

**SPONSOR:** \_\_\_\_\_

**CART ROAD NO./STREET:** \_\_\_\_\_

**PROJECT:** \_\_\_\_\_

*THIS CONTRACT* is between (Organization Name) , Missouri, hereinafter referred to as the "Local Agency", and (name and address of consulting firm), hereinafter referred to as the "Engineer".

*INASMUCH* as funds have been made available by the Federal Highway Administration through its (Indicate Appropriate Federal Program), coordinated through the Missouri Department of Transportation, the Local Agency intends to (specify improvement)\_\_\_\_\_ and requires professional engineering services. The Engineer will provide the Local Agency with professional services hereinafter detailed for the planning, design and construction inspection of the desired improvements and the Local Agency will pay the Engineer as provided in this contract. It is mutually agreed as follows:

#### **ARTICLE I - SCOPE OF SERVICES**

**A. DESIGN PHASE - The Engineer will:**

1. determine the needs of the Local Agency for the project;
2. conduct topographic, property and utility surveys sufficient to develop plans for the project;
3. arrange for subsurface investigations if needed;
4. conduct hydraulic studies, prepare alternative designs and cost estimates, develop preliminary plans, and recommend to the Local Agency the best overall general design based on these studies;
5. submit four copies of preliminary plans, estimates and studies for review by the Local Agency and , Missouri Department of Transportation (MoDOT);
6. prepare detailed construction plans, cost estimates, specifications and related documents as necessary for the purpose of soliciting bids for constructing the project. Provision will be made in the contract documents for that portion of the work that will be performed by Local Agency's forces;
7. secure adequate property title information, determine right-of-way requirements, prepare right-of-way plans, and assist the Local Agency in acquiring the right-of-way deeds needed for the project;
8. ensure compliance with water quality requirements by coordinating with the Missouri Department of Natural Resources and the U.S. Army Corps of Engineers and also insure compliance with the requirements of the Federal Emergency Management Agency (FEMA);

9. ensure compliance with historic preservation requirements through coordination with the Missouri Department of Natural Resources, and if deemed necessary, arrange to have the site examined by a qualified archaeologist on a subcontract basis;
10. ensure compliance with all regulations in regards to noise abatement and air quality, if necessary; and
11. provide the Local Agency with five sets of completed plans, specifications and/cost estimates for the purpose of obtaining construction authorization from the Missouri Department of Transportation.

**B. BIDDING PHASE - The Engineer will:**

1. upon receipt of construction authorization from MoDOT, make final corrections resulting from reviews by agencies involved, and provide an adequate number of plans, specifications, and bid documents to the Local Agency;
2. provide the Local Agency with a list of qualified area bidders and assist Local Agency in advertising for bids; and
3. assist the Local Agency in evaluating bids and requesting concurrence in award from MoDOT;

**C. CONSTRUCTION PHASE - The Engineer will serve as the Local Agency's representative for administering the terms of the construction contract between Local Agency and their Contractor. Engineer will endeavor to protect the Local Agency against defects and deficiencies in workmanship and materials in work by the Contractor. However, the furnishing of such project representation will not make Engineer responsible for the construction methods and procedures used by the Contractor or for the Contractor's failure to perform work in accordance with the contract documents. Engineer's services will include more specifically as follows:**

1. assist the Local Agency with a preconstruction conference to discuss project details with the Contractor;
2. make periodic site visits to observe the Contractor's progress and quality of work, and to determine if the work conforms to the contract documents. It is contemplated that survey staking and layout will be accomplished by the contractor's forces. The Engineer will accompany MoDOT and FHWA representatives on visits of the project site as requested;
3. check shop drawings and review schedules and drawings submitted by the Contractor;
4. reject work not conforming to the project documents;

5. Prepare change orders for issuance by the Local Agency as necessary and assure that proper approvals are made prior to work being performed;
6. review wage rates, postings, equal employment opportunity and other related items called for in the contract documents;
7. inspect materials, review material certifications furnished by Contractor, sample concrete and other materials as required, and arrange for laboratory testing of samples by others on a subcontract basis. Independent assurance samples and tests will be performed by MoDOT personnel and such sampling and testing is excluded from the work to be performed by the Engineer under this contract;
8. maintain progress diary and other project records, measure and document quantities, and prepare monthly estimates for payments due the Contractor;
9. be present during critical construction operations, including but not limited to the following:
  - a. structure layout;
  - b. excavation and backfilling;
  - c. driving of piles;
  - d. checking of reinforcing steel prior to concrete placement;
  - e. concrete batching and pouring;
  - f. placement of girders; and
  - g. placement of surfacing materials; and
10. participate in final inspection, provide the Local Agency with project documentation (diaries, test results, certifications, etc.), and provide as-built plans for the Local Agency's records.

