PROVISIONS TO BE INCORPORATED IN CONSTRUCTION CONTRACTS

A. "DAVIS-BACON" ACT PROVISION

As stated in 24 CFR Part 85.36:

When required by the Federal grant program legislation, all construction contracts in excess of $2,000 awarded by grantees and sub grantees shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5). Under this Act contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor for this solicitation and the award of the contract shall be conditioned upon the acceptance of the attached wage determination.

Further, the provision listed below must be included in each set of bid documents and incorporated in each contract, subcontract, and any lower-tier subcontract:

"The contractor hereby agrees that it will abide by the requirements of the Federal Labor Standards Provisions issued by the United States Department of Housing and Urban Development and described in **Form HUD-4010** and those requirements contained in Wage **General Decision Number**: _____ for this project."

B. TERMINATION PROVISION & LEGAL REMEDIES

As stated in 24 CFR Part 85.36

All contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner which it will be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

Provisions for termination are as follows:

1. Termination at Will

   This contract, in whole or in part, may be terminated by the Principal Contractor/Agency upon no less than ten (10) working days' notice when the Principal Contractor/Agency determines that it would be in the best interest of the Principal Contractor/Agency and the City of Miami. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

2. Termination for Breach

The Principal Contractor/Agency may terminate this contract, in whole or in part, when the Principal Contractor/Agency determines, in its sole and absolute discretion that the Contractor is not making sufficient progress thereby endangering ultimate contract performance, or is not materially complying with any term or provision of this contract.

Unless the Contractor's breach is waived by the Principal Contractor/Agency in writing, the Principal Contractor/Agency may, by written notice to the Contractor, terminate this contract upon no less than twenty-four (24) hours' notice. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

Waiver of breach of any provision of this contract shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this contract. The provisions herein do not limit the Principal Contractor's/Agency's right to legal or equitable remedies.

3. Payment Settlement

If termination occurs, the Contractor will be paid for allowable costs incurred in carrying out activities required by this contract up to the date and time of termination.

C. **ACCESS TO RECORDS AND RECORD RETENTION PROVISION**

All official project records and documents must be maintained during the operation of this project and for a period of five (5) years per CFR following close out in compliance with 24 CFR 85.42.

The City of Miami, the U.S. Department of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the implementing entities which are pertinent to this contract, for the purpose of making audits, examinations, excerpts and transcriptions in compliance with the above.