



COUNTY OF AUGUSTA, VIRGINIA

INVITATION FOR BID #: 12010-19-02

**SCHOLASTIC WAY ENHANCEMENT PROJECT
PHASE 4**

VDOT Project #: EN08-007-123, P101, R201, C501

UPC#: 107462

Federal Project #TEA 007-8(080)

ISSUE DATE: November 19, 2018

TABLE OF CONTENTS

SECTION 1		PAGE
1.1	Description of Project	2
1.2	Date & Place of Bid Opening	2
1.3	Contractor Licensing	3
1.4	Inquiries	3
1.5	Instructions to Bidders	3
 SECTION 2		
2.1	Construction Contract General Conditions	12
2.2	Special Terms & Conditions	42
2.3	Bid Form*	44
2.4	Bid Schedule*	46
2.5	Technical Specifications	48
 SECTION 3		
	Federal & State Requirements Index	49
C-48**	Subcontractor Solicitation and Utilization	50
C-49**	DBE Good Faith Efforts	51
C-104*	Bidders Statement (Affidavit)	61
C-105*	Bidders Certification (Affidavit)	62
C-111**	Minimum DBE Requirements	64
C-112**	Certification of Binding Agreement	65
C-25	VDOT Source of Materials Documentation	67
cn100-000026-02	General Project Requirements, SSs, SPs, SPCNs	69
cn100-000051-00	VDOT Supplemental SSs, SPs, SPCNs	70
cn102-050100-00	Section 102.05 Preparation of Bid	72
cn105-010100-00	Section 105.01 – NTP	73
cn107-130100-00	Section 107.13(b) Labor Rate Forms	74
cn315-000100-00	Section 315.05(c) Placing & Finishing	75
SP0F0-000100-00	Predetermined Minimum Wage Rates	76
SP0F0-000130-00	Required Contract Provisions	88
SP0F0-000150-01	EEO (Executive Order 11246)	109
SECTION 105.06	Subcontracting	115
SP107-150100-01	DBE Requirements	116
SP109-000100-02	Asphalt Material Price Adjustment	135
SP102-010100-00	Non-Discrimination	139
SP102-050100-01	Use of Domestic Material	140
SP108-000100-00	Progress Schedule for Category I Projects	142
SS105-002016-03	Section 105 – Control of Work	146
SS303-002016-03	Section 303 – Earthwork	148
SS512-002016-02	Section 512 – Maintaining Traffic	151

** Required in Bid submission package*

*** Submit per Special Provision Section 107.15*

EXHIBITS

Exhibit A – Form of Agreement	154
Exhibit B – Supplementary Provisions	159

Solicitation Schedule (see Section One for Additional Details)

Event	Date/Time
Invitation for Bid Issued	November 19, 2018
Optional Pre-Bid Meeting	November 29, 2018 @ 10:00 A.M.
Last Date for Questions	December 10, 2018
Bid Due & Bid Opening Date and Time	December 18, 2018 @ 2:00 P.M.
Notice of Decision to Award	February 15, 2019 (estimated)
Notice to Proceed	TBD
Final Completion Date	90 contract days after NTP

SECTION 1

1.1 DESCRIPTION OF PROJECT

The County of Augusta, Virginia is requesting sealed bids for construction of Phase 4 of the Scholastic Way Enhancement Project. The project scope consists of the addition of a new five-foot wide sidewalk and includes traffic control, erosion and sediment control, seeding of disturbed areas, and other items necessary for the completion of the work. The project length is approximately 1,200 feet.

1.2 DATE AND PLACE OF BID OPENING

Sealed bids, subject to the specifications and conditions contained herein and attached hereto, will be received in the Purchasing Office of the Finance Department of the Augusta County Government Center located at 18 Government Center Lane, Verona, VA 24482, until but no later than **2:00 p.m.** local time prevailing, December 18, 2018, and then publicly opened and read immediately thereafter. Bids will not be received after this date and time. Bids submitted by facsimile or email will not be accepted. The completed and signed bid form shall be returned in an envelope or package, sealed and addressed as follows:

County of Augusta Purchasing Office
ATTN: Misty Cook
Scholastic Way Enhancement Project – Phase 4
Augusta County Government Center
18 Government Center Lane
P.O. Box 590
Verona, VA 24482

Invitation for Bid Documents are available for public inspection during normal business hours at the following locations:

- Augusta County Administrator's Office, 18 Government Center Lane, Verona, VA 24482
- McCormick Taylor, Inc., 111 Mill Place Parkway, Suite 105, Verona, VA 24482
- McCormick Taylor, Inc., 4951 Lake Brook Drive, Suite 275, Glen Allen, VA 23060

Invitation for Bid Documents, including plans/drawings, have been made available on the County's website, <https://www.co.augusta.va.us>, as well as at the County's preferred list of plan rooms as follows (*membership and/or fees may be required*):

Valley Construction News / Bid Online

<http://www.vcnonline.com/>

Phone: (888) 922-3669

(Membership required)

The Builder's Exchange Association of Virginia

<http://www.bxava.com/>

3207 Hermitage Road

Richmond, VA 23227

Phone: (804) 353-2788

Invitation for Bid Documents, including plans/drawings, may also be obtained from DTS Reprographics, Inc. at the following locations (fees will apply): Harrisonburg – (540) 433-8373, Richmond – (866) 613-3073 and Salem – (540) 387-2200. Only complete sets will be issued. Bid documents can be delivered for an additional fee, allow two business days for pickup and three business days for UPS delivery.

1.3 CONTRACTOR LICENSING

Contractors offering bids shall be on the VDOT approved list and shall be a VDOT pre-qualified contractor.

1.4 INQUIRIES

The Bidder shall make a careful examination of the project site, shall familiarize himself with existing conditions, and shall satisfy himself as to the quantity and quality of materials and workmanship required for the work. He shall carefully and thoroughly examine the Plans, the Conditions, the Specifications, the Bid Form, and all other documents included in the Invitation for Bid before submitting a Bid.

It is the responsibility of the Bidder to inquire and clarify any requirement that is not understood. The County will not be bound by verbal responses to questions. All inquiries concerning this Invitation for Bid shall be submitted, in writing, to Misty Cook either via email (mcook@co.augusta.va.us) or via mail as follows:

County of Augusta Purchasing Office
ATTN: Misty Cook – Scholastic Way Enhancement Project – Phase 4
Augusta County Government Center
18 Government Center Lane
P.O. Box 590
Verona, VA 24482

Interpretations or clarifications considered necessary by the Engineer in response to such questions will be issued by Addenda posted to the County website. Questions received after the associated due date for questions will not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations will be without legal effect. Addenda may be issued to clarify, correct or change the Bidding Documents as deemed advisable by the Owner or Engineer.

The submission of a Bid shall constitute a warranty by the Bidder that he has complied with the requirements of this section. The Bidder is bound by his bid and his bid reflects an affirmative representation that he has examined the project thoroughly.

1.5 INSTRUCTION TO BIDDERS

The Invitation For Bid (IFB) consists of the Notice, this Instruction To Bidders, the Bid Form, the Pre-Bid Question Form, the proposed Construction Contract General Conditions, the Special Terms and Conditions; the Scope of Work as described by the Plans and Specifications, other documents listed in the Specifications including any applicable forms to be used, and any addenda which may be issued, specifically including any report from a Pre-Bid Conference, all of which request qualified Bidders to submit competitive prices or bids for providing the described work on the project.

1. CONDITIONS AT SITE OR STRUCTURE:

Bidders shall visit the site and shall be responsible for ascertaining pertinent local conditions such as location, accessibility, general character of the site or building, and the character and extent of existing work within or adjacent to the site. Claims, as a result of failure to have done so, will not be considered by the County.

2. EXPLANATIONS TO BIDDERS:

No oral explanation in regard to the meaning of drawings and specifications will be made and no oral instructions will be given before the award of the contract. Discrepancies, omissions or doubts as to the meaning of any IFB document, drawings or specifications shall be communicated in writing to the designated Bid Officer for interpretation. Bidders shall use the "Pre-Bid Question Form" provided in the bid documents. Bidders must so act to assure that questions reach the Bid Officer by the due date for questions to allow a sufficient time for an addendum to reach them before the submission of their bids. Any interpretation made will be in the form of an addendum to the IFB that will be posted on the County website, and its receipt shall be acknowledged by the Bidder on the BidForm. With the exception of additions or deductions to the contract, any reference to contract unit prices mentioned in Section 3 of the IFB shall be disregarded.

3. TIME FOR COMPLETION:

- (a) The Contract Completion Date will be designated by the County in the Notice to Proceed in one of the following manners:
 - (1) If the County specified a mandatory Contract Completion Date in the Invitation for Bid, the date designated in the Notice to Proceed will be no later than that date, or
 - (2) If a mandatory Contract Completion Date was absent from the Invitation for Bid, the Contract Completion Date designated in the Notice to Proceed will be determined through the bidding process taking into account the Contractor's proposed Time for Completion.
- (b) Unless otherwise specified, the Contractor shall achieve Final Completion within thirty (30) days and after the date of Substantial Completion.
- (c) The Contractor, in preparing and submitting his bid, is required to take into consideration normal weather conditions. Normal weather does not mean statistically average weather, but rather means a range of weather conditions which might be anticipated (*i.e.*, conditions which are not extremely unusual). Normal weather conditions shall be determined from the public historical records available for the Augusta County area, including the U.S. Department of Commerce, Local Climatological Data Sheets, Oceanic and Atmospheric Administration/Environmental Data and Information Service, National Climatic Center and the National Weather Service. No additional compensation will be paid to the Contractor because of adverse weather conditions; however, an extension of time for abnormal weather will be considered by the County as indicated in the General Conditions.

4. PREPARATION AND SUBMISSION OF BIDS:

- (a) Bids shall be submitted on the forms furnished, or copies thereof, and shall be signed in ink. Erasures or other changes in a bid must be explained or noted over the signature of the Bidder. Bids containing any conditions, omissions, unexplained erasures, alterations or items not called for in the proposal, or irregularities of any kind, may be rejected by the County as being incomplete or non-responsive.
- (b) Each bid must give the complete legal name and full business address of the Bidder and be signed by the Bidder, or the Bidder's authorized representative, with his usual signature. Bids by partnerships must be signed in the partnership name by one of the general partners of the partnership or an authorized representative, followed by the designation/title of the person signing, and a list of the partners. Bids by corporations must be signed with the legal name of the corporation followed by the name of the state in which it is incorporated and by the signature and title of the person authorized to bind it in this matter. The name of each person signing shall be typed or printed below the signature. A signature on a bid by a person who identified his title as "President," "Secretary," "Agent," or other designation without disclosing the principal firm, shall be held to be the bid of the individual signing. When requested by the County, satisfactory evidence of the authority of the officer signing on behalf of the corporation shall be furnished. Trade or fictitious names may be referenced by using "t/a_" but bids shall be in the legal name of the person or entity submitting the bid.
- (c) Bids with the bid guarantee shall be enclosed in a sealed envelope which shall be marked and addressed as indicated by the advertisement.
- (d) The County may require the Contractor to obtain a contractor license prior to award.
- (e) All Bids must be signed with the firm name and by an officer having the authority to bind the company or firm by his signature. If the Bidder is a corporation and the individual signing the Bid is not the President or a Vice President of the Bidder, proof of the authority of the individual signing to bind the Bidder must be submitted with the Bid.
- (f) The Bidder must also place its Employer Identification Number (SSN or EIN) in the space provided at the bottom of the Bid Form.
- (g) **Contractors offering bids shall be on the VDOT approved list and shall be a VDOT pre-qualified contractor.**

5. BID GUARANTEE:

- (a) All construction bids (including the Total Base Bid plus all Additive Bid items) shall be accompanied by a Bid Bond or Certified Check payable to the County as obligee in an amount equal to five percent (5%) of the amount of the bid. A Bid Bond must be issued by a surety company which is legally authorized by the Virginia State Corporation Commission to do fidelity and surety business in the Commonwealth of Virginia. Such Bid Bond shall guarantee that the Bidder will not withdraw his bid during the period of thirty (30) days following the opening of bids; that if his bid is accepted, he will enter into a formal contract with the County in accordance with the Contract included as a part of the IFB Documents; that he will submit a properly executed and authorized Standard Performance Bond and

Standard Labor and Material Payment Bond acceptable in form and content to the County; and that in the event of the withdrawal of said bid within said period, or failure to enter into said contract and give said bonds within ten (10) days after he has received notice of acceptance of his bid, the Bidder shall be liable to the County for the difference between the amount specified in said bid and such larger amount of which the County may contract with another party to perform the work covered by said bid, up to the amount of the bid guarantee. This amount represents the damage to the County on account of the default of the Bidder in any particular hereof. See Virginia Code § 2.2-4336.

- (b) See Virginia Code § 2.2-4338 for provisions allowing alternative forms of bid security in lieu of a Bid Bond.
- (c) The Bid Bonds or other bid security will be returned to all except the three lowest Bidders after the formal opening of bids. The remaining Bid Bonds or bid security will be returned to the Bidders after the County and the accepted Bidder have executed the Contract and the Performance Bond and the Payment Bond have been approved by the County.
- (d) If the required Contract and bonds have not been executed within thirty (30) days after the date of the opening of the bids, then the bond or other bid security of any Bidder will be returned upon his request, provided he has not been notified of the acceptance of his bid prior to the date of such request.

6. MODIFICATION OF BIDS:

A Bidder may withdraw or modify their bid provided that the designated officer or agency of the County has received written notice prior to the deadline fixed for bid receipt. The withdrawal or modification must be signed again by the authorized representative of the contractor making the modification or withdrawal. Written modification may be made by a revised sealed bid form, by a writing on the envelope, or by a separate document. The modification should state specifically what is to be modified and by what amount or state the item to be modified and what the correct amount should be. **Unless otherwise specified by the Bidder, the modification will be applied to the TOTAL BASE BID amount shown on the Bid Form.** In order to maintain the integrity of the sealed bidding process, modifications should be phrased as increases or decreases in the total bid (i.e. minus \$5000); they should not state a new total base bid. **The County will not accept bid withdrawals or modifications by telegram, facsimile, or email.**

7. RECEIPT OF BIDS:

- (a) Bids will be received at or before the date and the hour and at the place stipulated in the Invitation for Bid as may be modified by subsequent Addenda.
- (b) It is the responsibility of the Bidder to assure that his bid and any bid modifications are delivered to the place designated for receipt of bids by the date and hour (deadline) set for receipt of bids. Therefore, it is the Bidder's responsibility to take into account all factors which may impact on its bid deliverer/courier's ability to deliver the bid and to implement whatever actions are necessary to have the bid delivered to the proper bid receipt location prior to the bid receipt deadline. No bids or bid modifications submitted or offered after the date and hour designated for receipt of bids will be accepted or considered. **Again, the County will not accept any bid, bid withdrawal, or bid modification by telegram, facsimile, or email.**

- (c) The Bid Officer is the County's representative designated to receive bids at the time and place noted in the IFB and to open the bids received at the appointed time. The completed and signed bid form shall be returned in an envelope or package, sealed and addressed as follows:

**Augusta County Government Center
ATTN: Misty Cook, Finance Director
Scholastic Way Phase 4
Finance Department
18 Government Center Lane
P.O. Box 590
Verona, VA 24482**

- (d) **The official time used for the receipt of responses is determined by reference to the clock designated by the Bid Officer.** The Bid Officer shall determine when the Bid Receipt Deadline has arrived and shall announce that the Deadline has arrived and that no further bids or bid modifications will be accepted. All bids and bid modifications in the possession of the Bid Officer and his assistants at the time the announcement is completed are deemed to be timely, whether or not the bid envelope has been physically date/time stamped or otherwise marked by the time the Bid Officer makes the deadline announcement.

8. OPENING OF BIDS:

- (a) Bids will be opened at the time and place stated in the Invitation for Bid or as modified by subsequent Addenda, and their contents publicly announced. The Bid Officer shall decide when the specified time for bid opening has arrived. No responsibility will be attached to any officer or agent for the premature opening of a bid not properly addressed and identified.
- (b) The provisions of § 2.2-4342 of the Code of Virginia (1950), as amended, shall be applicable to the inspections of bids received.

9. ERRORS IN BIDS:

A Bidder may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection or original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

County policy requires that Bidders for public construction contracts be given an opportunity to withdraw their bids due to error. The withdrawal procedure outlined below will be utilized:

Withdrawal procedure: the Bidder shall give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers, documents, and materials used in the preparation of the bid with such notice. The contract shall not be awarded until the two (2) working day period has lapsed.

The delivery of a Bidder's original work papers, documents, and other materials used in preparation of

the bid must be submitted either in person or by registered mail. The County will treat the materials as trade secrets or proprietary information subject to the conditions of subsection F of Virginia Code § 2.2-4342.

No bid shall be withdrawn under this section when the result would be the awarding of the contract to another bid of the same Bidder or of another Bidder in which the ownership of the withdrawing Bidder is more than five (5) percent.

No Bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

If a bid is successfully withdrawn, the lowest remaining bid shall be deemed to be the lowest bid. However, the County may deny the withdrawal of a bid subsequent to Virginia Code § 2.2-4330. The County must notify the Bidder in writing of its decision stating its reasons and award the contract to such Bidder at the bid price, provided that such Bidder is responsible and responsive.

10. REJECTION OF BIDS:

The County reserves the right to cancel the Invitation for Bid and to reject all bids at its sole discretion when such rejection is in the interest of the County, or to reject the bid of any Bidder who is determined to be not responsive or responsible. A statement justifying the decision to reject all bids will be placed in the procurement file.

11. DETERMINATION OF RESPONSIBILITY:

Each Bidder shall be prepared, if so requested by the County, to present evidence of his experience, qualifications and financial ability to carry out the terms of the Contract.

Prior to award of the Contract, an evaluation will be made to determine if the low Bidder has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been pre-qualified, if required.

Factors to be evaluated include, but are not limited to:

- (a) sufficient financial ability to perform the contract as evidenced by the Bidder's ability to obtain payment and performance bonds from an acceptable surety;
- (b) appropriate experience to perform the Work described in the bid documents;
- (c) any judgments entered against the Bidder, or any officers, directors, partners or owners for breach of a contract for construction;
- (d) any substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause where the substantial noncompliance is documented;
- (e) a conviction of the Bidder or any officer, director, partner, project manager, procurement manager, chief financial officer, or owner in the last five years of a crime relating to governmental or non-governmental construction or contracting; or

- (f) any current debarment of the contractor, any officer, director or owner, from bidding or contracting by any public body of any state, any state agency, or any agency of the federal government.

The County reserves the right to disqualify or refuse to accept the bid of any Bidder who has been convicted, or entered a plea of guilty or *nolo contendere*, in any federal or state court to any charge involving any unlawful, corrupt or collusive practice involving a public contract whether federal, state or local, or who has been determined in any judicial proceeding to have violated any antitrust, bid-rigging or collusive practice statute in connection with any public contract, or against whom such formal criminal prosecution or other judicial proceeding has been instituted.

A Bidder who, despite being the apparent low Bidder, is determined not to be a responsible Bidder shall be notified in writing in conformance with the procedures in section 2.2-4359 of the Code of Virginia (1950), as amended.

12. AWARD OF CONTRACT:

- (a) **Basis for Contract Award:** The Contract, if awarded, will be awarded to the lowest responsive and responsible Bidder, if any, provided his bid is reasonable and it is in the best interest of the County to accept it and subject to the County's right to reject any and all bids and to waive informality in the bids and in the bidding. The Bid Form may contain a multi-part Base Bid and may contain Additive Bid Items. Determination of the lowest responsible Bidder, if any, will be based on the Total Base Bid Amount **entered on the Bid Form** including any properly submitted bid modifications plus as many Additive Bid Items taken in sequence as the County in its discretion chooses to award. **Where the sum of the values entered in the multiple parts do not agree with the Total Base Bid amount, the Total Base Bid amount entered on the bid form, including any properly submitted bid modifications, shall take precedence. Also, where there is a discrepancy between the total base bid in its written format and the total base bid in its numeric format, the written format shall prevail.**
- (b) **Lowest Bidder:** The lowest Bidder is normally the bid that guarantees the performance of the contract requirements for the least dollar amount within the allowable time set forth by the contract. Bids shall be considered irregular and may be rejected if the unit prices contained in the bid are obviously unbalanced so that they are substantially in excess of the cost analysis values as determined by the County of Augusta. The County reserves the right to reject an individual unit price included herein. Bids may be rejected if a unit price is not provided for every item listed in the bid form.
- (c) **Informalities:** The County reserves the right to waive any informality in the bids when such waiver is in the interest of the County.
- (d) Section 12. (d) OMITTED.
- (e) **Notice of Award:** The Notice of Award, the Notice of Intent to Award, or the Notice of Decision to Award will be posted at the County's standard location for posting notices. In addition, the County may also post such notice on the County's website.

13. ETHICS IN PUBLIC CONTRACTING:

The provisions, requirements and prohibitions as contained in § 2.2-4367 *et seq.* Code of Virginia (1950), as amended, pertaining to Bidders, offerors, contractors, and subcontractors are applicable to this project.

14. OPTIONAL PRE-BID CONFERENCE:

A Pre-Bid Conference will be conducted at 10:00 a.m. on November 29, 2018, at the County Government Center, Smith East Room, 18 Government Center Lane, Verona, VA 24482. Attendance is optional.

15. Pre-Bid Conference Question Form

Augusta County

(Fax: 540-245-5741 ext. 1 or email: mcook@co.augusta.va.us)

Date: _____

Project: Scholastic Way Enhancement Project, Phase 4

All questions must be received in writing no later than December 10, 2018.

The following question concerns Invitation for Bid, Section No.:

The following question concerns Drawings, Sheet No.:

All responses to questions shall be issued as Addendum.