## **ARTICLE II-ADDITIONAL SERVICES**

The Local Agency reserves the right to request additional work, and changed or unforeseen conditions may require changes and work beyond the scope of this contract. In this event, a supplement to this agreement shall be executed and submitted for the approval of MoDOT prior to performing the additional or changed work or incurring any additional cost thereof. Any change in compensation will be covered in the supplement.

## **ARTICLE III - RESPONSIBILITIES OF LOCAL AGENCY**

The Local Agency will cooperate fully with the Engineer in the development of the project, including the following:

- A. make available all information pertaining to the project which may be in the possession of the Local Agency;
- B. provide the Engineer with the Local Agency's requirements for the project;

- C. make provisions for the Engineer to enter upon property at the project site for the performance of his duties;
- D. examine all studies and layouts developed by the Engineer, obtain reviews by MoDOT, and render decisions thereon in a prompt manner so as not to delay the Engineer;
- E. designate a Local Agency's employee to act as Local Agency's representative under this contract, such person shall have authority to transmit instructions, interpret the Local Agency's policies and render decisions with respect to matters covered by this agreement;
- F. perform appraisals and appraisal review, negotiate with property owners and otherwise provide all services in connection with acquiring all right-of-way needed to construct this project.

#### **ARTICLE IV - PERIOD OF SERVICE**

The Engineer will commence work within two weeks after receiving notice to proceed from the Local Agency. The general phases of work will be completed in accordance with the following schedule:

- A. Preliminary Design Phase - Within \_\_\_\_\_ calendar days after receipt of notice to proceed;
- B. Final Design Phase - With \_\_\_\_\_ calendar days after completion of review of preliminary plans by Local Agency and MoDOT; and
- C. Construction Phase - As desired by the Local Agency and on a schedule so as not to delay the Contractor. All services under this contract will be completed 30 days after final acceptance of construction work.

The above times are exclusive of review time by other agencies and exclusive of time needed to acquire right-of-way. The Local Agency will grant time extensions for unavoidable delays beyond the control of the Engineer. Requests for extensions of time should be requested in writing by the Engineer, stating fully the reasons for the request.

#### **ARTICLE V - STANDARDS**

The Engineer shall be responsible for working with the Local Agency in determining the appropriate design parameters and construction specifications for the project using good engineering judgment based on the specific site conditions, Local Agency needs, and guidance provided in the most current version of Section VIII of the Local Public Agency Manual. If the project is on MoDOT Right of Way, then the latest version of PDM and Missouri Standard Specifications for Highway Construction shall be used.

## ARTICLE VI - COMPENSATION

For services provided under this contract, the Local Agency will compensate the Engineer as follows:

- A. For design services, including work through the construction contract award stage, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of \$\_\_\_\_\_, with a ceiling established for said design services in the amount of \$\_\_\_\_\_, which amount shall not be exceeded.
- B. For construction inspection services, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of \$\_\_\_\_\_, with a ceiling established for said inspection services in the amount of \$\_\_\_\_\_, which amount shall not be exceeded.
- C. The compensation outlined above has been derived from estimates of cost which are detailed in Attachment A. Any major changes in work, extra work, exceeding of the contract ceiling, or change in the predetermined fixed fee will require a supplement to this contract, as covered in Article II - ADDITIONAL SERVICES.
- D. Actual costs in Sections A and B above are defined as:
  - 1. Actual payroll salaries paid to employees for time that they are productively engaged in work covered by this contract, plus
  - 2. An amount estimated at \_\_\_% of actual salaries in Item 1 above for payroll additives, including payroll taxes, holiday and vacation pay, sick leave pay, insurance benefits, retirement and incentive pay, plus
  - 3. An amount estimated at \_\_\_% of actual salaries in Item 1 above for general administrative overhead, based on the Engineer's system for allocating indirect costs in accordance with sound accounting principles and business practice, plus
  - 4. Other costs directly attributable to the project but not included in the above overhead, such as vehicle mileage, meals and lodging, printing, surveying expendables, and computer time, plus
  - 5. Project costs incurred by others on a subcontract basis, said costs to be passed through the Engineer on the basis of reasonable and actual cost as invoiced by the subcontractors.
- E. The rates shown for additives and overhead in Sections VI. D.2 and VI. D.3 above are approximate and will be used for interim billing purposes. Final payment will be based on the actual rates experienced during the period of performance, as indicated by the Engineer's accounting records, and as determined by final audit of the Engineer's records by MoDOT.

