from time to time may require.*

Section 3. Patent Infringement. *The Bidder shall hold harmless and indemnify the Owner from any and all claims, suits and proceedings for the infringement of any patent or patents covering any materials or equipment used in construction of the project.*

Section 4. Permits for Explosives. *All permits necessary for the handling or use of dynamite or other explosives in connection with the construction of the project shall be obtained by and at the expense of the Bidder.*

Section 5. Compliance with Laws. *The Bidder shall comply with all federal, state, and local laws, rules, and regulations applicable to its performance under the contract and the construction of the project. The Bidder acknowledges that it is familiar with the Rural Electrification Act of 1936, as amended, the Anti Kick-Back Act of 1986 (41 U.S.C. 51 et seq.), and 18 U.S.C. §§ 286, 287, 641, 661, 874, 1001, and 1366, as amended.*

The Bidder represents that to the extent required by Executive Orders 12549 (3 CFR, 1985-1988 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235), Debarment and Suspension, and 7 CFR part 3017, it has submitted to the Owner a duly executed certification in the form prescribed in 7 CFR part 3017.

The Bidder represents that, to the extent required, it has complied with the requirements of Pub. L. 101-121, Section 319, 103 Stat. 701, 750-765 (31 U.S.C. 1352), entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and any rules and regulations issued pursuant thereto.

Section 6. Equal Opportunity Provisions.

a. Bidder's Representations.

The Bidder represents that:

It has_____ , does not have_____,100 or more employees, and if it has, that it has_____ , has not_____, furnished the Equal Employment Opportunity-Employers Information Report EEO-1, Standard Form 100, required of employers with 100 or more employees pursuant to Executive Order 11246 of September 24, 1965, and Title VII of the Civil Rights Act of 1964.

The Bidder agrees that it will obtain, prior to the award of any subcontract for more than $10,000 hereunder to a subcontractor with 100 or more employees, a statement, signed by the proposed subcontractor, that the proposed subcontractor has filed a current report on Standard Form 100.

The Bidder agrees that if it has 100 or more employees and has not submitted a report on Standard Form 100 for the current reporting year and that if this Contract will amount to more than $10,000, the Bidder will file such report, as required by law, and notify the owner in writing of such filing prior to the Owner's acceptance of this Proposal.

b. Equal Opportunity Clause. During the performance of this Contract, the Bidder agrees as follows:

(1) The Bidder will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Bidder 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, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeship. The Bidder agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this Equal Opportunity Clause.

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

(3) The Bidder will send to each labor union or representative of workers, with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Bidder's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(5) The Bidder 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 its 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 Bidder's noncompliance with the Equal Opportunity Clause 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 Bidder may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other

sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

(7) The Bidder will include this Equal Opportunity Clause in every subcontract or purchase order unless exempted by the rules, regulations, or order 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 Bidder 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 Bidder becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Bidder may request the United States to enter into such litigation to protect the interests of the United States.

c. Certificate of Nonsegregated Facilities. The Bidder certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term " segregated facilities " means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity Clause, and that it will retain such certifications in its files.

Section 7. Nonassignment of Contract. *The Bidder shall perform directly and without subcontracting not less than twenty-five percent (25%) of the construction of the project, to be calculated on the basis of the total Contract price. The Bidder shall not assign the Contract effected by an acceptance of this Proposal or any interest in any funds that may be due or become due hereunder or enter into any contract with any person, firm or corporation for the performance of the Bidder's obligations hereunder or any part thereof, without the approval in writing of the Owner and of the Surety or Sureties, if any, on any bond furnished by the Bidder for the faithful performance of the Bidder's obligations hereunder. If the Bidder, with the consent of the Owner and any Surety or Sureties on the Contractor's Bond or Bonds, shall enter into a subcontract with any subcontractor for the performance of any part of this Contract, the Bidder shall be as fully responsible to the Owner and the Government for the acts and omissions of such subcontractor and of persons employed by such subcontractor as the Bidder would be for its own acts and omissions and those of persons directly employed by it.*

Section 8. Successors and Assigns. *Each and all of the covenants and agreements herein contained shall extend to and be binding upon the successors and assigns of the parties hereto. The Owner and Bidder acknowledge that this Contract is assigned to the Government, acting through the Administrator, for security purposes under the Owner's mortgage and security instrument.*

Section 9. Independent Contractor. *The Bidder shall perform the work as an independent contractor, not as a subcontractor, agent, or employee of the Owner. Upon acceptance of this Proposal, the successful Bidder shall be the Contractor and all references in the Proposal to the Bidder shall apply to the Contractor.*

Section 10. Approval by the Administrator: *This contract does _____, does not_____, require approval of the Administrator. No acceptance of a Proposal for a contract upon which approval of the Administrator is required shall become effective until the contract has been approved by the Administrator; provided that no obligation shall arise hereunder unless such approval is given within one-hundred twenty (120) days after the date set for the opening of the proposals. The acceptance of a Proposal for a contract upon which approval of the Administrator is not required shall become effective the date of acceptance by the Owner.*

ATTEST:

_____
Bidder

_____
Secretary

_____
President

*Dated*_____

_____
Address

The Proposal must be signed with the full name of the Bidder. If the Bidder is a partnership, the Proposal must be signed in the partnership name by a partner. If the Bidder is a corporation, the Proposal must be signed in the corporate name by a duly authorized officer and the corporate seal affixed and attested by the Secretary of the Corporation.

ACCEPTANCE

Subject to the approval of the Administrator, if approval of the Administrator is required, the Owner hereby accepts the foregoing Proposal of the Bidder, _____

_____, *for the construction of the following:*

_____

_____

_____

_____

_____

_____

_____

for a total contract price of $ _____ *(*_____*dollars)*

_____
Owner

By _____
President

_____
Secretary

_____*,20*_____
Date of Contract