Question(s) submitted by:

Name: _____

Email: _____

Company: _____

SECTION 2

2.1 CONSTRUCTION CONTRACT GENERAL CONDITIONS

1. DEFINITIONS

Whenever used in these General Conditions of the Construction Contract ("General Conditions") or in the Contract Documents, the following terms have the meanings indicated, which are applicable to both the singular and plural and the male and female gender thereof:

Beneficial Occupancy: The condition after Substantial Completion but prior to Final Completion of the Project at which time the Project, or portion thereof, is sufficiently complete and systems operational such that the County could, after obtaining necessary approvals and certificates, occupy and utilize the space for its intended use.

Guarantees and warranties applicable to that portion of the Work begin on the date the County accepts the Project, or a portion thereof, for such Beneficial Occupancy, unless otherwise specified in the Supplemental Conditions or by separate agreement.

Change Order: A document issued on or after the effective date of the Contract between County and Contractor which is agreed to by the Contractor and approved by the County, and which authorizes an addition, deletion or revision in the Work, including any adjustment in the Contract Price and/or the Contract Completion Date. A Change Order, once signed by all parties, is incorporated into and becomes a part of the Contract.

Construction: The term used to include new construction, reconstruction, renovation, restoration, major repair, demolition and all similar work upon buildings and ancillary facilities, including any draining, dredging, excavation, grading or similar work upon real property.

Contract: This document signed by the County and Contractor, including all bid documents and other Contract Documents, hereinafter referred to as the Contract.

Contract Completion Date: The calendar date by which the Work must be substantially complete. The Contract Completion Date is customarily established in the Notice To Proceed, based on the Time for Completion. In some instances, however, the Contract contains a mandatory Contract Completion Date, which shall be stated in the Invitation to Bid. The Contract Completion Date may only be modified by a duly approved Change Order.

Contract Documents: The Contract between County and Contractor signed by the County and the Contractor and any documents expressly incorporated therein. Such incorporated documents customarily include the Invitation to Bid, the Bid submitted by the Contractor, these General Conditions, any Supplemental Conditions, the plans and specifications, all modifications to the foregoing, including addenda and subsequent Change Orders, and all documents incorporated by reference in the foregoing.

Contract Price: The total compensation payable to the Contractor for performing the Work, subject to modification by Change Order.

Contractor: The person with whom the County has entered into a contractual agreement to do the Work.

County: Augusta County, or the agency or department thereof which is a party to the Contract. For purposes of the Contract, the term County shall include the County, whether or not the County owns the site or the building.

County's or Owner's Representative: The Owner's Representative as used herein shall be the County's designated representative on the Project. The Owner's Representative shall be the person through whom the County generally conveys written decisions and notices. In the event of the incapacity or other unavailability of the designated Owner's Representative, the County Administrator shall be the Owner's Representative until a substitute is named.

Day(s): Calendar day(s) unless otherwise noted.

Defective: An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, deficient, does not conform to the Contract Documents or does not meet the requirements of inspections, standards, tests or approvals required by the Contract Documents, or Work that has been damaged prior to final payment (unless responsibility for the protection thereof has been expressly assumed by County at Substantial Completion or Beneficial Occupancy).

Drawing: A page or sheet of the Plans which presents a graphic representation, usually drawn to scale, showing the technical information, design, location, and dimensions of various elements of the Work. The graphic representations include, but are not limited to, plan views, elevations, transverse and longitudinal sections, large and small scale sections and details, isometrics, diagrams, schedules, tables and/or pictures.

Emergency: Any unforeseen situation, combination of circumstances, or a resulting state that would result in one or more of the following: (a) danger to life or property, (b) interruption or termination of essential services, (c) substantial financial loss to the procuring agency, or (d) inability to meet a mandatory deadline.

Field Order: A written order issued by the County's Representative which clarifies or explains the plans or specifications, or any portion or detail thereof, without changing the design, the Contract Price, the Time for Completion or the Contract Completion Date.

Final Completion Date: The date of the County's acceptance of the Work from the Contractor upon confirmation from the County's Representative and the Contractor that the Work is totally complete.

Notice: All written notices, including demands, instructions, claims, approvals and disapprovals, required or authorized under the Contract Documents. Any written notice by either party to the Contract shall be sufficiently given by any one or combination of the following, whichever shall first occur: (1) delivered by hand to the last known business address of the person to whom the notice is due; (2) delivered by hand to the person's authorized agent, representative or officer wherever they may be found; or (3) enclosed in a postage prepaid envelope addressed to such last known business address and delivered to a United States Postal Service official or mailbox. Notice is effective upon such delivery. All notices to the County should be directed to the County's Representative.

If the County and the Contractor agree in writing that Notices transmitted by Facsimile (Fax) or Email are acceptable for the Project, such Notice shall be transmitted to the Fax number or Email address listed in the agreement and, in the case of Fax, shall have a designated space for the Fax Notice recipient to acknowledge his receipt by authorized signature and date. The Fax Notice with authorized signature acknowledging receipt shall be Faxed back to the sender. The Faxed Notice shall be

effective on the date it is acknowledged by authorized signature. Emailed notices shall be acknowledged by Reply Email upon receipt. All Faxed and Emailed Notices shall also be sent by hard copy, which shall be effective upon delivery, as provided herein. Notice shall be effective upon the date of acknowledgment of the Faxed or the Emailed Notice or the date of delivery, whichever occurs first.

Notice to Proceed: A written notice given by the County to the Contractor fixing the date on which the Contract time will commence for the Contractor to begin the prosecution of the Work in accordance with the requirements of the Contract Documents. The Notice to Proceed will customarily identify a Contract Completion Date.

Owner: Augusta County, Virginia.

Person: This term includes any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

Plans: The term used to describe the group or set of project-specific drawings which are included in the Contract Documents.

Project: The term used instead of the specific or proper assigned title of the entire undertaking which includes, but is not limited to, the "Work" described by the Contract Documents.

Project Inspector: One or more persons utilized by the County to inspect the Work for the County and/or to document and maintain records of activities at the Site to the extent required by the County. The County shall notify the Contractor in writing of the appointment of such Project Inspector(s).

Provide: Shall mean furnish and install ready for its intended use.

Site: Shall mean the location at which the Work is performed or is to be performed.

Specifications: That part of the Contract Documents containing the written administrative requirements and the technical descriptions of materials, equipment, construction systems, standards, and workmanship which describe the proposed Work in sufficient detail and provide sufficient information for the Building Official to determine code compliance and for the Contractor to perform the Work.

Subcontractor: A person having a direct contract with Contractor or with any other Subcontractor for the performance of the Work.

Submittals: All shop, fabrication, setting and installation drawings, diagrams, illustrations, schedules, samples, and other data which are specifically prepared by or for the Contractor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by the Contractor to illustrate material, equipment or conformance of some portion of the Work with the requirements of the Contract Documents.

Substantial Completion: The condition when the County agrees that the Work, or a specific portion thereof, is sufficiently complete, in accordance with the Contract Documents, so that it can be utilized by the County for the purposes for which it was intended. The County at its sole discretion may, after obtaining the necessary approvals and certificates, take Beneficial Occupancy at this time or choose to wait to occupy until after Final Completion is achieved.

Supplier: A manufacturer, fabricator, distributor, materialman or other vendor who provides material for the Project but does not provide on-site labor.

Time for Completion: The number of consecutive days following the issuance of the Notice to Proceed which the Contractor has to substantially complete all Work required by the Contract. When the Notice to Proceed is issued, it states a Contract Completion Date, which has been set by the County based on the Time for Completion. The Time for Completion may only be modified by a duly approved Change Order.

Underground Facilities: Any item of public or private property which is buried or placed below ground or submerged for use in connection with the storage or conveyance of water, sewage, electronic telecommunications, electric energy, cable television, oil, petroleum products, gas, or other substances, and includes but is not limited to pipes, sewers, combination storm/sanitary sewer systems, conduits, wells, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground.

Work: The services performed under this Contract including, but not limited to, furnishing labor, and furnishing and incorporating materials and equipment into the construction. The Work also includes the entire completed construction, or the various separately identifiable parts thereof, required to be furnished under the Contract Documents.

2. CONTRACT DOCUMENTS

- (a) Original copies. The Contract between County and Contractor shall be signed by the County and the Contractor in as many original counterparts as may be mutually agreed upon, each of which shall be considered an original.
- (b) Time of the essence. All time limits stated in the Contract Documents, including but not limited to the Time for Completion of the Work, are of the essence of the Contract.
- (c) Severability clause. If any provision of this Contract shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision.
- (d) Conflicting clauses. In the event there is a conflict between the provisions of the General Conditions and Supplemental Conditions, the provisions of the Supplemental Conditions shall apply. A specific provision in any other Contract Document shall take precedence over a provision of the General Conditions unless such precedence would result in a violation of law.

3. LAWS AND REGULATIONS

- (a) The Contractor shall comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work and shall give all notices required thereby.
- (b) The Contractor shall assure that all Subcontractors and tradesmen who perform Work on the project are properly licensed by the Department of Professional and Occupational Regulation as required by the Code of Virginia and applicable regulations.
- (c) If the Contractor violates laws or regulations that govern the Project, the Contractor shall indemnify and hold the County harmless against any fines and/or penalties that result from such violation. To the extent that such violation is the result of negligence or other actionable conduct

of the Contractor, the Contractor shall indemnify and hold the County harmless against any third party claims, suits, awards, actions, causes of action or judgments, including but not limited to attorney's fees and costs incurred thereunder, that result from such violation.

4. NONDISCRIMINATION

- (a) During the performance of this Contract, the Contractor agrees as follows:
- i. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - ii. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - iv. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over ten thousand dollars (\$10,000), so that the provisions will be binding upon each Subcontractor or vendor.
- (b) Where applicable, laws protecting the rights of the disabled, including the Virginians with Disabilities Act and the federal Americans with Disabilities Act, shall apply to the Contractor and all Subcontractors.
- (c) It is the policy of the County of Augusta that the County and its employees undertake every effort to increase the opportunity for utilization of minority-owned and woman-owned businesses in all aspects of procurement to the maximum extent feasible. Accordingly, the Contractor agrees:
- i. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that minority-owned and woman-owned businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.
 - ii. As used in this contract the term "minority-owned business" means a business or other entity that is at least fifty-one (51) percent owned and controlled by one or more socially and economically disadvantaged person(s). For purposes of this definition, the term "control" shall mean exercising the power to make policy decisions and being actively involved in day-to-day management. Such disadvantage may arise from cultural, racial, chronic economic circumstance or background or other similar cause. Such persons include, but are not limited to, Black Americans, Hispanic Americans, Asian Americans, Eskimos, and Aleuts.
 - iii. As used in this contract the term "woman-owned business" means a business or other entity that is at least fifty-one (51) percent owned and controlled by one or more women.

For purposes of this definition, the term “control” shall mean exercising the power to make policy decisions and being actively involved in day-to-day management.

- iv. Prior to final payment, the Contractor must provide documentation regarding the actual good faith minority-owned business participation efforts undertaken in connection with the contract. In connection with the performance of this contract, “good faith efforts” shall mean those measures which were utilized to allow equitable participation of minority employees and subcontractors.
- v. Contractors may rely on oral or written representations by subcontractors regarding their status as minority-owned or woman-owned business enterprises in lieu of independent investigation.
- vi. Where Federal grants or monies are involved it is the policy of Augusta County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A- 102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

5. PROHIBITION OF ALCOHOL AND OTHER DRUGS

- (a) During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
- (b) The Contractor shall also establish, maintain and enforce policies which prohibit the following acts by all Contractor, Subcontractor and Supplier personnel at the Site: (1) the manufacture, distribution, dispensation, possession, or use of alcohol, marijuana or other drugs, except possession and medically prescribed use of prescription drugs; and (2) the impairment of judgment or physical abilities due to the use of alcohol, marijuana or other drugs, including impairment from prescription drugs.

6. CONTRACT COMPLETION DATE AND TIME FOR COMPLETION

- (a) The Contract Completion Date will be designated by the County in the Notice to Proceed and will be no later than the mandatory Contract Completion Date specified in the Invitation to Bid. An earlier date may be determined through the bidding process taking into account the Contractor's proposed Time for Completion.
- (b) The Work must be substantially completed by the Contract Completion Date. Unless otherwise

specified, the Contractor shall achieve Final Completion within thirty (30) days after the date of Substantial Completion.

- (c) The Contractor, in submitting his Time for Completion, acknowledges that he has taken into consideration normal weather conditions. In addition, the Contractor recognizes that only adverse abnormal weather conditions will be considered as a basis for Change Orders. Normal weather does not mean statistically average weather, but rather means a range of weather patterns which might be anticipated based on weather data from the past ten (10) years. Abnormal weather conditions means only those extremely unusual weather patterns that radically deviate from the public historical records available and that reasonably impair the progress of work. No additional compensation will be paid to the Contractor because of abnormal weather conditions; however, a Change Order modifying the Contract Completion Date based upon abnormal weather will be considered by the County in extraordinary circumstances. In order to request an extension of time due to weather, the Contractor must petition the County within seven (7) days of the completion of the calendar month during which the abnormal weather is claimed to have occurred.
- (d) The Contractor represents and agrees that he has taken into account in his bid the requirements of the bid documents, local conditions, availability of materials, equipment, and labor, and any other factors which may affect the performance of the Work. The Contractor agrees and warrants that he will achieve Substantial Completion of the Work to allow the County to have Beneficial Occupancy not later than the Time for Completion or Contract Completion Date. The Contractor agrees and warrants that he will achieve Final Completion of the Work (the entire completion of all Work, including "punch list" items), not later than thirty (30) days after achieving Substantial Completion, unless otherwise agreed by the County.
- (e) Early Completion of Project: Extensions of time, damages for delay, and all other matters between the County and the Contractor will be determined using the contractually required Substantial Completion date. However, the Contractor may attempt to achieve Substantial Completion on or before the Contract Completion Date. Such planned early completion shall be for the Contractor's convenience only and shall not create any additional rights of the Contractor or obligations of the County under this Contract, nor shall it change the Time for Completion or the Contract Completion Date. The Contractor shall not be required to pay damages to the County because of its failure to achieve Substantial Completion by its planned earlier date. Likewise, the County shall not pay the Contractor any additional compensation for achieving Substantial Completion early nor will the County owe the Contractor any compensation should the County, its officers, employees, or agents cause the Contractor not to achieve Substantial Completion earlier than the date required by the Contract Documents.
- (f) Late Completion of Project: In the event the Contractor wishes to modify the Contract Completion Date, he must comply with Section 43: Damages for Delay; Extensions of Time.

7. CONDITIONS AT SITE

- (a) The Contractor bears the risk of unforeseen difficulties with site conditions during the performance of the contract. The Contractor shall have visited the Site prior to bidding and is totally responsible for having ascertained pertinent local conditions such as location, accessibility and general character of the Site, and the character and extent of existing improvements and work within or adjacent to the Site. Claims, which result from the Contractor's failure to do so, will be deemed waived.

- (b) If, in the performance of the Contract, subsurface or latent conditions at the Site are found which are materially different from those frequently present in the County or from those indicated in the Contract Documents, the Contractor must report such conditions to the County and to the Engineer before the conditions are disturbed. Upon such notice, or upon his own observation of such conditions, the Engineer shall promptly propose such changes in the Contract Documents as he finds necessary to conform to the different conditions.
- (c) If the Contractor, during the course of the Work, observes the existence of any material which he knows, should know, or has reason to believe is hazardous to human health, the Contractor shall promptly notify the County. The County will provide the Contractor with instructions regarding the disposition of the material. The Contractor shall not perform any Work involving the material or any Work causing the material to be less accessible prior to receipt of special instructions from the County.

8. CONTRACT SECURITY

- (a) The Contractor shall deliver to the County or its designated representative, a Standard Performance Bond and a Standard Labor and Material Payment Bond, each fully executed by the Contractor and one or more surety companies legally licensed to do business in Virginia and each in an amount equal to one hundred percent (100%) of the accepted bid. If more than one surety executes a bond, each shall be jointly and severally liable to the County for the entire amount of the bond. Sureties shall be selected by the Contractor, subject to approval by the County. No payment on the Contract shall be due and payable to the Contractor until the bonds have been approved by the County and its attorney.
- (b) Alternative forms of security for payment and/or performance may be accepted in the discretion of the County.

9. SUBCONTRACTS

- (a) The Contractor shall, as soon as practicable after the signing of the Contract, notify the County in writing of the names of all Subcontractors proposed for the principal parts of the Work and of such other parts as the County's Representative may direct. Where the specifications establish qualifications or criteria for Subcontractors, manufacturers, or individuals performing Work on the Project, the Contractor shall be responsible for ascertaining that those proposed meet the criteria or qualifications. The Contractor shall not employ any Subcontractor that the County may, within a reasonable time, object to as unsuitable. The County shall not direct the Contractor to contract with any particular Subcontractor unless provided in the Supplemental Conditions.
- (b) The County shall, on request, furnish to any Subcontractor, if practicable, the amounts of payments made to the Contractor and Requests for Payment submitted by the Contractor and any other documentation submitted by the Contractor which would tend to show what amounts are due and payable by the Contractor to the Subcontractor.
- (c) The Contractor shall be fully responsible to the County for all acts and omissions of his agents and employees and all succeeding tiers of Subcontractors and Suppliers performing or furnishing any of the Work. Nothing in the Contract Documents shall create any contractual relationship between the County and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the County to pay for or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization, except as may otherwise be required by law.

- (d) The Contractor shall be fully responsible for his invitees at the Site and for those of his Subcontractors, Suppliers, and their employees, including any acts or omissions of such invitees.
- (e) The Contractor agrees that he alone is responsible for all dealings with his Subcontractors and Suppliers, and their subcontractors, employees and invitees, including, but not limited to, the Subcontractors' or Suppliers' claims, demands, actions, disputes and similar matters unless specifically provided otherwise by the Contract or by statute.

[SECTION 10 OMITTED]

11. INDEMNIFICATION

Except as provided in § 11-4.1 of the Code of Virginia, the Contractor agrees to indemnify, defend and hold harmless the County, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor, or arising from or caused by any services of any kind or nature provided by the Contractor, provided that such liability is not attributable to the sole negligence of the County or to failure of the County to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered.

12. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

- (a) The Contractor shall not commence Work under this Contract until he has obtained all the insurance required hereunder from an insurer authorized to do business in Virginia and such insurance has been approved by the County; nor shall the Contractor allow any subcontractor to commence Work on his subcontract until the same types of insurance in an appropriate amount have been obtained by the Subcontractor and approved by the Contractor. Approval of insurance by the County shall not relieve or decrease the liability of the Contractor hereunder.
- (b) The Contractor shall take out and shall maintain at all times during the performance of the Work Workers' Compensation and Employers' Liability Insurance for all of his employees engaged in the Work in an amount not less than the minimum required by §11-46.3 and §65.2-100 et seq. of the Code of Virginia, and, in case any of the Work is sublet, the Contractor shall require each Subcontractor similarly to provide Workers' Compensation and Employers' Liability Insurance for all of the latter's employees to be engaged in the Work. The Contractor shall submit on the form provided by the County a Certificate of Coverage verifying Workers' Compensation coverage prior to award of the Contract. The Contractor shall likewise obtain a Certificate of Coverage for Workers' Compensation coverage from each subcontractor prior to awarding the subcontract and shall provide a copy to the County.
- (c) During the performance of the Work under this Contract, the Contractor shall maintain commercial general liability insurance to include Premises / Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, County's and Contractor's Protective Liability, and Personal Injury Liability, which shall insure him against claims of personal injury, including death, as well as against claims for property damage, which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of general liability insurance shall be not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined limit. The County of Augusta, its officers, employees and agents, shall be

named as an additional insured with respect to the Work being procured. The Supplemental Conditions may require the Contractor to provide an Umbrella insurance policy in a specified amount for the Project.

- (d) During the performance of the Work under this Contract, the Contractor shall maintain automobile liability insurance which shall insure him against claims of personal injury, including death, as well as against claims for property damage, which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of automobile insurance shall be not less than \$1,000,000 combined limit for bodily injury and property damage per occurrence.
- (e) Written evidence of all required insurance shall be delivered to the County's Representative prior to the Notice to Proceed and, in any event, no later than thirty (30) days following the award of the contract. The Contractor shall ensure that in the event of cancellation of any insurance, not less than thirty (30) days prior written notice will be sent by the Insurer to the County. A copy of any insurance policy shall be given to the County upon demand. Cancellation of any required insurance policy is a material breach of this contract.
- (f) The Contractor is not required to have "all risk" builders risk insurance for this project. The County maintains insurance on the existing building (including fire, vandalism and extended coverage) which covers alterations and new construction as well as materials for the project stored on the site or immediately adjacent thereto. Upon written application from the Contractor prior to commencing the work, the County will have the Contractor named in the endorsement as his interest may appear. The Contractor, as an additional insured, shall be responsible for payment of any and all deductibles applicable to claims made while the Contractor is in control of or occupies the building for the performance of the Work under this Contract. Contractor's tools, equipment, etc., which are not materials to be incorporated in the construction are not covered by this insurance.

13. TAXES, FEES AND ASSESSMENTS

The Contractor shall, without additional expense to the County, pay all applicable federal, state, and local taxes, fees, and assessments except the taxes, fees and assessments on the real property comprising the Site of the project.

14. PATENTS

The Contractor shall obtain all licenses necessary to use any invention, article, appliance, process or technique of whatever kind and shall pay all royalties and license fees. The Contractor shall hold the County, its officers, agents and employees, harmless against any loss or liability for or on account of the infringement of any patent rights in connection with any invention, process, technique, article or appliance manufactured or used in the performance of the Contract, including its use by the County, unless such invention, process, technique, article or appliance is specifically named in the specifications or plans as acceptable for use in carrying out the Work. If, before using any invention, process, technique, article or appliance specifically named in the specifications or plans as acceptable for use in carrying out the Work, the Contractor has or acquires information that the same is covered by letters of patent making it necessary to secure the permission of the patentee, or other, for the use of the same, he shall promptly advise the County. The County may direct that some other invention, process, technique, article or appliance be used. Should the Contractor have reason to believe that the invention, process, technique, article or appliance so specified is an infringement of a patent, and fail to inform the County, he shall be responsible for any loss or liability due to the infringement.