- F. The payment of costs under this contract will be limited to costs which are allowable under 23 CFR 172 and 48 CFR 31.
- G. **METHOD OF PAYMENT** - Partial payments for work satisfactorily completed will be made to the Engineer upon receipt of itemized invoices by the Local Agency. Invoices will be submitted no more frequently than one invoice per month. A pro-rated portion of the fixed fee will be paid with each invoice.
- H. **PROPERTY ACCOUNTABILITY** - If it becomes necessary to acquire any specialized equipment for the performance of this contract, appropriate credit will be given for any residual value of said equipment after completion of usage of the equipment.

#### **ARTICLE VII - COVENANT AGAINST CONTINGENT FEES**

The Engineer warrants that he has not employed or retained any company or person, other than a bona fide employee working for the Engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the Local Agency shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, plus reasonable attorney's fees.

#### **ARTICLE VIII - SUBLETTING, ASSIGNMENT OR TRANSFER**

No portion of the work covered by this contract, except as provided herein, shall be sublet or transferred without the written consent of the Local Agency. The subletting of the work shall in no way relieve the Engineer of his primary responsibility for the quality and performance of the work. It is the intention of the Engineer to engage subcontractors for the purposes of: (list services, such as surveying, foundation borings and tests, abstracts of title, archaeological studies, material testing).

#### **ARTICLE IX - PROFESSIONAL ENDORSEMENT**

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the PS&E submittals the Engineer of Record will be representing to MoDOT that the design is meeting the intent of the federal aid programs.

#### **ARTICLE X - RETENTION OF RECORDS**

The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment by FHWA. Said records shall be made available for inspection by authorized representatives of the Local Agency, MoDOT or the federal government during regular working hours at the Engineer's place of business.

## **ARTICLE XI - OWNERSHIP OF DOCUMENTS**

Plans, tracings, maps and specifications prepared under this contract shall be delivered to and become the property of the Local Agency upon termination or completion of work. Basic survey notes, design computations and other data prepared under this contract shall be made available to the Local Agency upon request. All such information produced under this contract shall be available for use by the Local Agency without restriction or limitation on its use. If the Local Agency incorporates any portion of the work into a project other than that for which it was performed, the Local Agency shall save the Engineer harmless from any claims and liabilities resulting from such use.

## **ARTICLE XII - TERMINATION**

The Local Agency may terminate the contract at any time by giving written notice. If the contract is terminated because the project is abandoned or postponed by the Local Agency, the Engineer will be paid for actual expenses incurred up to the date of termination, plus a pro-rated portion of the fixed fee.

If the contract is terminated due to the Engineer's services being unsatisfactory in the judgment of the Local Agency, or if the Engineer fails to prosecute the work with due diligence, the Local Agency may procure completion of the work in such manner as it deems to be in the best interest of the Local Agency. The Engineer will be responsible for any excess cost in addition to that provided for in this contract or any damages the Local Agency may sustain by reason of the termination of this contract due to unsatisfactory performances or prosecution.

## **ARTICLE XIII - DECISIONS UNDER THIS CONTRACT**

The Local Agency will determine the acceptability of work performed under this contract, and will decide all questions which may arise concerning the project. The Local Agency's decision shall be final and conclusive.

## **ARTICLE XIV - SUCCESSORS AND ASSIGNS**

The Local Agency and the Engineer agree that this contract and all contracts entered into under the provisions of this contract shall be binding upon the parties hereto and their successors and assigns.

## **ARTICLE XV - COMPLIANCE WITH LAWS**

The Engineer shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964 and non-discrimination clauses incorporated herein, and shall procure all licenses and permits necessary for the fulfillment of obligations under this contract.

## **ARTICLE XVI - RESPONSIBILITY FOR CLAIMS AND LIABILITY**

The Engineer agrees to save harmless the Local Agency, MoDOT and FHWA from all claims and liability due to his negligent acts or the negligent acts of his employees, agents or subcontractors.

## **ARTICLE XVII - NONDISCRIMINATION**

The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. The Engineer will comply with Title VI of the Civil Rights Act of 1964, as amended. More specifically, the Engineer will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Engineer's obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

## **ARTICLE XIX - ATTACHMENTS**

The following exhibits are attached hereto and are hereby made part of this contract:

Attachment A - Estimate of Cost

Attachment B - Breakdown of Overhead Rates

Attachment C - Certification Regarding Debarment, Suspension, and Other  
Responsibility Matters - Primary Covered Transactions.

Attachment D - Certification Regarding Debarment, Suspension, and Other  
Responsibility Matters - Lower Tier Covered Transactions.

Executed by the Engineer this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Executed by the County/City this \_\_ day of \_\_\_\_\_, 20\_\_.