[SECTION 15 OMITTED]

16. INSPECTION

The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the Work called for by this contract conforms to the Contract requirements. The Contractor shall maintain complete inspection records and make them available to the County and the County's Representative. All work is subject to inspection and testing at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the Contract.

17. SUPERINTENDENCE BY CONTRACTOR

- (a) The Contractor shall have a competent foreman or superintendent, satisfactory to the County, on the Site at all times during the progress of the Work. The superintendent or foreman shall be familiar with and be able to read and understand the plans and specifications, and be capable of communicating orally and in writing with the County's inspectors and the Contractor's workers. The Contractor shall be responsible for all construction means, methods, techniques, sequences and procedures, for coordinating all portions of the Work under the Contract except where otherwise specified in the Contract Documents, and for all safety and worker health programs and practices. The Contractor shall notify the County, in writing, of any proposed change in superintendent, including the reason therefore, prior to making such change.
- (b) The Contractor shall, at all times, enforce strict discipline and good order among the workers on the Project, and shall not employ on the Work, or contract with, any unfit person, anyone not skilled in the Work assigned to him, or anyone who will not work in harmony with those employed by the Contractor, the Subcontractors, the County or the County's separate contractors and their subcontractors.
- (c) The County may, in writing, require the Contractor to remove from the Site any employee or Subcontractor's employee the County deems to be incompetent, careless, not working in harmony with others on the Site, or otherwise objectionable, but the County shall have no obligation to do so.

18. CONSTRUCTION SUPERVISION, METHODS AND PROCEDURES

- (a) The Contractor shall be solely responsible for supervising and directing the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract. The Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and for coordinating all portions of the Work under the Contract, except where otherwise specified in the Contract Documents. However, the Contractor shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Contract. The Contractor is solely responsible to the County that the finished Work complies with the Contract Documents.
- (b) The Contractor shall be solely responsible for health and safety precautions and programs for workers and others in connection with the Work. No inspection by, knowledge on the part of, or acquiescence by the Project Inspector, the County's Representative or other County employees and agents, or any other entity whatever shall relieve the Contractor from its sole responsibility for compliance with the requirements of the Contract or its sole responsibility for health and

safety programs and precautions.

- (c) If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, the Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the County. The Contractor must submit in a timely manner its written request for the substitution to the County's Representative. Such request must include sufficient information to allow the County to determine that the substitute proposed is equivalent to that indicated or required by the Contract and be received by such a date to ensure the County has adequate time to review the request and respond without creating a need for an extension of the Contract Completion Date.
- (d) The divisions and sections of the Specifications and the identification of any drawings shall not control the Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

19. SCHEDULE OF THE WORK

General: The Contractor is responsible for the scheduling and sequencing of the Work, for coordinating the Work, for monitoring the progress of the Work, and for taking appropriate action to keep the Work on schedule.

20. SCHEDULE OF PAYMENTS TO CONTRACTOR

- (a) Contract price. The County shall pay the Contractor as just compensation for the performance of this contract, subject to any additions or deductions as may have been authorized by approved written change orders, the unit or lump sum price as contained in the bid documents.
- (b) Acceptance and payment. Upon receipt of written notice from the Contractor that the work is ready for final inspection and acceptance, the County shall within one week make such inspection. When the County finds the work complete under the contract and the contract fully performed the County will promptly issue a final certificate stating that the work required by this contract has been completed and is accepted by the County under the terms and conditions of the contract. The entire balance found to be due to the Contractor shall be paid to the Contractor by the County within thirty (30) days after the date of the final certificate and receipt of all required Submittals.

21. ACCESS TO WORK

The County, the County's Representative, the County's inspectors and other testing personnel, inspectors from the Department of Labor and Industry, and others authorized by the County, shall have access to the Work at all times. The Contractor shall provide proper facilities for access and inspection.

22. SURVEYS AND LAYOUT

- (a) When applicable, the County shall furnish the Contractor all necessary documents showing property lines and the location of existing buildings and improvements. The Contractor shall provide competent surveying and engineering services to execute the Work in accordance with the Contract and shall be responsible for the accuracy of these surveying and engineering services.
- (b) Such general reference points and benchmarks on the Site as will enable the Contractor to

proceed with the Work will be established in the plans and specifications. If the Contractor finds that any previously established reference points have been lost or destroyed, he shall promptly notify the County's Representative.

- (c) The Contractor shall protect and preserve the established benchmarks and monuments and shall make no changes in locations without written notice to the County's Representative and the written approval from the County. Any of these which may be lost or destroyed or which require shifting because of necessary changes in grades or locations shall, subject to prior written approval of the County, be replaced and accurately located by the Contractor.

23. PLANS AND SPECIFICATIONS

- (a) The general character and scope of the Work are illustrated by the plans and the specifications. If the Contractor deems additional detail or information to be needed, he may request the same by Field Order in writing from the County's Representative. The request shall precisely state the detail or information needed and shall explain why it is needed. The Contractor shall also indicate a date when the requested information is required.
- (b) If the Contractor finds a conflict, error, or other discrepancy in the plans or specifications, he shall notify the County's Representative in writing as soon as possible, but before proceeding with the affected Work.
- (c) Measurements or dimensions shown on the drawings for Site features, utilities and structures shall be verified at the Site by the Contractor. The Contractor shall not scale measurements or dimensions from the drawings. If there are discrepancies, the County's Representative shall be consulted.
- (d) **As-Built Drawings:** The Contractor shall maintain at the Site for the County one copy of all drawings, specifications, addenda, approved shop or setting drawings, Change Orders and other modifications (collectively referred to herein as "As-Built Drawings") in good order and marked to record all changes as they occur during construction. These shall be available to the County, the Project Inspector, the County's other inspectors and to the County's testing personnel. The drawings shall be neatly and clearly marked in contrasting color during construction to record all variations made during construction. The representation of such variations shall include such supplementary notes, symbols, legends, and details as may be necessary to clearly show the as-built construction.
- (e) **Record Drawings:** Upon completion of the Work and prior to the final inspection, the Contractor shall deliver to the County's Representative one complete set of "As-Built Drawings" referred to in the preceding subsection.

24. SUBMITTALS

- (a) The Contractor shall submit a listing of all Submittals required by the County or which the Contractor identifies as necessary, fixing the dates for the submission of shop or setting drawings, samples and product data. The listing shall be in a format acceptable to the County.
- (b) Submittals shall be forwarded to the County's Representative for approval if required by the specifications or if requested by the County. No part of the Work dealt with by a Submittal shall be fabricated by the Contractor, save at his own risk, until such approval has been given.

- (c) The Contractor shall furnish to the County's Representative for approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the Work. When Submittals are required by this Contract for materials, the Contractor shall furnish full information concerning the material or articles which he contemplates incorporating in the Work. When required, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material and articles installed or used without required approval shall be at the risk of subsequent rejection.
- (d) Submittals shall be accompanied by a letter of transmittal which shall list the Submittals included, the specification section number applicable to each, and the date shown on each Submittal. Submittals shall be complete in every respect and bound in sets. Each Submittal shall be clearly marked to show each item, component and/or optional feature proposed to be incorporated into the Project. Cross reference to the plans or specifications as needed to identify the use for which the item or component is intended.
- (e) The Contractor shall check the Submittals for compliance with the requirements of the Contract Documents. The Contractor shall clearly note in writing any and all items which deviate from the requirements of the Contract Documents. Reasons for deviation shall be included with the Submittal.
- (f) The Contractor shall forward all Submittals sufficiently in advance of construction requirements to allow reasonable time for checking, correcting, resubmitting and rechecking.
- (g) If a Submittal indicates a departure from the Contract requirements, the County may approve or reject the Submittal as the County, in its sole discretion, sees fit. The departure from the Contract requirements shall be further authorized by a Change Order, if a reduction or increase in the Contract Price is appropriate.
- (h) The Contractor shall verify that the Submittals conform to the design concept and functional requirements of the plans and specifications, that the detailed design portrayed in shop drawings and proposed equipment and materials shown in Submittals are of the quality specified and will function properly, and that the Submittals comply with the Contract Documents.

25. FEES, SERVICES AND FACILITIES

- (a) The Contractor shall obtain all permits, and shall pay for all fees and charges, including, but not necessarily limited to, fees necessary for temporary access and public right-of-way blockage or use, for use of landfill and other waste disposal facilities, for temporary connections to utilities, and for the use of property (other than the Site) for storage of materials and other purposes unless otherwise specifically stated in the Contract Documents.
- (b) Certain projects such as renovations and interior modifications of existing buildings will usually have water and electric service to the building. In those instances, water and electric power, if required for the Work under the Contract, will be furnished by the County subject to reasonable use by the Contractor, only to the extent and capacity of present services. The Contractor shall be responsible for providing required connections, temporary wiring, piping, etc. to these services in a safe manner and in accordance with applicable codes. All temporary wire, pipe, etc. shall be removed before the Substantial Completion inspection. Acceptance by the Contractor of the use of County's water and electricity constitutes a release to the County of all claims and of

all liability to the Contractor for whatever damages which may result from power and water outages or voltage variations.

- (c) The County shall pay any connection charges for permanent utility connections directly to the utility Supplier. The Contractor shall coordinate such connections with the utility Supplier.
- (d) It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor, either directly or through his Subcontractors, shall provide and pay for all material, labor, tools, equipment, water, light, power, telephone and other services or facilities of every nature whatsoever necessary to execute completely and deliver the Work within the Contract Time for Completion or before the Contract Completion Date.

26. EQUALS

- (a) Brand names: Unless otherwise stated in the specifications, the name of a certain brand, make or manufacturer denotes the characteristics, quality, workmanship, economy of operation and suitability for the intended purpose of the article desired, but does not restrict the Contractor to the specific brand, make, or manufacturer; it is set forth to convey to the Contractor the general style, type, character and quality of the article specified.
- (b) Equal materials, equipment or assemblies: Whenever in these Contract Documents, a particular brand, make of material, device or equipment is shown or specified, such brand, make of material, device or equipment shall be regarded merely as a standard. Any other brand, make or manufacturer of a product, assembly or equipment which in the opinion of the County is the equal of that specified, considering quality, capabilities, workmanship, configuration, economy of operation, useful life, compatibility with design of the Work, and suitability for the intended purpose, will be accepted unless rejected by the County as not being equal.
- (c) Substitute materials, equipment or assemblies: The Contractor may propose to substitute a material, product, equipment, or assembly which deviates from the requirements of the Contract Documents but which the Contractor deems will perform the same function and have equal capabilities, service life, economy of operations, and suitability for the intended purpose. The proposal must include any cost differentials proposed. If the proposed substitute is acceptable to the County, a Change Order will be proposed to the Contractor to accept the substitute and to deduct the proposed cost savings from the Contract Price. The County shall have the right to limit or reject substitutions at its sole discretion as provided in Virginia Code § 2.2-4315.
- (d) The Contractor shall be responsible for making all changes in the Work necessary to adapt and accommodate any equal or substitute product which it uses. The necessary changes shall be made at the Contractor's expense.

27. AVAILABILITY OF MATERIALS

If a brand name, product, or model number included in the Contract Documents is not available on the present market, alternate equal products or model numbers may be proposed by the Contractor for approval by the County.

28. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the Work shall be purchased by the Contractor, or by any Subcontractor or Supplier, subject to any security interest, installment or sales contract or any other agreement or

lien by which an interest is retained by the seller or is given to a secured party. The Contractor warrants that he has clear and good title to all materials and supplies which he uses in the Work or for which he accepts payment in whole or in part.

29. STANDARDS FOR MATERIALS INSTALLATION & WORKMANSHIP

- (a) Unless otherwise specifically provided in the Contract, all equipment, material, and accessories incorporated in the Work are to be new and in first class condition.
- (b) Unless specifically approved by the County or required by the Contract, the Contractor shall not incorporate into the Work any materials containing asbestos or any material known by the industry to be hazardous to the health of building construction workers, maintenance workers, or occupants. If the Contractor becomes aware that a material required by the Contract contains asbestos or other hazardous materials, he shall notify the County's Representative immediately and shall take no further steps to acquire or install any such material without first obtaining County approval.
- (c) All workmanship shall be of the highest quality found in the construction industry in every respect. All items of Work shall be done by craftsmen or tradesmen skilled in the particular task or activity to which they are assigned. In the acceptance or rejection of Work, no allowance will be made for lack of skill on the part of workmen. Poor or inferior workmanship (as determined by the County or other inspecting authorities) shall be removed and replaced at Contractor's expense such that the Work conforms to the highest quality standards of the trades concerned, or otherwise corrected to the satisfaction of the County, or other inspecting authority, as applicable.
- (d) Under the various sections of the plans or specifications, where specified items are supplied with the manufacturer's printed instructions, recommendations, or directions for installation, or where such instructions, recommendations, or directions are available, installation of the specified items shall be in strict accordance with the manufacturer's printed instructions unless those instructions contradict the plans or specifications, in which case the County's Representative will be notified for an interpretation and decision.
- (e) Under the various sections of the plans or specifications, where reference is made to specific codes or standards governing the installation of specified items, installation shall in all cases be in strict accordance with the referenced codes and standards. Where no reference is made to specific codes or standards, installation shall conform to the generally recognized applicable standards for first-class installation of the specific item to be installed. Contractors are expected to be proficient and skilled in their respective trades and knowledgeable of the Codes and Standards of the National Fire Protection Association (NFPA), National Electric Code (NEC), Occupational Safety and Health Act (OSHA) and other codes and standards applicable to installations and associated work by his trade.
- (f) Where the manufacturer's printed instructions are not available for installation of specific items, where specific codes or standards are not referenced to govern the installation or specific items, or where there is uncertainty on the part of the Contractor concerning the installation procedures to be followed or the quality of workmanship to be maintained in the installation of specific items, the Contractor shall consult the County's Representative for approval of the installation procedures or the specific standards governing the quality of workmanship the Contractor proposes to follow or maintain during the installation of the items in question.

- (g) During and/or at the completion of installation of any items, the tests designated in the plans or specifications necessary to assure proper and satisfactory functioning for its intended purpose shall be performed by the Contractor or by its Subcontractor responsible for the completed installation. All costs for such testing are to be included in the Contract Price. If required by the Contract Documents, the Contractor shall furnish prior to final inspection the manufacturers' certificates evidencing that products meet or exceed applicable performance, warranty and other requirements, and certificates that products have been properly installed and tested.

30. WARRANTY OF MATERIALS AND WORKMANSHIP

- (a) The Contractor warrants that, unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new, in first class condition, and in accordance with the Contract Documents. The Contractor further warrants that all workmanship shall be of the highest quality and in accordance with the Contract Documents and shall be performed by persons qualified at their respective trades.
- (b) Work not conforming to these warranties shall be considered defective.
- (c) This warranty of materials and workmanship is separate and independent from and in addition to any of the Contractor's other guarantees or obligations in the Contract or under Virginia law.
- (d) The Contractor shall ensure that all manufacturer's warranties and similar guarantees are properly extended to the County and that documents evidencing the same are submitted to the County's Representative prior to final inspection.

31. USES OF SITE AND REMOVAL OF DEBRIS

- (a) The Contractor shall:
 - i. Perform the Work in such a manner as not to interrupt or interfere with the operation of any existing activity on, or in proximity to, the Site or with the Work of any other separate contractor;
 - ii. Store his apparatus, materials, supplies and equipment in such orderly fashion at the Site of the Work as will not unduly interfere with the progress of his Work or the work of any other separate contractor; and
 - iii. Place upon the Work or any part thereof only such loads as are consistent with the safety of that portion of the Work.
- (b) The Contractor expressly undertakes, either directly or through his Subcontractor(s), to effect all cutting, filling or patching of the Work required to make the same conform to the plans and specifications, and, except with the consent of the County's Representative, not to cut or otherwise alter the Work of any other separate contractor. The Contractor shall not damage or endanger any portion of the Work or Site, including existing improvements, unless called for by the Contract.
- (c) The Contractor expressly undertakes, either directly or through his Subcontractor(s), to clean up frequently all refuse, rubbish, scrap materials and debris caused by his operations, to the end that at all times the Site shall present a neat, orderly and workmanlike appearance. No such refuse, rubbish, scrap material and debris shall be left within the completed Work nor buried on

the building Site, but shall be removed from the Site and properly disposed of in the County landfill or otherwise as required by law. The Contractor shall be responsible for the payment of all applicable tipping fees or other disposal fees at any landfill or other waste disposal facility.

- (d) The Contractor expressly undertakes, either directly or through his Subcontractor(s), before final payment or such prior time as the County may require, to remove all surplus material, false Work, temporary structures, including foundations thereof, plants of any description and debris of every nature resulting from his operations and to put the Site in a neat, orderly condition; to thoroughly clean and leave reasonably dust free all finished surfaces including all equipment, piping, etc., on the interior of all buildings included in the Contract; and to clean thoroughly all glass installed under the Contract, including the removal of all paint and mortar splatters and other defacements. If the Contractor fails to clean up at the time required herein, the County may do so and charge the costs incurred thereby to the Contractor.
- (e) The Contractor shall prevent Site soil erosion, the runoff of silt and/or debris carrying water from the Site, and the blowing of dust or debris off the Site in accordance with the applicable requirements and standards of the Contract and the County's Erosion and Sediment Control and Stormwater Management Regulations.

32. TEMPORARY ROADS

Temporary roads, if required, shall be established and maintained until permanent roads are accepted, then removed and the area restored to the conditions required by the Contract Documents. Crushed rock, paving and other road materials from temporary roads shall not be left on the Site unless permission is received from the County to bury the same at a location and depth approved by the County.

33. SIGNS

The Contractor may not, without the prior written consent of the County, erect signs at or near the Site. Signs required by law, such as the posting of building permits, are allowed. No signs shall be erected without prior approval of the County as to purpose, design and location.

34. PROTECTION OF PERSONS AND PROPERTY

- (a) The Contractor expressly undertakes both directly and through his Subcontractors, to take every reasonable precaution at all times for the protection of all persons and property which may come on the Site or be affected by the Contractor's Work.
- (b) The Contractor shall be solely responsible for providing on site all necessary safety equipment and supplies and for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.
- (c) The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect the County's property from injury or loss arising in connection with this Contract. He shall make good any such damage, injury or loss, except as may be directly and solely due to errors in the Contract Documents or caused by agents or employees of the County. The Contractor shall adequately protect adjacent property to prevent any damage to it or loss of use and enjoyment by its owners. The Contractor shall provide and maintain all passageways, guard fences, lights and other facilities for protection as required by public authority, local conditions, or the Contract.

- (d) In an emergency affecting the health, safety or life of persons or of the Work, or of the adjoining property, the Contractor, without special instruction or authorization from the County, shall act, at his discretion, to prevent such threatened loss or injury. Also, should he, to prevent threatened loss or injury, be instructed or authorized to act by the County, he shall so act immediately, without appeal.
- (e) When necessary for the proper protection of the Work, temporary climate control of a type approved by the County must be provided by the Contractor, at the Contractor's expense, unless otherwise specified.

35. CLIMATIC CONDITIONS

The Contractor shall suspend activity on and protect any portion of the Work that may be subject to damage by climatic conditions.

[SECTION 36 OMITTED]

37. PAYMENTS BY CONTRACTOR

Under Virginia Code § 2.2-4354:

- (a) The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the contractor by the County for work performed by subcontractors under that contract:
 - i. Pay subcontractors for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractors under that contract; or
 - ii. Notify the County and subcontractor, in writing, of his intention to withhold all or a part of any subcontractor's payment with the reason for nonpayment.
- (b) Individual Contractors are required to provide their social security numbers; and proprietorships, partnerships, and corporations are required to provide their federal employer identification numbers.
- (c) The Contractor is obligated to pay interest to a subcontractor on all amounts owed by the Contractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under that contract, except for amounts withheld as allowed in Subsection (a) above.
- (d) Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent (1%) per month.
- (e) The Contractor is further required to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.
- (f) The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the County. A contract modification shall not be made for the purpose of providing reimbursement for the

interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

38. CHANGES IN THE WORK

- (a) Requests for Change Orders may be initiated by any party at any time. The County may, by written Change Order and without notice to the sureties, approve changes in the Work which are within the general scope of the Contract. However, no change will be made which will increase the total Contract Price to an amount more than twenty percent (20%) in excess of the original Contract Price without notice to sureties.
- (b) In making any change, the charge or credit for the change shall be determined by a mutually agreed fixed amount change to the Contract Price and/or time allowed for completion of the Work. The following procedure shall be followed:
 - i. The party receiving the proposed change shall review the proposed change and shall respond in writing within fourteen (14) days after receipt of the proposed change, stating the effect of the proposed change upon the Work, including any increase or decrease in the Contract time and Price.
 - ii. The Contractor shall furnish to the County an itemized breakdown of the quantities and prices used in computing the proposed change in Contract Price.
 - iii. The County shall review the Contractor's proposed price and respond to the Contractor within thirty 30 days of receipt. If a change to the Contract Price and time for performance are agreed upon, both parties shall sign the Change Order. Changes to the Contract time and/or Price shall be effective when signed by both parties.
 - iv. Change Order shall be substantiated by documentation itemizing the estimated quantities and costs of all labor, materials and equipment required as well as any mark-up used. The price change shall include the Contractor's overhead and profit.
 - v. All Change Orders must state that the Contract Time for Completion or Contract Completion Date is not changed or is either increased or decreased by a specific number of days. The old Time for Completion and, if changed, the new Time for Completion must be stated.
 - vi. If the parties are unable to agree on the terms of a Change Order, the matters in dispute shall be resolved as provided in § 47 of these General Conditions unless an alternative procedure is set forth in the Supplemental Conditions.

39. EXTRAS

If the Contractor claims that any instructions given to him by the County, by drawings or otherwise, involve extra Work which increases the scope of the Contract, then, except in emergencies endangering life or property, he shall give the County written notice thereof before proceeding to execute the Work. Said notice shall be given promptly enough to avoid delaying the Work and in no instance later than fourteen (14) days after the receipt of such instructions. Should it not be immediately clear to the Contractor that the change involves extra Work outside the scope of the Contract, written notice shall be sufficient if given as soon as possible after such realization, but in no event later than fourteen (14) days after the start of such Work. If the County agrees, a Change Order

shall be issued as provided in Section 38 of these General Conditions, and any additional compensation shall be determined as provided in said Section. Except as otherwise specifically provided, no claims for extra Work shall be allowed unless timely notice, as required by this Section, is given by the Contractor and unless such Work is performed pursuant to written Change Order as provided in Section 38.

40. CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE THE CONTRACT

If the Work should be stopped under an order of any court or other public authority for a period of ninety (90) days through no fault of the Contractor or anyone employed by him, or if the County should fail to pay to the Contractor within thirty (30) days any sum certified by the County's Representative, when no dispute exists as to the sum due or any provision of the Contract, then the Contractor may, upon ten (10) days written notice to the County, stop Work or terminate the Contract and recover from the County payment for the cost of the Work actually performed, together with overhead and profit thereon, but profit on the Work performed shall be recovered only to the extent that the Contractor can demonstrate that he would have had profit on the entire Contract if he had completed the Work. The Contractor may not receive profit or any other type of compensation for parts of the Work not performed. The Contractor may recover the reasonable cost of physically closing down the Site, but no other costs of termination. The County may offset any claims it may have against the Contractor against the amounts due to the Contractor. In no event shall termination of the Contract by the Contractor terminate the obligations of the Contractor's surety on its payment and performance bonds.

41. COUNTY'S RIGHT TO TERMINATE THE CONTRACT FOR CAUSE

- (a) If the Contractor should be adjudged as bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, the County may terminate the Contract. If the Contractor should refuse or should repeatedly fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials and equipment, or if he should fail to make prompt payment to Subcontractors or Suppliers of material or labor, or if he should disregard laws, ordinances or the written instructions of the County, or otherwise be in substantial violation of any provision of the Contract, then the County may terminate the Contract.
- (b) Prior to termination of the Contract, the County shall give the Contractor and his surety ten (10) days written notice pursuant to Section 1 ("Notice") of these General Conditions, during which the Contractor and/or his surety may rectify the basis for the notice. If rectified to the satisfaction of the County within said ten (10) days, the County may rescind its notice of termination. If not, the termination for cause shall become effective at the end of the ten (10) day notice period. In the alternative, the County may, in writing, postpone the effective date of the termination for cause, at its sole discretion, if it should receive reassurances from the Contractor and/or its surety that the basis for the termination will be remedied in a time and manner which the County finds acceptable. If at any time after such postponement, the County determines that Contractor and/or its surety has not or is not likely to rectify the causes of termination in an acceptable manner or within the time allowed, then the County may immediately terminate the Contract for cause, without the necessity of further ten (10) day notice, by notifying the Contractor and his surety in writing of the termination. In no event shall termination for cause terminate the obligations of the Contractor's surety on its payment and performance bonds.
- (c) Upon termination of the Contract, the County shall take possession of the Site and of all materials, tools and equipment thereon and finish the Work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment. If the

expense of finishing the Work, including compensation for additional managerial and administrative services, shall exceed the unpaid balance of the Contract Price, the Contractor shall pay the difference to the County, together with any other expenses of terminating the Contract and having it completed by others.

- (d) If it should be judicially determined that the County improperly terminated this Contract for cause, then the termination shall be deemed to be a termination for the convenience of the County.
- (e) Termination of the Contract under this Section is without prejudice to any other right or remedy of the County.

42. TERMINATION BY COUNTY FOR CONVENIENCE

- (a) County may terminate this Contract, in whole or in part, at any time without cause upon giving the Contractor written notice of such termination pursuant to Section 1 ("Notice") of these General Conditions. Upon such termination, the Contractor shall immediately cease Work and remove from the Site all of its labor forces and such of its materials as County elects not to purchase or to assume in the manner hereinafter provided. Upon such termination, the Contractor shall take such steps as County may require to assign to the County the Contractor's interest in all Subcontracts and purchase orders designated by County. After all such steps have been taken to County's satisfaction, the Contractor shall receive as full compensation for termination and assignment the following:

- i. All amounts then otherwise due under the terms of this Contract based upon approved Requests for payment.
- ii. Amounts due for Work performed in accordance with the Contract subsequent to the latest approved Request for Payment through the date of termination.
- iii. Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of such termination.

The Contractor shall not be entitled to any compensation or damages for lost profits or for any other type of contractual compensation or damages other than those provided by this section. Upon payment of the foregoing, County shall have no further obligations to Contractor of any nature.

- (b) In the event the parties cannot agree on the whole amount to be paid to the Contractor by reason of termination under this section, the County shall pay the amounts, as determined by the County's Representative, as follows, without duplicating any amounts which may have already been paid under the preceding paragraph of this section:

- i. All amounts then otherwise due under the terms of this Contract based upon approved Requests for payment.
- ii. Amounts due for Work performed in accordance with the Contract subsequent to the latest approved Request for Payment through the date of termination, which shall be the total of:
 - a. cost of work performed or supplies delivered;

- b. the costs of settling and paying any reasonable claims to subcontractors and suppliers; and
 - c. a mark-up of ten percent (10%) for profit and overhead.
- iii. Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of such termination.

The total sum to be paid shall not exceed the contract price, as reduced by the amount of payments otherwise made, and as further reduced by the contract price of work not done or supplies not delivered. If there is evidence that the Contractor would have sustained a loss on the entire Project had it been completed, no profit shall be included or allowed hereunder and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.

- (c) In the event the Contractor is not satisfied with any payments which the County's Representative shall determine to be due under this section, the Contractor may proceed in accordance with Section 47, "Contractual Disputes."
- (d) In no event shall termination for the convenience of the County terminate the obligations of the Contractor's surety on its payment and performance bonds.

43. DAMAGES FOR DELAYS; EXTENSION OF TIME

- (a) If the Contractor is delayed at any time in the progress of the Work by any act or omission of the County, its agents or employees or any separate independent contractor of the County, and the act or omission is the result of or is necessitated by causes outside the County's control; or if the Contractor is delayed by strikes, fires, unusual delays in transportation or unavoidable casualties, or other causes outside the County's or Contractor's control, the Contractor shall give the County written notice within ten (10) days of the inception of the delay. The County shall extend the time for Substantial Completion or Final Completion, as the case may be, for the length of time that the Substantial Completion or Final Completion of the Work was actually delayed thereby, and the Contractor shall not be charged with liquidated or actual damages for delay during the period of such extension nor shall the Contractor be due compensation or damages of any kind, under any theory of law, as a result of such delay, the impact of such delay, or acceleration of Work as a result of such delay. In the event a CPM schedule is required by the Contract, no extension of the time allowed for Substantial Completion shall be granted unless the Contractor demonstrates a delay in the critical path of the approved CPM schedule or approved bar graph schedule.
- (b) If the Contractor is delayed at any time in the progress of the Work by any act or omission of the County, its agents or employees, due to causes within their control, or delayed by the County's separate, independent contractors, when such delay results from causes within the County's control, and the Contractor intends to seek additional compensation for damages, if any, caused by the delay, the Contractor shall inform the County immediately at the time of the occurrence giving rise to the delay by the fastest means available and shall give written notice no later than two (2) working days after inception of the delay. The Contractor's notice to the County shall specify the nature of the delay claimed by the Contractor, the cause of the delay and the impact of the delay on the Contractor's Work schedule. The County shall then have three (3) working days to respond to the Contractor's notice with a resolution, remedy or direction to alleviate the

delay or with a notice rejecting the claim for delay alleged to be caused by the County or parties for whom the County is responsible. If the issue is not then resolved, the Contractor may submit a request for Change Order in accordance with Section 36 or submit a claim as provided for in Section 45. The Contractor shall only be entitled to additional compensation if the delay was unreasonable and was caused solely by acts or omissions of the County, its agents or employees, due to causes within their control, or was caused by the County's separate, independent contractor, when such delay resulted solely from causes within the County's control.

- (c) The Contractor shall not be entitled to an extension of the Time for Completion or Contract Completion Date or to any additional compensation for delays caused by acts or omissions of the Contractor due to causes within his control, including, but not limited to, delays resulting from Defective Work including workmanship and/or materials, from rejected work which must be corrected before dependent work can proceed, from Defective Work or rejected work for which corrective action must be determined before like work can proceed, or from incomplete, incorrect or unacceptable Submittals or samples.
- (d) No extension of time or additional compensation, if applicable, will be granted for any delay unless the claimed delay directly affects the critical path of the approved CPM schedule or the schedule shown on the approved bar graph schedule, whichever is applicable, and any float has been consumed. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed in Subsections (a) or (b) above, whichever applies. Furthermore, no extension of time or additional compensation shall be given for any delay unless a claim therefore is made in writing to the County, within twenty (20) days of the end of the delay. The claim shall state the cause of the delay, the number of days of extension requested and any compensation requested by the Contractor. The Contractor shall report the termination of the delay to the County not less than ten (10) days after such termination. Failure to give notice of either the inception or the termination of the cause of delay or failure to present a claim for extension of time and/or monetary compensation within the times prescribed shall constitute a waiver of any claim for extension or additional compensation based upon that cause.
- (e) Requests for compensation for delays pursuant to Subsection (b) above must be substantiated by itemized data and records clearly showing that the Work delayed could not be completed within the approved schedule, and that the additional costs incurred by the Contractor are directly attributable to the delay in the Work claimed. Furthermore, compensation for delay shall be calculated from the contractual Time for Completion or Contract Completion Date, as adjusted by Change Order, and shall not be calculated based on any early completion planned or scheduled by the Contractor, unless a Change Order has been executed changing the Time for Completion or the Contract Completion Date to reflect such early completion.

If there is an extension in the Time for Completion or the Contract Completion Date and if the Contractor is entitled to additional compensation for the delay, and where there is no change in the Work, an itemized accounting of the following direct Site overhead expenses will be considered as allowable costs to be used in determining the compensation due the Contractor:

Site superintendent pro rata salary, temporary Site office expense, temporary Site facilities, and temporary Site utilities including basic telephone service, electricity, heat, water, and sanitary/toilets. A fifteen percent (15%) markup of these expenses will be allowed to compensate the Contractor for home office and other direct or indirect overhead expenses.

- (f) If the Contractor submits a claim for delay damages, the Contractor shall be liable to the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating and litigating the claim, which percentage shall be equal to the percentage of the Contractor's total delay claim which is determined through litigation to be false or to have no basis in law or in fact.
- (g) Any change in the Contract Time for Completion or Contract Completion Date shall be accomplished only by issuance of a Change Order.
- (h) If the Contractor fails to complete the Work within the Time for Completion or the Contract Completion Date, the Contractor shall be liable to the County in the amounts set forth in subsection (j) below not as a penalty, but as fixed, agreed and liquidated damages for delay until the Work is substantially or finally completed as the case may be. If liquidated damages are not so fixed in subsection (j), the Contractor shall be liable for any and all actual damages sustained as a result of delay. In addition to damages for delay, whether liquidated or actual, the Contractor shall also be liable for any and all actual damages sustained by the County as a result of any other breach of the Contract, including, but not limited to, Defective Work and abandonment of the Contract.
- (i) If the Contractor fails to complete the Work by the Time for Completion or Contract Completion Date, the following provisions apply:
 - i. The Contractor shall owe to the County, not as a penalty but as liquidated damages, the sum stated in subsection (j) below as "step one" liquidated damages for each and every partial or total calendar day of delay in Substantial Completion.
 - ii. Once the Work is substantially complete, the accrual of "step one" liquidated damages shall cease, and the Contractor shall have thirty (30) calendar days in which to achieve Final Completion of the Work.
 - iii. If Final Completion of the Work is not achieved on or before the thirtieth (30th) calendar day after Substantial Completion, and if the County has not granted any extension of time, the Contractor shall owe to the County, not as a penalty but as liquidated damages, the sum stated in subsection (j) below as "step two" liquidated damages for each and every partial or total calendar day of delay in Final Completion.
- (j) Time is of the essence of the contract. Should the Contractor fail to complete the Work within the time agreed upon in the Contract or within such extra time as may have been allowed by Change order, there may be deducted from any sums due or that may become due the Contractor the sum set forth in the following schedule for each and every calendar day, exclusive of Sundays and legal holidays, that the Work shall remain uncompleted. This sum shall be considered and treated not as a penalty but as liquidated damages due the County from the Contractor by reason of inconvenience to the public, added cost of engineering and supervision, operation of alternative public services, and other factors which have caused the expenditure of public funds resulting from the contractor's failure to complete the work within the time specified in the contract.

Schedule of Liquidated Damages

Step One	<u>\$350</u> per day
Step Two	<u>\$350</u> per day

- (k) Each party hereby waives any claim or defense as to the validity of any liquidated damages stated in this Agreement as they may appear on the grounds that such liquidated damages are void as penalties or are not reasonably related to actual damage.
- (l) Completion of the Work, for purposes of this section, shall occur upon preliminary acceptance of all the Work required by the contract documents. Permitting the Contractor to continue and finish the Work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended by Change Order, shall in no way operate as a waiver on the part of the County of any of its rights under the Contract.

44. INSPECTION FOR SUBSTANTIAL COMPLETION & FINAL COMPLETION

- (a) The Contractor shall notify the County, in writing by "Certificate of Partial or Substantial Completion," of the date when the Work or designated portion thereof, will be, in his opinion, substantially complete and ready for inspection and testing to determine if it has reached Substantial Completion. The notice shall be given at least ten (10) days in advance of said date. Inspection and testing shall take place at a time(s) mutually agreeable to the Contractor and County.

The inspection shall include a demonstration by the Contractor that all equipment, systems and operable components of the project function properly and in accordance with the Contract Documents. The Contractor shall furnish access for the inspection and testing. The inspection and testing shall determine whether Substantial Completion has been accomplished and shall result in either: (a) a written notice that the County does not consider the Work to be substantially complete accompanied by a written list of unfinished Work and Defective Work which must be completed or corrected before the County will concur that the Work is substantially complete, or (b) a written confirmation by the County that the Work is substantially complete accompanied by a written list of unfinished Work and Defective Work, commonly referred to as a "punch list", which must be finished and corrected to obtain Final Completion. If the County has not concurred that the Work is substantially complete, the Contractor shall provide the County another Certificate of Partial or Substantial Completion notifying the County of the date when, in his opinion, the listed items of unfinished Work or Defective Work will be substantially complete and ready for inspection.

- (b) The Contractor shall notify the County, in writing, of the date when the Work will reach Final Completion and will be ready for final inspection and testing. The notice shall be given at least five (5) days in advance of said date. That inspection and any necessary testing shall be conducted in the same manner as the inspection for Substantial Completion. When the Work is finally and totally complete, including the elimination of all defects, the Work shall be finally accepted by the County and final payment shall be made in accordance with these General Conditions.
- (c) The County's Representative shall conduct the inspections. The County may elect to have other persons of its choosing also participate in the inspections. If one or more Substantial or Final Completion re-inspections are required, the Contractor shall reimburse the County for all costs of re-inspection or, at the County's option, the costs may be deducted from payments due to the Contractor.
- (d) Approval of Work at or as a result of any inspection required herein shall not release the Contractor or his surety from responsibility for complying with the Contract.

45. GUARANTEE OF WORK

- (a) Except as otherwise specified, all Work shall be, and is hereby, guaranteed by the Contractor against defects resulting from the use of materials, equipment or workmanship, which are defective, inferior, or not in accordance with the terms of the Contract, for one (1) year from the date of Final Completion of the entire Project by the County. Equipment and facilities which have seasonal limitations on their operation (e.g. heating or air conditioning units) shall be guaranteed for one (1) full year from the date of seasonally appropriate tests and acceptance, in writing, by the County. Where the County agrees to take Beneficial Occupancy of a portion or phase of the Work which has been determined to be substantially complete before the entire Work is finally completed, the guarantees for the materials, equipment and workmanship in that portion or phase shall begin on the date that the County takes Beneficial Occupancy, unless otherwise specified in the Supplemental Conditions or by separate agreement.
- (b) If, within any guarantee period, Work which is not in accordance with the Contract, Defective Work, or inferior material, equipment or workmanship is noted by the County which requires or renders necessary repairs or changes in connection with the guaranteed Work, the Contractor shall, promptly upon receipt of notice from the County, such notice being given not later than two (2) weeks after the guarantee period expires, and without expense to the County:
 - i. Place in satisfactory condition in every particular all of such guaranteed Work and correct all defects, inferior materials, equipment or workmanship therein;
 - ii. Make good all damage to the structure or Site or equipment or contents thereof, which, in the opinion of the County, is the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the Contract; and
 - iii. Make good any Work or materials or the equipment and contents of structures and/or Site disturbance that results from fulfilling the provisions of this Section.
- (c) In any case, when in fulfilling the requirements of the Contract and this guarantee or any other guaranty or warranty, the Contractor disturbs any work performed by a separate contractor, he shall restore such work to a condition satisfactory to the County and guarantee such restored work to the same extent as if it was guaranteed under this Contract.
- (d) If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee as set forth in this Section, the County may have the defects or inferior materials, equipment or workmanship corrected and the Contractor and his surety shall be liable for all expense incurred.
- (e) All special warranties and guarantees applicable to definite parts of the Work that may be stipulated in or required by the Contract Documents shall be subject to the terms of this Section during the first year of the life of such special warranty or guarantee.
- (f) The guarantee of this Section shall be in addition to and not in lieu of all other warranties, express or implied, applicable to or arising from this Contract or by law.
- (g) Nothing contained in this Section shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents,

including liability for Defective Work. This Section relates only to the specific obligation of the Contractor as set forth in this Section to correct the Work and does not limit the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor the time within which proceedings may be commenced to establish the Contractor's liability with respect to his other obligations under the Contract Documents.

- (h) In the event the Work of the Contractor is to be modified by another contractor, either before or after the Final Inspection, the first Contractor shall remain responsible in all respects under this Section's Guarantee of Work and under any other warranties or guarantees, express or implied, applicable to or arising from this Contract or by law. However, the Contractor shall not be responsible for any defects in material or workmanship introduced by the contractor modifying his Work. The first Contractor and the contractor making the modifications shall each be solely responsible for his respective work. The contractor modifying the earlier Work shall be responsible for any damage to or defect introduced into the Work by his modification. If the first contractor claims that a subsequent contractor has introduced defects of materials and/or workmanship into his Work, it shall be the burden of the contractor making the claim to demonstrate clearly the nature and extent of such introduced defects and the other contractor's responsibility for those defects. Any contractor modifying the work of another shall have the same burden if he asserts that defects in his work were caused by the contractor whose work he is modifying.

46. ASSIGNMENTS

Neither party to the Contract shall assign the Contract in whole or any part without the written consent of the other, nor shall the Contractor assign any moneys due or to become due to him hereunder, without the prior written consent of the County. No assignment shall relieve any party from its obligations under the Contract.

47. CONTRACTUAL DISPUTES (Virginia Code § 2.2-4363)

- (a) Contractual claims, whether for money or for other relief, shall be submitted, in writing, no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given at the time of the occurrence or beginning of the Work upon which the claim is based. The filing of a timely notice is a prerequisite to recovery under this Section. Although the Contractor may be required to submit certain classes of claims prior to final payment, and the Contractor is not prevented from filing claims during the pendency of the Work, the County shall not be obligated to render a final written decision on any claim until after final payment. All claims shall be submitted along with all practically available supporting evidence and documentation.
- (b) No written decision denying a claim or addressing issues related to the claim, if rendered prior to final payment, shall be considered a denial pursuant to this Section unless the written decision makes express reference to this Section and is signed by the County. The Contractor may not institute legal action prior to receipt of the County's final written decision on the claim unless the County fails to render such a decision within ninety (90) days of submission of the claim or within ninety (90) days of final payment, whichever is later.
- (c) The decision of the County shall be final and conclusive unless the Contractor within six (6) months of the date of the final decision on a claim, initiates legal action as provided in § 2.2-4364 of the Code of Virginia. Failure of the County to render a decision within 90 days shall not result in the Contractor being awarded the relief claimed nor shall it result in any other relief or penalty.

The sole result of the County's failure to render a decision within 90 days shall be the Contractor's right to immediately institute legal action. No administrative appeals procedure pursuant to § 2.2-4364 of the Code of Virginia has been established for contractual claims under this Contract.

- (d) When conflicts arise, the federal-aid or most conservative approach must be taken.

[SECTION 48 OMITTED]

49. TRAINING, OPERATION AND MAINTENANCE OF EQUIPMENT

- (a) As a part of the Work, the Contractor in conjunction with his Subcontractors and Suppliers shall provide the County's operations and maintenance personnel with adequate instruction and training in the proper operation and maintenance of any equipment, systems, and related controls provided or altered in the Work. The training requirements may be further defined in the Contract Documents.
- (b) The Contractor shall provide the County with a minimum of two (2) copies of operating, maintenance and parts manuals for all equipment and systems provided in the Work. Further specific requirements may be indicated in the Contract Documents.

50. PROJECT MEETINGS

The intention of this section is to enable the County and the Contractor to have a timely exchange of information and to accomplish the Work in a cooperative manner as required by the Contract Documents. The Contractor is responsible for managing the Work, obtaining approvals and requesting clarifications on a timely, reasonable basis. The County is responsible for making a reasonable effort to provide timely responses to the Contractor.