**FOR:** \_\_\_\_\_ **COUNTY/CITY, MISSOURI**  
County Commission

**BY:** \_\_\_\_\_  
Presiding Commissioner

**ATTEST:** \_\_\_\_\_  
County Clerk

**FOR:** \_\_\_\_\_, **INC.**

**BY:** \_\_\_\_\_  
Title

**ATTEST:** \_\_\_\_\_

I hereby certify under Section 50.660 RSMo there is either: (1) a balance of funds, otherwise unencumbered, to the credit of the appropriation to which the obligation contained herein is chargeable, and a cash balance otherwise unencumbered, in the Treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation contained herein; or (2) bonds or taxes have been authorized by vote of the people and there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury.

\_\_\_\_\_  
**COUNTY ACCOUNTING OFFICER**  
**COUNTY AUDITOR - 1st and 2nd Class Counties**  
**COUNTY CLERK - 3rd and 4th Class Counties**

**ATTACHMENT A**

**ESTIMATE OF COST**

<b>DESIGN PHASE</b>	<u>Hours</u>	<u>Rate (Salary Only)</u>	<u>Cost</u>
<i>Surveying</i>			
Registered Land Surveyor	_____	_____	_____
Rodman	_____	_____	_____
<i>Preliminary Design</i>			
Partner	_____	_____	_____
Engineer	_____	_____	_____
Technician	_____	_____	_____
<i>Final Design</i>			
Partner	_____	_____	_____
Engineer	_____	_____	_____
Technician	_____	_____	_____
Typist	_____	_____	_____
SUBTOTAL	_____	_____	_____
<i>Payroll Overhead (Est. at ____% X SUBTOTAL)</i>			
			_____
<i>General and Admin. Overhead (Est. at ____% X SUBTOTAL)</i>			
			_____
TOTAL LABOR & OVERHEAD			_____
<i>Fixed Fee(Percent X TOTAL LABOR &amp; OVERHEAD)</i>			
			_____
TOTAL LABOR, OVERHEAD & FIXED FEE			_____
<i>Other Direct Costs</i>			
Travel, ___ trips @ _____ miles X _____IRS Rate			_____
Per Diem (cannot exceed maximum per diem rates per Federal Travel Regulations)			_____
Computer Time			_____
Printing			_____
<i>Subcontract Pass-Through Costs</i>			
Surveying	_____	_____	_____
Borings	_____	_____	_____
Archaeological Study	_____	_____	_____
SUBTOTAL DIRECT COSTS	_____	_____	_____
<b>TOTAL FOR DESIGN PHASE</b>			_____

**CONSTRUCTION PHASE**

	<u>Hours</u>	<u>Rate (Salary Only)</u>	<u>Cost</u>
<i>Engineer Inspector</i>	_____	_____	_____
SUBTOTAL			_____
<i>Payroll Overhead (Est. at ____% X SUBTOTAL)</i>			_____
<i>General and Admin. Overhead (Est. at ____% X SUBTOTAL))</i>			_____
TOTAL LABOR & OVERHEAD			_____
<i>Fixed Fee (Percent X TOTAL LABOR &amp; OVERHEAD)</i>			_____
TOTAL LABOR, OVERHEAD AND FIXED FEE			_____
<i>Other Direct Costs</i>			
Travel, ___ trips @ _____ miles X _____ IRS Rate			_____
Per Diem (cannot exceed the maximum per diem rates in effect at the time of Travel as set forth in the Federal Travel Regulations)			_____
Lab Testing Fees	_____	_____	_____
SUBTOTAL DIRECT COSTS			_____
<b>TOTAL FOR CONSTRUCTION PHASE</b>			_____

**ATTACHMENT B**

**OVERHEAD RATE BREAKDOWN  
FOR YEAR 20\_\_**

<b>DIRECT LABOR BASE</b>	\$ _____	
<b>PAYROLL ADDITIVES</b> (list individual components)		<b>% DIRECT LABOR</b>
<u>BASE</u>		
	\$ _____	_____ %
	\$ _____	_____ %
	\$ _____	_____ %
	\$ _____	_____ %
 <i>Total Payroll Additives</i>	 \$ _____	 _____ %
 <b>GENERAL AND ADMINISTRATIVE OVERHEAD</b> (list individual components)		
	\$ _____	_____ %
	\$ _____	_____ %
	\$ _____	_____ %
 <i>Total General and Administrative Overhead</i>	 \$ _____	 _____ %
 <b>TOTAL OVERHEAD</b>	 \$ _____	 _____ %
 Less Unallowable Items	 \$ _____	 _____ %
 <i>TOTAL ALLOWABLE OVERHEAD</i>		 _____ %

\* Overhead percentages should be taken out to 2 decimal places

## **ATTACHMENT C**

### **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS**

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#### **INSTRUCTIONS FOR CERTIFICATION**

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," "proposal" and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction" provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List (Tel. #).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters -Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

- d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## ATTACHMENT D

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION--LOWER TIER COVERED TRANSACTIONS

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#### INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (Tel. #).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.