Preconstruction Meeting:

- (a) Prior to the start of construction, a "Pre-construction" meeting shall be held. In attendance should be: (a) the County's Representative and Project Inspector, if any; (b) when appropriate, representatives of each design discipline involved in the Project; (c) the Contractor's Representative and superintendent and, representatives of the Contractor's major Subcontractors, if any; and (d) such other persons either the County or the Contractor may invite. No decisions made at this meeting shall be binding unless appropriate Field Orders or Change Orders are issued. This meeting is to exchange certain information and to clarify and discuss various topics, including but not necessarily limited to, the following:
 - i. Persons involved from each entity and their chain of authority including the names of persons authorized to sign Change Orders and any limits to their authority.
 - ii. Names, addresses, telephone numbers and FAX numbers to be used for requests for information or clarification, requests for Change Orders, and distribution of shop drawings, Submittals, and notices.
 - iii. Contractor's proposed construction schedule and County's sequencing requirements, if any.
 - iv. Procedures for submission of shop drawings, product data and other Submittals, if any.

- v. Procedures for handling Field Orders and Change Orders, if any.
- vi. Procedures for Contractor's request for time extension, if any.
- vii. Construction Site requirements, procedures and clarifications to the manner of conducting the Work Site specialties, including: dust, erosion control, stormwater management, project signs, clean up and housekeeping, temporary facilities, utilities, security, traffic, and safety layout.
- viii. Quality control, testing, inspections, notices required, the tentative schedule of Site visits by the County's Representative and others, and any proposed changes to the Project Inspector's duties
- ix. Creation, maintenance and distribution of project records.
- x. Procedures for submission of Requests for Payment.

Project Meetings and Progress Reports:

- (a) Attendance at Project Meetings: Unless stated otherwise in the Supplemental Conditions, project meetings will be scheduled at least once a month. Invitees to all project meetings shall include representatives from the Contractor and the County. When appropriate, representatives of subcontractors should also be present. Under no circumstances shall project meetings be considered a reason for extensions of time or damages for delay.
- (b) Purpose of Project Meetings: The purpose of project meetings shall be to facilitate the timely exchange of information and cooperate to accomplish the Work as required by the Contract Documents. The meeting is an opportunity to discuss status and workmanship of Work in progress, pending requests for payment, compliance with construction schedule, requests for clarification, pending Change Orders, running punch list items, and potential problems which need attention. No decisions made at this meeting shall be binding unless appropriate Field Orders or Change Orders are issued.
- (c) Progress Reports: The first item to be discussed at a project meeting will normally be the presentation of a progress report by the Contractor. Written progress reports may be required by the Supplemental conditions. The Contractor shall review progress not less than each month, but as often as necessary to properly manage the Project and stay on schedule. The Contractor shall collect and preserve information on Change Orders, including extensions of time. The Contractor shall evaluate this information and update the latest accepted schedule as often as necessary to finish before the Contract Completion Date.
- (d) Performance Delay: If any elements of the Work are behind schedule, regardless of whether they may prevent the Work from being completed on time, the Contractor must indicate in writing in his progress report what measures he is taking and plans to take to bring each such element back on schedule and to ensure that the Contract Completion Date is not exceeded. Should any of the following conditions exist, the County may require the Contractor to prepare, at no extra cost to the County, a plan of action and a recovery schedule for completing the Work by the Contract Completion Date:
 - i. The Contractor's progress report(s) indicates delays that are, in the opinion of the

County, of sufficient magnitude that the Contractor's ability to complete the Work on time is brought into question;

- ii. The Contractor's progress report(s) indicates delays that are, in the opinion of the County, of sufficient magnitude to put the Contractor thirty (30) or more days behind at any time during construction.
- iii. The Contractor desires to make changes in the sequencing of Work or the planned duration of future activities which, in the opinion of the County, are of a major nature.

The plan of action, when required, shall explain and display how the Contractor intends to regain compliance with the accepted Contract Completion Date, as updated by approved Change Orders. It shall be submitted to the County for review within five (5) business days of the Contractor receiving the County's written demand.

2.2 SPECIAL TERMS AND CONDITIONS

In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

1. Prior to the start of any construction activities the Contractor shall attend a pre-construction meeting with representatives of Augusta County and other appropriate parties for the purposes of scheduling the work and coordination.
2. The Contractor shall attend bi-weekly progress meetings at the offices of the Owner or other designated location for purpose of reporting progress, problems or otherwise expediting the work. Subcontractors shall also attend this meeting when required to resolve specific issues or problems.
3. Item #3 OMITTED.
4. Construction staking shall be done only by a professional engineer or land surveyor registered in the Commonwealth of Virginia. The engineer/surveyor employed by the Contractor shall be responsible for preparation of a detailed staking plan and having that plan reviewed and approved prior to start of work by the Engineer. In accordance with Section 23 of the General Conditions, contractor will maintain a redline set of plans for use in developing a set of as-built drawings. In addition, locations and elevations sufficient to establish proper construction in accordance with the plans will be certified and sealed by contractor's professional engineer or land surveyor on the red-line, or separate as-built drawings.
5. A Land Disturbance Permit shall be required for this project and will be obtained by the Contractor. All work shall be performed in accordance with the latest edition of the Virginia Erosion and Sediment Control Manual.
6. A Storm Water Pollution Prevention Plan (SWPPP) is provided by the Owner and the Owner will obtain General Permit coverage. The Contractor will transfer the existing registration to their name before the construction start date, shall maintain a copy of the SWPPP onsite at all times and shall adhere to all provisions and requirements of the SWPPP. If the County does not elect to transfer the Contractor's registration to itself or another Contractor, Contractor will submit Notice of Termination when the project is complete and accepted by the County.
7. The Contractor shall be required to provide adequate and positive site drainage throughout construction. Any subgrade soils which have been weakened due to inadequate drainage, saturation and or disturbance by construction shall be undercut and replaced with compacted

structural fill at no additional cost to the Owner.

8. Item #8 OMITTED.
9. The Contractor shall be responsible for the disposal of all excess materials (including but not limited to undercut, root mat, topsoil and or fill material), obtaining borrow material and the suitability of all on-site material above subgrade. No extra payment will be made for disposal or importing of soils to the project site regardless of the suitability or unsuitability of on-site soils.
10. Whenever the Contractor's operations affect vehicular or pedestrian traffic, the Contractor shall be responsible for furnishing, installing and maintaining any and all safety control devices in accordance with the VDOT Work Area Protection Manual and as deemed necessary by VDOT and the Engineer.
11. Oversight inspections for all water line related work on this project will be conducted by the Augusta County Service Authority (ACSA). The contractor shall be responsible for all required line, structure and compaction testing as outlined in the Special Provision – Construction Quality Control Plan. All water line related work is to be done in accordance with the latest edition of the ACSA Design and Construction Standards and approved products list (See ACSA for approved product list).
12. Hydrants shall be traffic type with safety flange protection conforming to ANSI/AWWA C 502 and shall have not less than 6 inch diameter barrel, 4-1/2 inch minimum hydrant valve and a measured loss of not more than 2.5 psi through the hydrant at 600 gpm. Hydrant shall have a 6 inch mechanical joint connection to the water main, two 2-1/2 inch hose outlets and one 4-1/2 inch pumper outlet and be so designed that if broken off, the hydrant valve will remain closed. Minimum bury depth shall be 3-1/2 feet or to accommodate depth of water main. Direction of opening shall be left (counterclockwise) with 1-1/2 inch pentagon shape operating nut, and nozzle threading shall be National Standard. Hydrants shall be per the ACSA Approved Products List. Hydrants to be accepted into the Authority's water system shall be painted in accordance with the Approved Products List. The contractor shall provide certification of compliance for domestic materials along with product submittals for the hydrant(s) in accordance with Special Provision – USE OF DOMESTIC MATERIALS.
13. The Contractor is reminded that bids shall be **LUMP SUM** and shall include **ALL WORK** necessary to complete the project to the full intent of the plans. In the event of additions or deductions to the work required by the Contract Documents, the Contractor will be paid extra or shall credit the Owner, as the case may be, on the basis of the unit prices quoted on the Bid Schedule. References to "pay items" shown on the plans or specifications are not relevant for this contract.

2.3 Bid Form

To: County of Augusta

For the Construction of: Scholastic Way Enhancement Project – Phase 4

The undersigned Bidder has carefully examined the site of work, the Plans, the Conditions, the Specifications, the Bid Form, and all other documents included in the Invitation for Bid for the construction of the above named project, and in compliance with this Invitation for Bid Document will provide all the necessary materials and equipment and to perform all labor and services necessary or proper for the completion of the work in accordance with the requirements of the County and the Contract Documents, and will complete the Contract within ninety (90) contract days after the date of commencement indicated on the Notice to Proceed. The Contractor should be advised that Contract days are Monday through Saturday. This excludes Sundays and any holidays listed in the Invitation for Bid 2.1 Construction Contract General Conditions.

The undersigned Bidder further understands that all supplies and materials covered by this Bid shall be new and of the best quality and the highest grade workmanship. The Bidder certifies by the submission of this Bid that there has been no violation of copyrights or patent rights in manufacturing, producing, or selling the product or services shipped or ordered as a result of this Bid. The successful Bidder shall, at his own expense, defend any and all actions or suits charging such infringements, and will save the County of Augusta, its officers, employees, and agents harmless from any and all liability, loss, or expense occasioned by any such violation.

The Bidder acknowledges receipt of the following Addenda: _____.

Accompanying this Bid is a Bid Bond/certified check in the amount of _____ payable to the Treasurer, County of Augusta, Virginia, which is to be forfeited to the extent necessary to make up the difference between the Bid and the second low bid, or if the undersigned shall fail to execute the Agreement and furnish satisfactory Performance and Labor and Material Payment Bonds under the conditions and within the time specified. If the Bid Bond or guarantee is not sufficient to make up the difference between the Bid and the second low bid and the administrative costs spent in reviewing with the successful Bidder, together with any consequential damages, the undersigned Bidder agrees to pay the County any losses in excess of the bond or guarantee.

The undersigned Bidder agrees to begin the work not later than ten (10) days after the date specified in the Notice to Proceed and to prosecute the work in such manner as to complete it within the time limit as set forth above. In the event the said work is not completed within the time limit above stated, Bidder shall be liable and hereby agrees to pay the County as liquidated damages and not as a penalty the sum of **\$350.00** per calendar day for each and every day that the said work remains incomplete after the expiration of the Final completion date.

Award of this bid shall be made to the lowest responsive and responsible Bidder based upon the total lump sum of the Base Bid. The County reserves the right to declare whether the Base Bid is selected.

Complete Legal Name of Firm: _____

Check One: _____ **Individual** _____ **Partnership** _____ **Corporation** _____ **LLC** _____ **Joint Venture**

Mailing Address: _____

Remit To Address: _____

Signature: _____

Name (type/print): _____

Title: _____

Fed ID No.: _____

Phone: (_____) _____

Fax: (_____) _____

SCC Registration Number: _____

2.4 Bid Schedule

BID SCHEDULE						
SCHOLASTIC WAY ENHANCEMENT PROJECT - PHASE 4						UPC #107462
ITEM #	SPEC #	DESCRIPTION	UNIT	EST. QUANTITY	UNIT PRICE (\$)	AMOUNT (\$)
100	513	MOBILIZATION	LS	1		
101	517	CONSTRUCTION SURVEYING (CONSTR.)	LS	1		
110	301	CLEARING AND GRUBBING	LS	1		
120	303	REGULAR EXCAVATION	CY	181		
140	303,305	BORROW EXCAVATION	CY	330		
587	501	UNDERDRAIN UD-3	LF	1048		
595	501	OUTLET PIPE	LF	13		
596	302	ENDWALL EW-12	EA	1		
10103	308,309	AGGR. MATL. NO. 25 OR 26	TON	15		
10128	308,309	AGGR. BASE MATL. TY. I NO. 21B	TON	630		
10628	515	FLEXIBLE PAVE.PLANING 0"-2"	SY	55		
10635	315	ASPHALT CONCRETE TY. SM-9.5A	TON	12		
11040	316	CONCRETE ENTRANCE PAVE. 7"	SY	70		
13108	ATTD	CG-12 DETECTABLE WARNING SURFACE	SY	2.4		
13212	503	R/W MONUMENT RM-2	EA	9		
13220	504	HYDR. CEMENT CONC. SIDEWALK 4"	SY	676		
22501	507	FENCE FE-W1	LF	538		
24160	512	TEMPORARY (CONSTRUCTION) SIGN	SF	144		

ITEM #	SPEC #	DESCRIPTION	UNIT	EST. QUANTITY	UNIT PRICE (\$)	AMOUNT (\$)
24278	512	GROUP 2 CHANNELIZING DEVICES	DAY	3000		
24282	512	FLAGGER SERVICE	HR	50		
27023	602	TOPSOIL CLASS B	CY	157		
27101	603	TEMPORARY SEED	LB	38		
27102	603	REGULAR SEED	LB	105		
27104	603	LEGUME SEED	LB	3		
27110	603	HYDRAULIC EROSION CONTROL PRODUCT TYPE 1	SY	1694		
27111	603	HYDRAULIC EROSION CONTROL PRODUCT TYPE 2	SY	605		
27112	603	HYDRAULIC EROSION CONTROL PRODUCT TYPE 3	SY	1839		
27230	603	FERTILIZER (NITROGEN-N)	LB	36		
27231	603	FERTILIZER (PHOSPHOROUS-P)	LB	50		
27232	603	FERTILIZER (POTASSIUM-K)	LB	25		
27250	603	LIME	TON	1.71		
27410	303	CHECK DAM, ROCK TY. I	EA	5		
27415	303	CHECK DAM(ROCK) TY. II	EA	5		
27430	303	SILTATION CONTROL EXCAVATION	CY	238		
27505	303	TEMP. SILT FENCE TYPE A	LF	1246		
41977	510	ADJUST EXIST. WATER METER BOX	EA	5		
50610	ATTD	RELOC.EXIST.SIGN STRUCT.TY. I	EA	2		

Base Bid Total: \$ _____

Base Bid Total: In Words: _____

2.5 Technical Specifications

90001 Accessories

This work shall consist of the removal/disposal of existing fence and the associated site preparation.

Measurement and Payment: No measurement for the removal/disposal of existing fence will be made, and the cost of all necessary work and materials shall be included in the Linear Feet price for "Fence FE-W1" bid item.

SECTION 3

FEDERAL & STATE REQUIREMENTS

INDEX

<u>Description</u>		<u>Page</u>
C-48**	Subcontractor Solicitation and Utilization	50
C-49**	DBE Good Faith Efforts	51
C-104*	Bidders Statement (Affidavit)	61
C-105*	Bidders Certification (Affidavit)	62
C-111**	Minimum DBE Requirements	64
C-112**	Certification of Binding Agreement	65
C-25	VDOT Source of Materials Documentation	67
cn100-000026-02	General Project Requirements, SSs, SPs, SPCNs	69
cn100-000051-00	VDOT Supplemental SSs, SPs, SPCNs	70
cn102-050100-00	Section 102.05 Preparation of Bid	72
cn105-010100-00	Section 105.01 – NTP	73
cn107-130100-00	Section 107.13(b) Labor Rate Forms	74
cn315-000100-00	Section 315.05(c) Placing & Finishing	75
SP0F0-000100-00	Predetermined Minimum Wage Rates	76
SP0F0-000130-00	Required Contract Provisions	88
SP0F0-000150-01	EEO (Executive Order 11246)	109
SECTION 105.06	Subcontracting	115
SP107-150100-01	DBE Requirements	116
SP109-000100-02	Asphalt Material Price Adjustment	135
SP102-010100-00	Non-Discrimination	139
SP102-050100-01	Use of Domestic Material	140
SP108-000100-00	Progress Schedule for Category I Projects	142
SS105-002016-03	Section 105 – Control of Work	146
SS303-002016-03	Section 303 – Earthwork	148
SS512-002016-02	Section 512 – Maintaining Traffic	151

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

--DO NOT DETACH--

**THIS INFORMATION MUST BE SUBMITTED
WITHIN 2 DAYS AFTER BID OPENING IF YOUR
BID DOES NOT MEET THE PROJECT DBE
REQUIREMENTS, OR
WHEN REQUESTED BY VDOT**

CONTRACT I.D. NUMBER _____

PROJECT NUMBER _____

FHWA NUMBER _____

DISTRICT _____

DATE BID SUBMITTED _____

BIDDER'S NAME _____

SIGNATURE _____

TITLE _____

VENDOR NUMBER _____

DBE GOAL FROM BID PROPOSAL _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER _____ SIGNATURE _____

TITLE _____

NAMES OF CERTIFIED DBEs AND THE DATES ON WHICH THEY WERE SOLICITED TO BID ON THIS PROJECT

INCLUDE THE ITEMS OF WORK OFFERED AND THE DATES AND METHODS USED FOR FOLLOWING UP INITIAL SOLICITATIONS TO DETERMINE WHETHER OR NOT DBEs WERE INTERESTED.

NAMES AND VENDOR NUMBERS OF DBEs SOLICITED	DATE OF INITIAL SOLICITATION	ITEM(S) OF WORK	FOLLOW-UP METHODS AND DATES

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

ATTACH COPIES OF SOLICITATIONS, TELEPHONE RECORDS, FAX CONFIRMATIONS, ELECTRONIC INFORMATION, ETC.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER _____ SIGNATURE _____

TITLE _____

TELEPHONE LOG

DBE(s) CALLED	TELEPHONE NUMBER	DATE CALLED	TIME CALLED	CONTACT PERSON OR VOICE MAIL STATUS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER _____ SIGNATURE _____

TITLE _____

ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS

IDENTIFY THOSE ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS OR THOSE ITEM(S) THE BIDDER IDENTIFIED AND DETERMINED TO SUBDIVIDE INTO ECONOMICALLY FEASIBLE UNITS TO FACILITATE DBE PARTICIPATION. FOR EACH ITEM LISTED, SHOW THE DOLLAR VALUE AND PERCENTAGE OF THE TOTAL CONTRACT AMOUNT. IT IS THE BIDDER'S RESPONSIBILITY TO DEMONSTRATE THAT SUFFICIENT WORK TO MEET THE GOAL WAS MADE AVAILABLE TO DBE FIRMS.

ITEM(S) OF WORK MADE AVAILABLE	BIDDER NORMALLY PERFORMS ITEM(S) (Y/N)	ITEM(S) BROKEN DOWN TO FACILITATE PARTICIPATION (Y/N)	AMOUNT IN DOLLARS	PERCENTAGE OF CONTRACT

NOTE: INFORMATION REQUIRED FOR THIS SECTION CONTINUED ON SHEET 5
ATTACH ADDITIONAL PAGES IF NECESSARY

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER _____ SIGNATURE _____

TITLE _____

ADDITIONAL INFORMATION REGARDING ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS (Continued From Sheet 4)

ITEM(S) OF WORK MADE AVAILABLE, NAMES OF SELECTED FIRMS AND DBE STATUS, DBEs THAT PROVIDED QUOTES, PRICE QUOTE FOR EACH FIRM, AND THE PRICE DIFFERENCE FOR EACH DBE IF THE SELECTED FIRM IS NOT A DBE.

ITEM(S) OF WORK MADE AVAILABLE(CONT.)	NAME OF SELECTED FIRM AND VENDOR NUMBER	DBE OR NON-DBE	NAME OF REJECTED FIRM(S)	QUOTE IN DOLLARS	PRICE DIFFERENCE IN DOLLARS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.

IF THE FIRM SELECTED FOR THE ITEM IS NOT A DBE, PROVIDE THE REASON(S) FOR THE SELECTION ON A SEPARATE PAGE AND ATTACH.

PROVIDE NAMES, ADDRESSES, AND TELEPHONE NUMBERS FOR THE FIRMS LISTED ABOVE.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER _____ SIGNATURE _____

TITLE _____

ADVERTISEMENTS OR PROOFS OF PUBLICATION.

NAMES AND DATES OF EACH PUBLICATION IN WHICH A REQUEST FOR DBE PARTICIPATION FOR THE PROJECT WAS PLACED BY THE BIDDER. ATTACH COPIES OF PUBLISHED ADVERTISEMENTS OR PROOFS OF PUBLICATION.

PUBLICATIONS	DATES OF ADVERTISEMENT

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER _____ SIGNATURE _____

TITLE _____

NAMES OF AGENCIES CONTACTED TO PROVIDE ASSISTANCE

NAMES OF AGENCIES (SEE SPECIAL PROVISION FOR 107.15) AND THE DATES THESE AGENCIES WERE CONTACTED TO PROVIDE ASSISTANCE IN CONTACTING, RECRUITING, AND USING DBE FIRMS. IF THE AGENCIES WERE CONTACTED IN WRITING, ATTACH COPIES OF SUPPORTING DOCUMENTS.

NAME OF AGENCY	METHOD AND DATE OF CONTACT	RESULTS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER _____ SIGNATURE _____

TITLE _____

TECHNICAL ASSISTANCE AND INFORMATION PROVIDED TO DBEs

EFFORTS MADE TO PROVIDE INTERESTED DBEs WITH ADEQUATE INFORMATION ABOUT THE PLANS, SPECIFICATIONS, AND REQUIREMENTS OF THE BID DOCUMENTS TO ASSIST THE DBEs IN RESPONDING TO A SOLICITATION.

IDENTIFY THE DBEs ASSISTED, THE INFORMATION PROVIDED, AND THE DATE OF CONTACT. ATTACH COPIES OF SUPPORTING DOCUMENTS.

DBEs ASSISTED	INFORMATION PROVIDED	DATE OF CONTACT

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. _____ DATE SUBMITTED _____

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER _____ SIGNATURE _____

TITLE _____

EFFORTS MADE TO ASSIST DBEs OBTAIN BONDING, LINES OF CREDIT, INSURANCE, ETC.

EFFORTS MADE TO PROVIDE INTERESTED DBEs IN OBTAINING BONDING, LINES OF CREDIT, INSURANCE, NECESSARY EQUIPMENT, SUPPLIES, MATERIALS, OR RELATED ASSISTANCE OR SERVICES, EXCLUDING SUPPLIES AND EQUIPMENT THE SUBCONTRACTOR PURCHASES OR LEASES FROM THE PRIME CONTRACTOR OR ITS AFFILIATES.

IDENTIFY THE DBEs ASSISTED, THE ASSISTANCE OFFERED, AND THE DATES OF SERVICES OFFERED AND PROVIDED. ATTACH COPIES OF SUPPORTING DOCUMENTS.

DBEs ASSISTED	ASSISTANCE OFFERED	DATES SERVICES OFFERED AND/OR PROVIDED

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.

ORDER NO.:
CONTRACT ID. NO.:

Form C-104
Rev. 7-13-05

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION

PROJECT:

FHWA:

This form must be completed, signed and returned with bid; and failure to do so may result in the rejection of your bid. **THE CONTRACTOR SHALL AFFIRM THE FOLLOWING STATEMENT EITHER BY SIGNING THE AFFIDAVIT AND HAVING IT NOTARIZED OR BY SIGNING THE UNSWORN DECLARATION UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES.** A SEPARATE FORM MUST BE SUBMITTED BY EACH PRINCIPAL OF A JOINT VENTURE BID.

STATEMENT. In preparation and submission of this bid, I, the firm, corporation or officers, agents or employees thereof did not, either directly or indirectly, enter into any combination or arrangement with any persons, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Article 1.1 or Chapter 12 of Title 18.2 (Virginia Governmental Frauds Act), Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

AFFIDAVIT

The undersigned is duly authorized by the bidder to make the foregoing statement to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at _____, this ____ day of _____, 20 ____
County (City), STATE

(Name of Firm) By: _____ Title (print)
(Signature)

STATE of _____ COUNTY (CITY) of _____

To-wit:

I _____, a Notary Public in and for the State and
County(City) aforesaid, hereby certify that this day _____

personally appeared before me and made oath that he is duly authorized to make the above statements and that such statements are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20 ____
My Commission expires _____

Notary Public

OR
UNSWORN DECLARATION

The undersigned is duly authorized by the bidder to make the foregoing statement to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at _____, this ____ day of _____, 20 ____
County (City), STATE

(Name of Firm) By: _____ Title (print)
(Signature)

ORDER NO.:
CONTRACT ID. NO.:

Form C-105
Rev. 7-13-05

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
AFFIDAVIT

PROJECT: EN08-007-123, P101, R201, C501 UPC #107462

FHWA: TEA 007-8(80)

This form must be completed, signed, notarized and returned with bid; and failure to do so, may result in the rejection of your bid. A separate form must be submitted by each principal of a joint venture bid.

1. I, the firm, corporation or officers, agents or employees thereof have neither directly nor indirectly entered into any combination or arrangement with any person, firm or corporation or entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract, the effect of which is to prevent competition or increase the cost of construction or maintenance of roads or bridges.

During the preceding twelve months, I (we) have been a member of the following Highway Contractor's Associations, as defined in Section 33.1-336 of the Code of Virginia (1970). (If none, so state).

NAME	Location of Principal Office
_____	_____
_____	_____
_____	_____

2. I (we) have _____, have not _____, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that I/We have _____, have not _____, filed with the joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor [41 CFR 60-1.7(b)(1)], and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contract or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contract and subcontract unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

(Continued)

ORDER NO.:
CONTRACT ID. NO.:

Form C-105
page 2

3. The bidder 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 judgement rendered against them for commission of fraud or a criminal offence 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 above; and
 - (d) Where the bidders is unable to certify to any of the statements in this certification, the bidder shall show an explanation below.

Explanations will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any explanation noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in federal criminal prosecution or administration sanctions. The bidder shall provide immediate written notice to the Department if at any time the bidder learns that its certification was erroneous when submitted or has become erroneous by reason of change circumstances.

The undersigned is duly authorized by the bidder to make the foregoing statements to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at _____, this ____ day of _____, 20 ____
County (City), STATE

By: _____
(Name of Firm) (Signature) Title (print)

STATE of _____ COUNTY (CITY) of _____

To-wit:

I _____, a Notary Public in and for the State and
County(City) aforesaid, hereby certify that this day _____

personally appeared before me and made oath that he is duly authorized to make the above statements and that such statements are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20 ____

My Commission expires _____

Notary Public

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
CERTIFICATION OF BINDING AGREEMENT
WITH
DISADVANTAGED BUSINESS ENTERPRISE FIRMS

Project No.: EN08-007-123, P101, R201, C501 UPC #107462

Federal Project No.: TEA 007-8(80)

This form is to be submitted in accordance with the Department's Special Provision for Section 107.15.

It is hereby certified by the below signed Contractors that there exists a written quote, acceptable to the parties involved preliminary to a binding subcontract agreement stating the details concerning the work to be performed and the price which will be paid for the aforementioned work. This document is not intended to, nor should it be construed to, contain the entire text of the agreement between the contracting parties. This document does not take the place of, nor may it be substituted for, an official subcontracting agreement in those situations that may require such an agreement. A copy of the fully executed *subcontract agreement* shall be submitted to the Engineer within fourteen (14) business days after contract execution.

It is further certified that the aforementioned mutually acceptable quote and fully executed subcontract agreement represent the entire agreement between the parties involved and that no conversations, verbal agreements, or other forms of non-written representations shall serve to add to, delete, or modify the terms as stated.

The prime Contractor further represents that the aforementioned mutually acceptable quote and fully executed subcontract agreement shall remain on file for a period of not less than one year following completion of the prime's contract with the Department or for such longer period as provisions of governing Federal or State law or regulations may require. For purposes of this form, the term Prime Contractor shall refer to any Contractor utilizing a DBE subcontractor, regardless of tier, in which they are claiming DBE credit toward the contract goal.

Contractors further jointly and severally represent that said binding agreement is for the performance of a "commercially useful function" as that term is employed in 49 C.F.R. Part 26.55 (c), (d).

**TO BE SIGNED BY THE SUBCONTRACTOR TO THE PRIME CONTRACTOR, AND ANY LOWER TIER
SUBCONTRACTORS HAVING A CONTRACT WITH THE BELOW NAMED DBE FIRM**

Prime Contractor _____

By: _____
Signature Title

Date: _____

First Tier
Subcontractor if
Applicable _____

By: _____
Signature Title

Date: _____

Second Tier
Subcontractor if
Applicable

By: _____
Signature Title

Date: _____

Third Tier
Subcontractor if
Applicable

By: _____
Signature Title

Date: _____

DBE Contractor

By: _____
Signature Title

Date: _____

**VIRGINIA DEPARTMENT OF TRANSPORTATION
SOURCE OF MATERIALS**

SUBMITTAL NO. _____ SUBMITTED _____
 PROJECT NUMBER _____ CONTRACT ID NO. _____
 PROJECT LOCATION _____ DISTRICT _____ COUNTY _____

PRIME CONTRACTOR with ADDRESS	SUBCONTRACTOR with ADDRESS	NAME and PHONE NO. of CONTACT PERSON
_____	_____	_____
_____	_____	_____
_____	_____	_____

LINE ITEM NO.	CONTRACT ITEM NO.	SPEC. NO.	MATERIAL DESCRIPTION	SUPPLIER and COMPLETE ADDRESS (Supplier Location)	MANUFACTURER and COMPLETE ADDRESS (Plant Location)	VDOT USE INSP./TEST BY:

Items listed are for materials quality acceptance and do not ensure compliance with contract requirements such as BUY AMERICA Provisions. To ensure compliance please consult the VDOT Special Provision for Domestic Materials.

GENERAL PROJECT REQUIREMENTS, SUPPLEMENTAL SPECIFICATIONS (SSs), SPECIAL PROVISIONS (SPs) AND SPECIAL PROVISION COPIED NOTES (SPCNs)

This project shall be constructed according to: the plans; the *Virginia Department of Transportation Road and Bridge Specifications*, dated 2016 and the Supplement thereto, dated 2018; the *Virginia Department of Transportation Road and Bridge Standards*, dated 2016; the 2011 edition of the *Virginia Work Area Protection Manual with Revision Number 1* incorporated, dated April 1, 2015; the 2009 edition of the *MUTCD with Revision Numbers 1 and 2* incorporated, dated May 2012; and the 2011 edition of the *Virginia Supplement to the MUTCD with Revision Number 1* dated September 30, 2013; and the Supplemental Specifications, Special Provisions and Special Provision Copied Notes in this contract. The status in the Contract of each of these documents will be according to Section 105.12 of the Specifications.

Special Provision Copied Notes in this contract are designated with “(SPCN)” after the date.

The information at the top and left of each Special Provision Copied Note in this contract is file reference information for Department use only. The information in the upper left corner above the title of each Supplemental Specification and Special Provision in this contract is file reference information for Department use only.

The Department has identified the system of measurement to be used on this particular project as imperial. Any imperial unit of measure in this contract with an accompanying expression in a metric unit will be referred to hereinafter as a “dual unit” measurement. Such a “dual unit” measurement is typically expressed first in the imperial unit followed immediately to the right by the metric unit in parenthesis “()” or brackets “[]” where parenthesis is used in the sentence to convey other information. Where a “dual unit” of measure appears in this project, only the imperial unit will apply. The accompanying metric unit shown is not to be considered interchangeable and mathematically convertible to the imperial unit and shall not be used as an alternate or conflicting measurement.

1-25-18_(SPCN)

VDOT SUPPLEMENTAL SPECIFICATIONS (SSs), SPECIAL PROVISIONS (SPs) AND SPECIAL PROVISION COPIED NOTES (SPCNs)

Where Virginia Department of Transportation (VDOT) Supplemental Specifications, Special Provisions and Special Provision Copied Notes are used in this contract, the references therein to “the Specifications” shall refer to the *Virginia Department of Transportation Road and Bridge Specifications*, dated 2016 for both imperial and metric unit projects. References to the “Road and Bridge Standard(s)” shall refer to the *Virginia Department of Transportation Road and Bridge Standards*, dated 2016 for both imperial and metric unit projects. References to the “Virginia Work Area Protection Manual” shall refer to the 2011 edition of the *Virginia Work Area Protection Manual with Revision Number 1* incorporated, dated April 1, 2015 for imperial and metric unit projects. References to the “MUTCD” shall refer to the 2009 edition of the *MUTCD with Revision Numbers 1 and 2* incorporated, dated May 2012; and the 2011 edition of the *Virginia Supplement to the MUTCD with Revision Number 1* dated September 30, 2013 for imperial and metric unit projects.

Where the terms “Department”, “Engineer”, “Contract Engineer”, “Construction Engineer”, Materials “Engineer”, and “Operations Engineer” appear in VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes used in this contract and the VDOT publication(s) that each references, the authority identified shall be according to the definitions in Section 101.02 of the *Virginia Department of Transportation Road and Bridge Specifications*, dated 2016. Authority identified otherwise for this particular project will be stated elsewhere in this contract.

VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes used in this contract and the VDOT publication(s) that each reference are intended to be complementary to the each other. In case of a discrepancy, the order of priority stated in Section 105.12 of the *Virginia Department of Transportation Road and Bridge Specifications*, dated 2016 shall apply.

VDOT Special Provision Copied Notes in this contract are designated with “(SPCN)” after the date of each document. VDOT Supplemental Specifications and Special Provision Copied Notes in this contract are designated as such above the title of each document.

The information at the top and left of each VDOT Special Provision Copied Note in this contract is file reference information for VDOT use only. The information in the upper left corner above the title of each VDOT Supplemental Specification and VDOT Special Provision in this contract is file reference information for VDOT use only.

The system of measurement to be used in this project is stated elsewhere in this contract. VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes containing imperial units of measure with accompanying expressions in metric units shall be referred to hereinafter as “dual unit measurement” documents. Such a “dual unit measurement” is typically expressed first in the imperial unit followed immediately to the right by the metric unit in parenthesis “()” or brackets “[]” where parenthesis is

used in the sentence to convey other information. Where a “dual unit measurement” appears in VDOT documents, the unit that applies shall be according to the system of measurement as stated elsewhere in this contract. The unit shown that is not of the declared unit of measurement is not to be considered interchangeable and mathematically convertible to the declared unit and shall not be used as an alternate or conflicting measurement. Where VDOT Specifications are used for metric unit projects and only imperial units of measurement appear the document, the provision(s) in this contract for imperial unit to metric unit conversion shall apply.

10-6-16_(SPCN)

[cn102-050100-00](#)

SECTION 102.05—PREPARATION OF BID of the Specifications is amended to include the following:

(g) Compliance with the Cargo Preference Act

As required by [46 CFR 381.7 \(a\)-\(b\)](#) "Use of United States-flag vessels, when materials or equipment are acquired for a specific highway project, the Contractor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

This requirement will not be applicable when materials or equipment used on the Project are obtained from the existing inventories of suppliers and contractors; they are only applicable when the materials or equipment are acquired for the specific project, and have been transported by ocean vessel.

12-14-15; Reissued 7-12-16 (SPCN)

[cn105-010100-00](#)

SECTION 105.01—NOTICE TO PROCEED — The
Notice to Proceed date for this contract will be as determined by the County.

7-12-16 (SPCN)

[cn107-130100-00](#)

SECTION 107.13(b) LABOR RATE FORMS of the Specifications is replaced with the following:

- (b) **Labor Rate Forms:** The Contractor is advised that labor rate forms will not apply to this contract.

7-12-16 (SPCN)

[cn315-000100-00](#)

SECTION 315.05(c) PLACING AND FINISHING is modified by replacing the third paragraph with the following:

The longitudinal joint in one layer shall offset that in the layer immediately below by approximately 6 inches or more. The joint in the wearing surface shall be offset 6 inches to 12 inches from the centerline of the pavement if the roadway comprises two traffic lanes. The joint shall be offset approximately 6 inches from the lane lines if the roadway is more than two lanes in width. The longitudinal joint shall be uniform in appearance. On all roads except secondary routes, if the offset for the longitudinal joint varies from a straight line more than 2 inches in 50 feet on tangent alignment, or from a true arc more than 2 inches in 50 feet on curved alignment, the Contractor shall seal the joint using a water-proof sealer at no cost to the Department. The Contractor shall recommend a sealant and installation procedure to the Engineer for approval before proceeding. On all roads except secondary routes, if the offset for the longitudinal joint varies from a straight line more than 3 inches in 50 feet on tangent alignment, or from a true arc more than 3 inches in 50 feet on curved alignment, the Engineer may reject the paving. The Engineer will not require offsetting layers when adjoining lanes are paved in echelon and the rolling of both lanes occurs within 15 minutes after laydown.

1-18-17 (SPCN)

[SP0F0-000100-00](#)

Reissued July 12, 2016

PREDETERMINED MINIMUM WAGE RATES

General Decision Number: VA180104 09/28/2018 VA104

State: Virginia

Construction Type: Highway

Counties: Augusta, Staunton* and Waynesboro* Counties in Virginia.

*including the independent cities of Staunton and Waynesboro

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.35 for calendar year 2018 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.35 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for

all hours spent performing on the contract in calendar year 2018. The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	09/28/2018

ELEC0080-011 06/01/2018

	Rates	Fringes
ELECTRICIAN, Includes Traffic Signalization.....	\$ 27.94	12.56%+6.95

SUVA2016-040 07/02/2018

Rates	Fringes
-------	---------

CARPENTER, Includes Form Work.....	\$ 17.65	0.00
CEMENT MASON/CONCRETE FINISHER....	\$ 19.76	0.00
IRONWORKER, REINFORCING.....	\$ 22.71	0.00
IRONWORKER, STRUCTURAL.....	\$ 27.38	0.00
LABORER: Asphalt, Includes Raker, Shoveler, Spreader and Distributor.....	\$ 15.40	0.00
LABORER: Common or General.....	\$ 14.19	0.00
LABORER: Grade Checker.....	\$ 15.07	0.00
LABORER: Pipelayer.....	\$ 15.11	0.00
LABORER: Power Tool Operator....	\$ 15.69	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 20.53	0.00
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 19.16	4.45

OPERATOR: Broom/Sweeper.....	\$ 14.32	0.25
OPERATOR: Crane.....	\$ 25.82	0.00
OPERATOR: Drill.....	\$ 24.66	0.00
OPERATOR: Gradall.....	\$ 18.65	0.00
OPERATOR: Grader/Blade.....	\$ 26.13	0.00
OPERATOR: Hydroseeder.....	\$ 16.64	0.00
OPERATOR: Loader.....	\$ 18.39	0.00
OPERATOR: Mechanic.....	\$ 20.60	0.00
OPERATOR: Milling Machine.....	\$ 23.12	3.60
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 16.92	0.00
OPERATOR: Piledriver.....	\$ 21.83	4.08
OPERATOR: Roller.....	\$ 15.85	0.00

OPERATOR: Screed.....	\$ 22.13	4.89
OPERATOR: Asphalt Spreader and Distributor.....	\$ 16.40	0.00
OPERATOR: Bulldozer, Including Utility.....	\$ 17.99	0.00
TRAFFIC CONTROL: Flagger.....	\$ 13.13	1.94
TRUCK DRIVER : HEAVY 7CY & UNDER.....	\$ 15.36	0.00
TRUCK DRIVER: 1/Single Axle Truck.....	\$ 16.59	0.00
TRUCK DRIVER: Fuel and Lubricant Service.....	\$ 18.25	0.00
TRUCK DRIVER: HEAVY OVER 7 CY.....	\$ 16.60	0.00
TRUCK DRIVER: MULTI AXLE.....	\$ 18.74	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year.

Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within

the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this

classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007

in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.



END OF GENERAL DECISION

U.S. DEPARTMENT OF LABOR
OFFICE OF THE SECRETARY
WASHINGTON
DECISION OF THE SECRETARY

This case is before the Department of Labor pursuant to a request for a wage predetermination as required by law applicable to the work described.

A study has been made of wage conditions in the locality and based on information available to the Department of Labor the wage rates and fringe payments listed are hereby determined by the Secretary of Labor as prevailing for the described classes for labor in accordance with applicable law.

This wage determination decision and any modifications thereof during the period prior to the stated expiration date shall be made a part of every contract for performance of the described work as provided by applicable law and regulations of the Secretary of Labor, and the wage rates and fringe payments contained in this decision, including modifications, shall be the minimums to be paid under any such contract and subcontractors on the work.

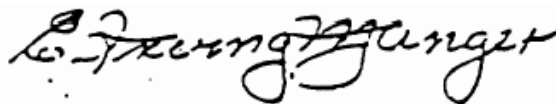
The Contracting Officer shall require that any class of laborers and mechanics which is not listed in the wage determination and which is to be employed under the Contract, shall be classified or reclassified conformably to the wage determination, and a report of the action taken shall be sent by the Federal agency to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of the Contracting Officer shall be referred to the Secretary for determination.

Before using apprentices on the job the contractor shall present to the Contracting Officer written evidence of registration of such employees in a program of a State apprenticeship and training agency approved and recognized by the U.S. Bureau of Apprenticeship and Training. In the absence of such a State agency, the Contractor shall submit evidence of approval and registration by the U.S. Bureau of Apprenticeship and Training.

The Contractor shall submit to the Contracting Officer written evidence of the established apprentice-journeyman ratios and wage in the project area, which will be the basis for establishing such ratios and rates for the project under the applicable contract provisions.

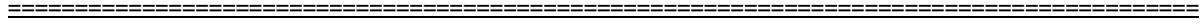
Fringe payments include medical and hospital care, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance, disability and sickness insurance, accident insurance (all designated as health and welfare), pensions, vacation and holiday pay, apprenticeship or other similar programs and other bona fide fringe benefits.

By direction of the Secretary of Labor



E. Irving Manger, Associate Administrator
Division of Wage Determinations
Wage and Labor Standards Administration

The following Form **FHWA-1273** titled **REQUIRED CONTRACT PROVISIONS, FEDERAL-AID CONSTRUCTION CONTRACTS** shall apply to this contract:



FHWA-1273 – Revised May 1, 2012

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

- A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

- 1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The Contractor (or Subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The

design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the Contract by the Contractor's own organization and with the assistance of workers under the Contractor's immediate superintendence and to all work performed on the Contract by piecework, station work, or by subcontract.
3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the Contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.
4. Selection of Labor: During the performance of this contract, the Contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the Contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth

under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the Contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the Contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the Contract.
- b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the Contracting Officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.
3. **Dissemination of Policy:** All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
 - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the Contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
 - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the Contractor's EEO obligations within thirty days following their reporting for duty with the Contractor.
 - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the Contractor's procedures for locating and hiring minorities and women.
 - d. Notices and posters setting forth the Contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

- e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the Contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the Contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the Contractor for employment consideration.

In the event the Contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the Contractor is expected to observe the provisions of that agreement to the extent that the system meets the Contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the Contractor to do the same, such implementation violates Federal nondiscrimination provisions.

The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the Contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
 - b. Consistent with the Contractor's work force requirements and as permissible under Federal and State regulations, the Contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).
 - c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
 - d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.
- 7. Unions:** If the Contractor relies in whole or in part upon unions as a source of employees, the Contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the Contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:
- a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
 - b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
 - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Contractor, the Contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.
 - d. In the event the union is unable to provide the Contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the Contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the Contractor from the requirements of this paragraph. In the event the union referral practice prevents the Contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

- 8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.
- 9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.
- a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.
 - b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.
- 10. Assurance Required by 49 CFR 26.13(b):**
- a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.
 - b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.
- 11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the Contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.
- a. The records kept by the Contractor shall document the following:
 - (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
 - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;
 - b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This

information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the Contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the Contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. Davis-Bacon and Related Act Provisions

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

- a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are

deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (I) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (II) The classification is utilized in the area by the construction industry; and
 - (III) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (3) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

- (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- c. Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- d. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency 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 the Contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the Contract, the contracting agency may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

- a. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship

programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.
- (2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:
 - (I) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
 - (II) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - (III) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.
- (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the Contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
10. **Certification of eligibility.**
 - a. By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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 FHWA or the contacting agency 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.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the Contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the Contractor's own organization (23 CFR 635.116).
 - a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:
 - (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
 - (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
 - (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.
 - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the Contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the Contractor under the contract provisions.
 3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the Contracting Officer determines is necessary to assure the performance of the Contract.
 4. No portion of the Contract shall be sublet, assigned or otherwise disposed of except with the written consent of the Contracting Officer, or authorized representative, and such consent when given shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the Contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
 5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the Contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the Contracting Officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the Contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the Contractor enters into pursuant to this contract, that the Contractor and any subcontractor shall not permit any employee, in performance of the Contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to

his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the Contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier 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 first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor).

“Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- f. The prospective first tier 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.
- g. The prospective first tier 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 Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) 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.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

- (2) 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;
 - (3) 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 (a)(2) of this certification; and
 - (4) 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.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. 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.
- c. 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 by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- e. The prospective lower tier 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 with which this transaction originated.
- f. 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 exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- h. 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 participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e 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 Participants:

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 participating in covered transactions 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.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. 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 Federal 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.
 - b. 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 Federal 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.
2. 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. 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.
3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE
EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals for female and minority participation, expressed in percentage terms of the Contractor's aggregate work force in each trade on all construction works in the covered area, are as follows:

Females- 6.9%
Minorities - See Attachment "A"

The goals are applicable to all the Contractor's construction work performed in the covered area, whether or not it is Federal or federally assisted. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications, set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established herein. The hours of minority and female employment and training must be substantially uniform throughout the length of the Contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the Contract, the Executives Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days the award of any construction subcontract in excess of \$10,000 at any tier for construction works under this contract. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the Contract is to be performed.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)**

1. As, used in this provision:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941;

- d. "Minority" includes:
- (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation.
 3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors and Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
 4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the coverer area. Covered construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
 5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
 6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.
 7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to

achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, shall assign two or more women to each construction project. The Contractor shall specifically ensure that all foreman, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off the street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or women sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper or annual report; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents and General Foremen prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including in any news media advertisement that the Contractor is "An Equal Opportunity Employer" for minority and female, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Directs its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one

month prior to the date for the acceptance of applications for apprenticeship or other training by recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of Contractor's workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities through appropriate training or other means.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are nonsegregated, except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. Goals for women have been established. However, the Contractor IS required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner, that is even though the Contractor has achieved its goals for women, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director will proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate and make known to the Department a responsible official as the EEO Officer to monitor all employment related activity, to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors will not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

ATTACHMENT A

<u>Economic Area</u>	<u>Goal (Percent)</u>
Virginia:	
021 Roanoke-Lynchburg, VA	
SMSA Counties:	
4640 Lynchburg, VA	19.3
VA Amherst; VA Appomattox; VA Campbell; VA Lynchburg	
6800 Roanoke, VA	10.2
VA Botetourt; VA Craig; VA Roanoke; VA Roanoke City; VA Salem	
Non-SMSA Counties	12.0
VA Alleghany; VA Augusta; VA Bath; VA Bedford; VA Bland; VA Carroll;	
VA Floyd; VA Franklin; VA Giles; VA Grayson; VA Henry; VA Highland;	
VA Montgomery; VA Nelson; VA Patrick; VA Pittsylvania; VA Pulaski;	
VA Rockbridge; VA Rockingham; VA Wythe; VA Bedford City; VA Buena	
Vista:	
VA Clifton Forge; VA Covington; VA Danville; VA Galax; VA Harrisonburg;	
VA Lexington; VA Martinsville; VA Radford; VA Staunton; VA Waynesboro;	
WV Pendleton.	
022 Richmond, VA	
SMSA Counties:	
6140 Petersburg - Colonial Heights - Hopewell, VA	30.6
VA Dinwiddie; VA Prince George; VA Colonial Heights; VA Hopewell;	
VA Petersburg.	

6760 Richmond, VA	24.9
VA Charles City; VA Chesterfield; VA Goochland, VA Hanover; VA Henrico; VA New Kent; VA Powhatan; VA Richmond.	
Non-SMSA Counties	27.9
VA Albemarle; VA Amelia; VA Brunswick; VA Buckingham, VA Caroline; VA Charlotte; VA Cumberland; VA Essex; VA Fluvanna; VA Greene; VA Greensville; VA Halifax; VA King and Queen; VA King William; VA Lancaster; VA Louisa; VA Lunenburg; VA Madison; VA Mecklenburg; VA Northumberland; VA Nottoway; VA Orange; VA Prince Edward; VA Richmond VA Sussex; VA Charlottesville; VA Emporia; VA South Boston	
023 Norfolk - Virginia Beach - Newport News VA:	
SMSA Counties:	
5680 Newport News- Hampton, VA	27.1
VA Gloucester; VA James City; VA York; VA Hampton; VA Newport News; VA Williamsburg.	
5720 Norfolk - Virginia Beach - Portsmouth, VA - NC	26.6
NC Currituck; VA Chesapeake; VA Norfolk; VA Portsmouth; VA Suffolk; VA Virginia Beach.	
Non-SMSA Counties	29.7
NC Bertie; NC Camden; NC Chowan; NC Gates; NC Hertford; NC Pasquotank; NC Perquimans; VA Isle of Wight; VA Matthews; VA Middlesex; VA Southampton; VA Surry; VA Franklin.	
Washington, DC:	
020 Washington, DC.	
SMSA Counties:	
8840 Washington, DC - MD - VA	28.0
DC District of Columbia; MD Charles; MD Montgomery MD Prince Georges; VA Arlington; VA Fairfax; VA Loudoun; VA Prince William VA Alexandria; VA Fairfax City; VA Falls Church.	
Non- SMSA Counties	25.2
MD Calvert; MD Frederick; MD St. Marys; MD Washington; VA Clarke; VA Culpeper; VA Fauquier; VA Frederick; VA King George; VA Page; VA Rappahannock; VA Shenandoah; VA Spotsylvania; VA Stafford; VA Warren; VA Westmoreland; VA Fredericksburg; VA Winchester WV Berkeley; WV Grant; WV Hampshire; WV Hardy; WV Jefferson; WV Morgan.	
Tennessee:	
052 Johnson City - Kingsport - Bristol, TN - VA	
SMSA Counties:	
3630 Johnson City - Kingsport -Bristol, TN-VA	2.6
TN Carter; TN Hawkins; TN Sullivan; TN Washington; VA Scott; VA Washington; VA Bristol.	
Non-SMSA Counties	3.2
TN Greene; TN Johnson; VA Buchanan; VA Dickenson; VA Lee; VA Russell; VA Smyth; VA Tazewell; VA Wise; VA Norton; WV McDowell; WV Mercer.	
Maryland:	
019 Baltimore MD	
Non-SMSA Counties	
MD Caroline; MD Dorchester; MD Kent; MD Queen Annes; MD Somerset; MD Talbot; MD Wicomico; MD Worchester; VA Accomack; VA Northampton.	

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
SECTION 105.06—SUBCONTRACTING
(FEDERAL FUNDED PROJECTS)

February 9, 2017

SECTION 105.06—Subcontracting of the Specifications is amended to include the following:

- (d) According to Commonwealth of Virginia Executive Order 20, the Contractor is encouraged to seek out and consider Small, Women-owned, and Minority-owned (SWaM) businesses certified by the Department of Small Business and Supplier Diversity (DSBSD) as potential subcontractors and vendors. Further, the Contractor shall furnish and require each subcontractor (first-tier) to furnish information relative to subcontractor and vendor involvement on the project.

For purposes of this provision, the term “vendor” is defined as any consultant, manufacturer, supplier or hauler performing work or furnishing material, supplies or services for the contract. The Contractor and, or subcontractor (first-tier) must insert this provision in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). The applicable requirements of this provision are incorporated by reference for work done by vendors under any purchase order, rental agreement or agreement for other services for the contract. The Contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or vendor.

The submission of a bid will be considered conclusive evidence that the Contractor agrees to assume these contractual obligations and to bind subcontractors contractually to the same at the Contractor’s expense.

When an approved Form C-31 “Subletting Request” is required according to IIM-CD-2013-06.01, the Contractor shall indicate on the Subletting Request if a subcontractor is a certified DBE or SWaM business.

The Contractor shall report all DBE, SWaM, and Non SWaM vendor payments quarterly to the District Civil Rights Office. The Contractor shall provide the information in a format consistent with Form C-63, Vendor Payment Compliance Report, subject to the approval of the Engineer.

DBE Participation and reporting shall be in accordance with the Special Provision for Section 107.15 (Use of Disadvantaged Business Enterprises).

If the Contractor fails to provide the required information, the Department may delay final payment according to Specification Section 109.10 of the Specifications.

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
DBE REQUIREMENTS

SECTION 107 – LEGAL RESPONSIBILITIES of the Specifications is revised as follows:

Section 107.15 – Use of Small, Women-Owned, and Minority-Owned Businesses is renamed **Use of Disadvantaged Business Enterprises (DBEs)** and replaced with the following:

(a) **Disadvantaged Business Enterprise (DBE) Program Requirements**

Any Contractor, subcontractor, supplier, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the United States Department of Transportation (USDOT) DBE Program as the terms appear in Part 26 of the Code of Federal Regulations (49 CFR as amended), the USDOT DBE Program regulations; and the Virginia Department of Transportation's (VDOT or the Department) Road and Bridge Specifications and DBE Program rules and regulations.

For the purposes of this provision, Contractor is defined as the Prime Contractor of the Contract; and sub-contractor is defined as any DBE supplier, manufacturer, or subcontractor performing work or furnishing material, supplies or services to the Contract. The Contractor shall physically include this same contract provision in every supply or work/service subcontract that it makes or executes with a subcontractor having work for which it intends to claim credit.

In accordance with 49 CFR Part 26 and VDOT's DBE Program requirements, the Contractor, for itself and for its subcontractors and suppliers, whether certified DBE firms or not, shall commit to complying fully with the auditing, record keeping, confidentiality, cooperation, and anti-intimidation or retaliation provisions contained in those federal and state DBE Program regulations. By bidding on this contract, and by accepting and executing this contract, the Contractor agrees to assume these contractual obligations and to bind the Contractor's subcontractors contractually to the same at the Contractor's expense.

The Contractor or subcontractor shall not discriminate on the basis of race, color, sex, sexual orientation, gender identity, or national origin in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award, administration, and performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

All administrative remedies noted in this provision are automatic unless the Contractor exercises the right of appeal within the required timeframe(s) specified herein. Appeal requirements, processes, and procedures shall be in accordance with guidelines stated herein and current at the time of the proceedings. Where applicable, the Department will notify the Contractor of any changes to the appeal requirements, processes, and procedures after receiving notification of the Contractor's desire to appeal.

All time frames referenced in this provision are expressed in business days unless otherwise indicated. Should the expiration of any deadline fall on a weekend or holiday, such deadline will automatically be extended to the next normal business day.

(b) **DBE Certification**

The only DBE firms eligible to perform work on a federal-aid contract for DBE contract goal credit are firms certified as Disadvantaged Business Enterprises by the Virginia Department of Small

Business and Supplier Diversity (DSBSD) or the Metropolitan Washington Airports Authority (MWAA) in accordance with federal and VDOT guidelines. DBE firms must be certified in the specific work listed for DBE contract goal credit. A directory listing of certified DBE firms can be obtained from the Virginia Department of [Small Business and Supplier Diversity website: www.sbsd.virginia.gov](http://www.sbsd.virginia.gov).

(c) Bank Services

The Contractor and each subcontractor are encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals. Such banking services and the fees charged for services typically will not be eligible for DBE Program contract goal credit. Such information is available from the VDOT's Internet Civil Rights Division website:

http://www.virginiadot.org/business/resources/Civil_Rights/VDOT_DBE_Program_Plan.pdf

(d) DBE Program-Related Certifications Made by Bidders\Contractors

By submitting a bid and by entering into any contract on the basis of that bid, the bidder/Contractor certifies to each of the following DBE Program-related conditions and assurances:

1. That the management and bidding officers of its firm agree to comply with the bidding and project construction and administration obligations of the USDOT DBE Program requirements and regulations of 49 CFR Part 26 as amended, and VDOT's Road and Bridge Specifications and DBE Program requirements and regulations.
2. Under penalty of perjury and other applicable penal law that it has complied with the DBE Program requirements in submitting the bid, and shall comply fully with these requirements in the bidding, award, and execution of the Contract.
3. To ensure that DBE firms have been given full and fair opportunity to participate in the performance of the Contract. The bidder certifies that all reasonable steps were, and will be, taken to ensure that DBE firms had, and will have, an opportunity to compete for and perform work on the Contract. The bidder further certifies that the bidder shall not discriminate on the basis of race, color, age, sex, sexual orientation, gender identity, or national origin in the performance of the Contract or in the award of any subcontract. Any agreement between a bidder and a DBE whereby the DBE promises not to provide quotations for performance of work to other bidders is prohibited.
4. As a bidder, good faith efforts were made to obtain DBE participation in the proposed contract at or above the goal for DBE participation established by VDOT. It has submitted as a part of its bid true, accurate, complete, and detailed documentation of the good faith efforts it performed to meet the Contract goal for DBE participation. The bidder, by signing and submitting its bid, certifies the DBE participation information submitted within the stated time thereafter is true, correct, and complete, and that the information provided includes the names of all DBE firms that will participate in the Contract, the specific line item(s) that each listed DBE firm will perform, and the creditable dollar amounts of the participation of each listed DBE. The specific line item must reference the VDOT line number and item number contained in the proposal.
5. The bidder further certifies, by signing its bid, it has committed to use each DBE firm listed for the specific work item shown to meet the Contract goal for DBE participation. Award of the Contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents. By signing the bid, the bidder certifies on work that it proposes to sublet; it has made good faith efforts to seek out and consider DBEs as potential subcontractors. The bidder shall contact DBEs to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain on file proper

documentation to substantiate its good faith efforts. Award of the Contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents.

6. Once awarded the Contract, the Contractor shall make good faith efforts to utilize DBE firms to perform work designated to be performed by DBEs at or above the amount or percentage of the dollar value specified in the bidding documents. Further, the Contractor understands it shall not unilaterally terminate, substitute for, or replace any DBE firm that was designated in the executed contract in whole or in part with another DBE, any non-DBE firm, or with the Contractor's own forces or those of an affiliate of the Contractor without the prior written consent of VDOT as set out within the requirements of this provision.
7. Once awarded the contract, the Contractor shall designate and make known to the Department a liaison officer who is assigned the responsibility of administering and promoting an active and inclusive DBE program as required by 49 CFR Part 26 for DBEs. The designation and identity of this officer need be submitted only once by the Contractor during any twelve (12) month period at the preconstruction conference for the first contract the Contractor has been awarded during that reporting period. The Department will post such information for informational and administrative purposes at VDOT's Internet Civil Rights Division website.
8. Once awarded the Contract, the Contractor shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each DBE firm participating in the Contract shall fully perform the designated work items with the DBE's own forces and equipment under the DBE's direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract regulations and/or requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the Contract in the event of such a contract breach.
9. In the event a bond surety assumes the completion of work, if for any reason VDOT has terminated the prime Contractor, the surety shall be obligated to meet the same DBE contract terms and requirements as were required of the original prime Contractor in accordance with the requirements of this specification.

(e) Disqualification of Bidder

Bidders may be disqualified from bidding for failure to comply with the requirements of this Special Provision, the Contract specifications, and VDOT Road and Bridge Specifications.

(f) **Bidding Procedures**

The following bidding procedures shall apply to the Contract for DBE Program compliance purposes:

1. **Contract Goal, Good Faith Efforts Specified:** All bidders evidencing the attainment of DBE goal commitment equal to or greater than the required DBE goal established for the project must submit completed Form C-111, Minimum DBE Requirements, and Form C-48, Subcontractor/Supplier Solicitation and Utilization, as a part of the bid documents.

Form C-111 may be submitted electronically or may be faxed to the Department, but in no case shall the bidder's Form C-111 be received later than 10:00 a.m. the next business day after the time stated in the bid proposal for the receipt of bids. Form C-48 must be received within ten (10) business days after the bid opening.

If, at the time of submitting its bid, the bidder knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C-111 exhibiting the DBE participation it commits to attain as a part of its bid documents. The bidder shall then submit Form C-49, DBE Good Faith Efforts Documentation, within two (2) business days after the bid opening.

The lowest responsive and responsible bidder must submit its properly executed Form C-112, Certification of Binding Agreement, within three (3) business days after the bids are received. DBEs bidding as prime contractors are not required to submit Form C-112 unless they are utilizing other DBEs as subcontractors.

If, after review of the apparent lowest bid, VDOT determines the DBE requirements have not been met, the apparent lowest successful bidder must submit Form C-49, DBE Good Faith Efforts Documentation, which must be received by the Contract Engineer within two (2) business days after official notification of such failure to meet the aforementioned DBE requirements.

Forms C-48, C-49, C-111, and C-112 can be obtained from the VDOT website at:
<http://vdotforms.vdot.virginia.gov/>

Instructions for submitting Form C-111 can be obtained from the VDOT website at:
http://www.virginiadot.org/business/resources/const/Exp_DBE_Commitments.pdf

2. **Bid Rejection:** The failure of a bidder to submit the required documentation within the timeframes specified in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision may be cause for rejection of that bidder's bid.

If the lowest bidder is rejected for failure to submit the required documentation in the specified time frames, the Department may award the work to the next lowest bidder, or re-advertise the proposed work at a later date or proceed otherwise as determined by the Commonwealth.

3. **Good Faith Efforts Described:** In order to award a contract to a bidder that has failed to meet DBE contract goal requirements, VDOT will determine if the bidder's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the DBE requirements. Efforts to obtain DBE participation are not good faith efforts if they could not reasonably be expected to produce a level of DBE participation sufficient to meet the DBE Program and contract goal requirements.

Good faith efforts may be determined through use of the following list of the types of actions the bidder may make to obtain DBE participation. This is not intended to be a mandatory

checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts of similar intent may be relevant in appropriate cases:

- a. Soliciting through reasonable and available means, such as but not limited to, attendance at pre-bid meetings, advertising, and written notices to DBEs who have the capability to perform the work of the Contract. Examples include: advertising in at least one daily/weekly/monthly newspaper of general circulation, as applicable; phone contact with a completely documented telephone log, including the date and time called, contact person, or voice mail status; and internet contacts with supporting documentation, including dates advertised. The bidder shall solicit this interest no less than five (5) business days before the bids are due so that the solicited DBEs have enough time to reasonably respond to the solicitation. The bidder shall determine with certainty if the DBEs are interested by taking reasonable steps to follow up initial solicitations as evidenced by documenting such efforts as requested on Form C-49, DBE Good Faith Efforts Documentation.
- b. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to completely perform all portions of this work in its entirety or use its own forces;
- c. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the Contract in a timely manner, which will assist the DBEs in responding to a solicitation;
- d. Negotiating for participation in good faith with interested DBEs;
 - (1) Evidence of such negotiation shall include the names, addresses, and telephone numbers of DBEs that were considered; dates DBEs were contacted; a description of the information provided regarding the plans, specifications, and requirements of the Contract for the work selected for subcontracting; and, if insufficient DBE participation seems likely, evidence as to why additional agreements could not be reached for DBEs to perform the work;
 - (2) A bidder using good business judgment should consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and should take a firm's price, qualifications, and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not sufficient reason for a bidder's failure to meet the Contract goal for DBE participation, as long as such costs are reasonable and comparable to costs customarily appropriate to the type of work under consideration. Also, the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make diligent good faith efforts. Bidders are not, however, required to accept higher quotes from DBEs if the price difference can be shown by the bidder to be excessive, unreasonable, or greater than would normally be expected by industry standards;
- e. A bidder cannot reject a DBE as being unqualified without sound reasons based on a thorough investigation of the DBE's capabilities. The DBE's standing within its industry, membership in specific groups, organizations, associations, and political or social affiliations, and union vs. non-union employee status are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal for DBE participation;

- f. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by VDOT or by the bidder/Contractor;
- g. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services subject to the restrictions contained in these provisions;
- h. Effectively using the services of appropriate personnel from VDOT and from DMBE; available minority/women community or minority organizations; contractors' groups; local, state, and Federal minority/ women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and utilization of qualified DBEs.

(g) **Documentation and Administrative Reconsideration of Good Faith Efforts**

During Bidding: As described in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision, the bidder must provide Form C-49, DBE Good Faith Efforts Documentation, of its efforts made to meet the DBE contract goal as proposed by VDOT within the time frame specified in this provision. The means of transmittal and the risk for timely receipt of this information shall be the responsibility of the bidder. The bidder shall attach additional pages to the certification, if necessary, in order to fully detail specific good faith efforts made to obtain the DBE firms participation in the proposed contract work.

However, regardless of the DBE contract goal participation level proposed by the bidder or the extent of good faith efforts shown, all bidders shall timely and separately file their completed and executed forms C-111, C-112, C-48, and C-49, as aforementioned, or face potential bid rejection.

If a bidder does not submit its completed and executed forms C-111, or C-112, when required by this Special Provision, the bidder's bid will be considered non-responsive and may be rejected.

Where the Department upon initial review of the bid results determines the apparent low bidder has failed or appears to have failed to meet the requirements of the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision and has failed to adequately document that it made a good faith effort to achieve sufficient DBE participation as specified in the bid proposal, that firm upon notification of the Department's initial determination will be offered the opportunity for administrative reconsideration before VDOT rejects that bid as non-responsive. The bidder shall address such request for reconsideration in writing to the Contract Engineer within five (5) business days of receipt of notification by the Department and shall be given the opportunity to discuss the issue and present its evidence in person to the Administrative Reconsideration Panel. The Administrative Reconsideration Panel will be made up of VDOT Division Administrators or their designees, none of who took part in the initial determination that the bidder failed to make the goal or make adequate good faith efforts to do so. After reconsideration, VDOT shall notify the bidder in writing of its decision and explain the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

If, after reconsideration, the Department determines the bidder has failed to meet the requirements of the Contract goal and has failed to make adequate good faith efforts to achieve the level of DBE participation as specified in the bid proposal, the bidder's bid will be rejected.

If sufficient documented evidence is presented to demonstrate that the apparent low bidder made reasonable good faith efforts, the Department will award the Contract and reduce the DBE requirement to the actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is still encouraged to seek additional DBE participation during the life of the Contract.

However, such action will not relieve the Contractor of its responsibility for complying with the reduced DBE requirement during the life of the Contract or any administrative sanctions as may be appropriate.

During the Contract: If a DBE, through no fault of the Contractor, is unable or unwilling to fulfill his agreement with the Contractor, the Contractor shall immediately notify the Department and provide all relevant facts. If a Contractor relieves a DBE subcontractor of the responsibility to perform work under their subcontract, the Contractor is encouraged to take the appropriate steps to obtain a DBE to perform an equal dollar value of the remaining subcontracted work. In such instances, the Contractor is expected to seek DBE participation towards meeting the goal during the performance of the Contract.

If the Contractor fails to conform to the schedule of DBE participation as shown on the progress schedule, or at any point at which it is clearly evident that the remaining dollar value of allowable credit for performing work is insufficient to obtain the scheduled participation, and the Contractor has not taken the preceding actions, the Contractor and any aforementioned affiliates may be subject to disallowance of DBE credit until such time as conformance with the schedule of DBE participation is achieved.

Project Completion: If the Contractor fails upon completion of the project to meet the required participation, the Contractor and any prime contractual affiliates, as in the case of a joint venture, may be enjoined from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects for a period of 90 days.

Prior to enjoinder from bidding or denial to participate as a subcontractor for failure to comply with participation requirements, as provided hereinbefore, the Contractor may submit documentation to the State Construction Engineer to substantiate that failure was due solely to quantitative underrun(s), elimination of items subcontracted to DBEs, or to circumstances beyond their control, and that all feasible means have been used to obtain the required participation. The State Construction Engineer upon verification of such documentation shall make a determination whether or not the Contractor has met the requirements of the Contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. If the decision is made to enjoin the Contractor from bidding on other VDOT work as described herein, the enjoinder period will begin upon the Contractor's failure to request a hearing within the designated time frame or upon the Administrative Reconsideration Panel's decision to enjoin, as applicable.

(h) **DBE Participation for Contract Goal Credit**

1. Cost-plus subcontracts will not be considered to be in accordance with normal industry practice and will not normally be allowed for credit.
2. The applicable percentage of the total dollar value of the Contract or Subcontract awarded to the DBE will be counted toward meeting the Contract goal for DBE participation in accordance with the **DBE Program-Related Certifications Made by Bidders\Contractors** section of this Special Provision for the value of the work, goods, or services that are actually performed or provided by the DBE firm itself or subcontracted by the DBE to other DBE firms.
3. When a DBE performs work as a participant in a joint venture with a non-DBE firm, the Contractor may count toward the DBE goal only that portion of the total dollar value of the Contract equal to the distinctly defined portion of the Contract work that the DBE has performed with the DBE's own forces or in accordance with the provisions of this Section.

The Department shall be contacted in advance regarding any joint venture involving both a DBE firm and a non-DBE firm to coordinate Department review and approval of the joint venture's organizational structure and proposed operation where the Contractor seeks to claim the DBE's credit toward the DBE contract goal.

4. When a DBE subcontracts part of the work of the Contract to another firm, the value of that subcontracted work may be counted toward the DBE contract goal only if the DBE's subcontractor at a lower tier is a certified DBE. Work that a DBE subcontracts to either a non-DBE firm or to a non-certified DBE firm will not count toward the DBE contract goal. The cost of supplies and equipment a DBE subcontractor purchases or leases from the prime Contractor or the prime's affiliated firms will not count toward the Contract goal for DBE participation.
5. The Contractor may count expenditures to a DBE subcontractor toward the DBE contract goal only if the DBE performs a Commercially Useful Function (CUF) on that contract.
6. A Contractor may not count the participation of a DBE subcontractor toward the Contractor's final compliance with the DBE contract goal obligations until the amount being counted has actually been paid to the DBE. A Contractor may count sixty (60) percent of its expenditures actually paid for materials and supplies obtained from a DBE certified as a regular dealer, and one hundred (100) percent of such expenditures actually paid for materials and supplies obtained from a certified DBE manufacturer.
 - a. For the purposes of this Special Provision, a regular dealer is defined as a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment required and used under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the DBE firm shall be an established business that regularly engages, as its principal business and under its own name, in the purchase and sale or lease of the products or equipment in question. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions will not be considered regular dealers.
 - b. A DBE firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business where it keeps such items in stock if the DBE both owns and operates distribution equipment for the products it sells and provides for the Contract work. Any supplementation of a regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an *ad hoc* or contract-by-contract basis to be eligible for credit to meet the DBE contract goal.
 - c. If a DBE regular dealer is used for DBE contract goal credit, no additional credit will be given for hauling or delivery to the project site goods or materials sold by that DBE regular dealer. Those delivery costs shall be deemed included in the price charged for the goods or materials by the DBE regular dealer, who shall be responsible for their distribution.
 - d. For the purposes of this Special Provision, a manufacturer will be defined as a firm that operates or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the project specifications. A manufacturer shall include firms that produce finished goods or products from raw or unfinished material, or purchase and substantially alter goods and materials to make them suitable for construction use before reselling them.

- e. A Contractor may count toward the DBE contract goal the following expenditures to DBE firms that are not regular dealers or manufacturers for DBE program purposes:
 - (1) The entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of the federal-aid contract, if the fee is reasonable and not excessive or greater than would normally be expected by industry standards for the same or similar services.
 - (2) The entire amount of that portion of the construction contract that is performed by the DBE's own forces and equipment under the DBE's supervision. This includes the cost of supplies and materials ordered and paid for by the DBE for contract work, including supplies purchased or equipment leased by the DBE, except supplies and equipment a DBE subcontractor purchases or leases from the prime Contractor or its affiliates.
- f. A Contractor may count toward the DBE contract goal one hundred (100) percent of the fees paid to a DBE trucker or hauler for the delivery of material and supplies required on the project job site, but not for the cost of those materials or supplies themselves, provided that the trucking or hauling fee is determined by VDOT to be reasonable, as compared with fees customarily charged by non-DBE firms for similar services. A Contractor shall not count costs for the removal or relocation of excess material from or on the job site when the DBE trucking company is not the manufacturer of or a regular dealer in those materials and supplies. The DBE trucking firm shall also perform a Commercially Useful Function (CUF) on the project and not operate merely as a pass through for the purposes of gaining credit toward the DBE contract goal. Prior to submitting a bid, the Contractor shall determine, or contact the VDOT Civil Rights Division or its district Offices for assistance in determining, whether a DBE trucking firm will meet the criteria for performing a CUF on the project. See section on **Miscellaneous DBE Program Requirements; Factors used to Determine if a DBE Trucking Firm is Performing a CUF.**
- g. The Contractor will receive DBE contract goal credit for the fees or commissions charged by and paid to a DBE broker who arranges or expedites sales, leases, or other project work or service arrangements provided that those fees are determined by VDOT to be reasonable and not excessive as compared with fees customarily charged by non-DBE firms for similar services. For the purposes of this Special Provision, a broker is defined as a person or firm that regularly engages in arranging for delivery of material, supplies, and equipment, or regularly arranges for the providing of project services as a course of routine business but does not own or operate the delivery equipment necessary to transport materials, supplies, or equipment to or from a job site.

(i) **Performing a Commercially Useful Function (CUF)**

No credit toward the DBE contract goal will be allowed for contract payments or expenditures to a DBE firm if that DBE firm does not perform a CUF on that contract. A DBE performs a CUF when the DBE is solely responsible for execution of a distinct element of the Contract work and the DBE actually performs, manages, and supervises the work involved with the firm's own forces or in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. To perform a CUF the DBE alone shall be responsible and bear the risk for the material and supplies used on the Contract, selecting a supplier or dealer from those available, negotiating price, determining quality and quantity, ordering the material and supplies, installing those materials with the DBE's own forces and equipment, and paying for those materials and supplies. The amount the DBE firm is to be paid under the Contract shall be commensurate with the work the DBE actually performs and the DBE credit claimed for the DBE's performance.

Monitoring CUF Performance: It shall be the Contractor's responsibility to ensure that all DBE firms selected for subcontract work on the Contract, for which he seeks to claim credit toward the Contract goal, perform a CUF. Further, the Contractor is responsible for and shall ensure that each DBE firm fully performs the DBE's designated tasks with the DBE's own forces and equipment under the DBE's own direct supervision and management or in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. For the purposes of this provision the DBE's equipment will mean either equipment directly owned by the DBE as evidenced by title, bill of sale or other such documentation, or leased by the DBE, and over which the DBE has control as evidenced by the leasing agreement from a firm not owned in whole or part by the prime Contractor or an affiliate of the Contractor under this contract.

VDOT will monitor the Contractor's DBE involvement during the performance of the Contract. However, VDOT is under no obligation to warn the Contractor that a DBE's participation will not count toward the goal.

DBEs Must Perform a Useful and Necessary Role in Contract Completion: A DBE does not perform a commercially useful function if the DBE's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

DBEs Must Perform The Contract Work With Their Own Workforces: If a DBE does not perform and exercise responsibility for at least thirty (30) percent of the total cost of the DBE's contract with the DBE's own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involve, VDOT will presume that the DBE is not performing a CUF and such participation will not be counted toward the Contract goal.

VDOT Makes Final Determination On Whether a CUF Is Performed: VDOT has the final authority to determine whether a DBE firm has performed a CUF on a federal-aid contract. To determine whether a DBE is performing or has performed a CUF, VDOT will evaluate the amount of work subcontracted by that DBE firm or performed by other firms and the extent of the involvement of other firms' forces and equipment. Any DBE work performed by the Contractor or by employees or equipment of the Contractor shall be subject to disallowance under the DBE Program, unless the independent validity and need for such an arrangement and work is demonstrated.

(j) **Verification of DBE Participation and Imposed Damages**

Within fourteen days after contract execution, the Contractor shall submit to the Responsible Engineer, with a copy to the District Civil Rights Office (DCRO), a fully executed subcontract agreement for each DBE used to claim credit in accordance with the requirements stated on Form C-112. The subcontract agreement shall be executed by both parties stating the work to be performed, the details or specifics concerning such work, and the price which will be paid to the DBE subcontractor. Because of the commercial damage that the Contractor and its DBE subcontractor could suffer if their subcontract pricing, terms, and conditions were known to competitors, the Department staff will treat subcontract agreements as proprietary Contractor trade secrets with regard to Freedom of Information Act requests. In lieu of subcontract agreements, purchase orders may be submitted for haulers, suppliers, and manufacturers. These too, will be treated confidentially and protected. Such purchase orders must contain, as a minimum, the following information: authorized signatures of both parties; description of the scope of work to include contract item numbers, quantities, and prices; and required federal contract provisions.

The Contractor shall also furnish, and shall require each subcontractor to furnish, information relative to all DBE involvement on the project for each quarter during the life of the Contract in which participation occurs and verification is available. The information shall be indicated on Form C-63, DBE and SWAM Payment Compliance Report. The department reserves the right to request proof of payment via copies of cancelled checks with appropriate identifying notations. Failure to provide Form C-63 to the District Civil Rights Office (DCRO) within five (5) business days after the reporting period may result in delay of approval of the Contractor's monthly progress estimate for payment. The names and certification numbers of DBE firms provided by the Contractor on the various forms indicated in this Special Provision shall be exactly as shown on the DMBE's or MWAA's latest list of certified DBEs. Signatures on all forms indicated herein shall be those of authorized representatives of the Contractor as shown on the Prequalification Application, Form C-32 or the Prequalification/Certification Renewal Application, Form C-32A, or authorized by letter from the Contractor. If DBE firms are used which have not been previously documented with the Contractor's bid and for which the Contractor now desires to claim credit toward the project goal, the Contractor shall be responsible for submitting necessary documentation in accordance with the procedures stipulated in this Special Provision to cover such work prior to the DBE beginning work.

Form C-63 can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/>

The Contractor shall submit to the Responsible Engineer its progress schedule with a copy to the DCRO, as required by Section 108.03 of the Specifications or other such specific contract scheduling specification that may include contractual milestones, i.e., monthly or VDOT requested updates. The Contractor shall include a narrative of applicable DBE activities relative to work activities of the Contractor's progress schedule, including the approximate start times and durations of all DBE participation to be claimed for credit that shall result in full achievement of the DBE goal required in the Contract.

On contracts awarded on the basis of good faith efforts, narratives or other agreeable format of schedule information requirements and subsequent progress determination shall be based on the commitment information shown on the latest Form C-111 as compared with the appropriate Form C-63.

Prior to beginning any major component or quarter of the work, as applicable, in which DBE work is to be performed, the Contractor shall furnish a revised Form C-111 showing the name(s) and certification number(s) of any current DBEs not previously submitted who will perform the work during that major component or quarter for which the Contractor seeks to claim credit toward the Contract DBE goal. The Contractor shall obtain the prior approval of the Department for any assistance it may provide to the DBE beyond its existing resources in executing its commitment to the work in accordance with the requirements listed in the **Good Faith Efforts Described** section of this Special Provision. If the Contractor is aware of any assistance beyond a DBE's existing resources that the Contractor, or another subcontractor, may be contemplating or may deem necessary and that have not been previously approved, the Contractor shall submit a new or revised narrative statement for VDOT's approval prior to assistance being rendered.

If the Contractor fails to comply with correctly completing and submitting any of the required documentation requested by this provision within the specified time frames, the Department will withhold payment of the monthly progress estimate until such time as the required submissions are received VDOT. Where such failures to provide required submittals or documentation are repeated the Department will move to enjoin the Contractor and any prime contractual affiliates, as in the case of a joint venture, from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects until such submissions are received.

(k) **Documentation Required for Semi-final Payment**

On those projects nearing completion, the Contractor must submit Form C-63 marked "Semi-Final" within twenty (20) days after the submission of the last regular monthly progress estimate to the DCRO. The form must include each DBE used on the Contract work and the work performed by each DBE. The form shall include the actual dollar amount paid to each DBE for the accepted creditable work on the Contract. The form shall be certified under penalty of perjury, or other applicable law, to be accurate and complete. VDOT will use this certification and other information available to determine applicable DBE credit allowed to date by VDOT and the extent to which the DBEs were fully paid for that work. The Contractor shall acknowledge by the act of filing the form that the information is supplied to obtain payment regarding a federal participation contract. A letter of certification, signed by both the prime Contractor and appropriate DBEs, will accompany the form, indicating the amount, including any retainage, if present, that remains to be paid to the DBE(s).

(l) Documentation Required for Final Payment

On those projects that are complete, the Contractor shall submit a final Form C-63 marked "Final" to the DCRO, within thirty (30) days of the final estimate. The form must include each DBE used on the Contract and the work performed by each DBE. The form shall include the actual dollar amount paid to each DBE for the creditable work on the Contract. VDOT will use this form and other information available to determine if the Contractor and DBEs have satisfied the DBE contract goal percentage specified in the Contract and the extent to which credit was allowed. The Contractor shall acknowledge by the act of signing and filing the form that the information is supplied to obtain payment regarding a federal participation contract.

(m) Prompt Payment Requirements

The Contractor shall make prompt and full payment to the subcontractor(s) of any retainage held by the prime Contractor after the subcontractor's work is satisfactorily completed.

For purposes of this Special Provision, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted as required by the contract documents by VDOT. When VDOT has made partial acceptance of a portion of the prime contract, the Department will consider the work of any subcontractor covered by that partial acceptance to be satisfactorily completed. Payment will be made in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

Upon VDOT's payment of the subcontractor's portion of the work as shown on the monthly progress estimate and the receipt of payment by the Contractor for such work, the Contractor shall make compensation in full to the subcontractor for that portion of the work satisfactorily completed and accepted by the Department. For the purposes of this Special Provision, payment of the subcontractor's portion of the work shall mean the Contractor has issued payment in full, less agreed upon retainage, if any, to the subcontractor for that portion of the subcontractor's work that VDOT paid to the Contractor on the monthly progress estimate.

The Contractor shall make payment of the subcontractor's portion of the work within seven (7) days of the receipt of payment from VDOT in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

If the Contractor fails to make payment for the subcontractor's portion of the work within the time frame specified herein, the subcontractor shall contact the Responsible Engineer and the Contractor's bonding company in writing. The bonding company and VDOT will investigate the cause for non-payment and, barring mitigating circumstances that would make the subcontractor ineligible for payment, ensure payment in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

By bidding on this contract, and by accepting and executing this contract, the Contractor agrees to assume these contractual obligations, and to bind the Contractor's subcontractors contractually to those prompt payment requirements.

Nothing contained herein shall preclude the Contractor from withholding payment to the subcontractor in accordance with the terms of the subcontract in order to protect the Contractor from loss or cost of damage due to a breach of agreement by the subcontractor.

(n) **Miscellaneous DBE Program Requirements**

1. **Loss of DBE Eligibility:** When a DBE firm has been removed from eligibility as a certified DBE firm, the following actions will be taken:
 - a. When a Bidder/Contractor has made a commitment to use a DBE firm that is not currently certified, thereby making the Contractor ineligible to receive DBE participation credit for work performed, and a subcontract has not been executed, the ineligible DBE firm does not count toward either the Contract goal or overall goal. The Contractor shall meet the Contract goal with a DBE firm that is eligible to receive DBE credit for work performed, or must demonstrate to the Contract Engineer that it has made good faith efforts to do so.
 - b. When a Bidder/Contractor has executed a subcontract with a certified DBE firm prior to official notification of the DBE firm's loss of eligibility, the Contractor may continue to use the firm on the Contract and shall continue to receive DBE credit toward its DBE goal for the subcontractor's work.
 - c. When VDOT has executed a prime contract with a DBE firm that is certified at the time of contract execution but that is later ruled ineligible, the portion of the ineligible firm's performance on the Contract before VDOT has issued the notice of its ineligibility shall count toward the Contract goal.
2. **Termination of DBE:** If a certified DBE subcontractor is terminated, or fails, refuses, or is unable to complete the work on the Contract for any reason, the Contractor must promptly request approval to substitute or replace that firm in accordance with this section of this Special Provision.

The Contractor, as aforementioned in **DBE Program-Related Certifications Made by Bidders/Contractors**, shall notify VDOT in writing before terminating and/or replacing the DBE that was committed as a condition of contract award or that is otherwise being used or represented to fulfill DBE contract obligations during the Contract performance period. Written consent from the Department for terminating the performance of any DBE shall be granted only when the Contractor can demonstrate that the DBE is unable, unwilling, or ineligible to perform its obligations for which the Contractor sought credit toward the Contract DBE goal. Such written consent by the Department to terminate any DBE shall concurrently constitute written consent to substitute or replace the terminated DBE with another DBE. Consent to terminate a DBE shall not be based on the Contractor's ability to negotiate a more advantageous contract with another subcontractor whether that subcontractor is, or is not, a certified DBE.

- a. All Contractor requests to terminate, substitute, or replace a certified DBE shall be in writing, and shall include the following information:
 - (1) The date the Contractor determined the DBE to be unwilling, unable, or ineligible to perform.

- (2) The projected date that the Contractor shall require a substitution or replacement DBE to commence work if consent is granted to the request.
 - (3) A brief statement of facts describing and citing specific actions or inaction by the DBE giving rise to the Contractor's assertion that the DBE is unwilling, unable, or ineligible to perform;
 - (4) A brief statement of the affected DBE's capacity and ability to perform the work as determined by the Contractor;
 - (5) A brief statement of facts regarding actions taken by the Contractor which are believed to constitute good faith efforts toward enabling the DBE to perform;
 - (6) The current percentage of work completed on each bid item by the DBE;
 - (7) The total dollar amount currently paid per bid item for work performed by the DBE;
 - (8) The total dollar amount per bid item remaining to be paid to the DBE for work completed, but for which the DBE has not received payment, and with which the Contractor has no dispute;
 - (9) The total dollar amount per bid item remaining to be paid to the DBE for work completed, but for which the DBE has not received payment, and over which the Contractor and/or the DBE have a dispute.
- b. Contractor's Written Notice to DBE of Pending Request to Terminate and Substitute with another DBE.

The Contractor shall send a copy of the "request to terminate and substitute" letter to the affected committed DBE firm, in conjunction with submitting the request to the DCRO. The affected DBE firm may submit a response letter to the Department within two (2) business days of receiving the notice to terminate from the Contractor. The affected DBE firm shall explain its position concerning performance on the committed work. The Department will consider both the Contractor's request and the DBE's response and explanation before approving the Contractor's termination and substitution request, or determining if any action should be taken against the Contractor.

If, after making its best efforts to deliver a copy of the "request to terminate and substitute" letter, the Contractor is unsuccessful in notifying the affected DBE firm, the Department will verify that the affected, committed DBE firm is unable or unwilling to continue the Contract. The Department will immediately approve the Contractor's request for a substitution.

- c. Proposed Substitution of Another Certified DBE

Upon termination of a DBE, the Contractor shall use reasonable good faith efforts to replace the terminated DBE. The termination of such DBE shall not relieve the Contractor of its obligations pursuant to this section, and the unpaid portion of the terminated DBE's contract will not be counted toward the Contract goal.

When a DBE substitution is necessary, the Contractor shall submit an amended Form C-111 with the name of another DBE firm, the proposed work to be performed by that firm, and the dollar amount of the work to replace the unfulfilled portion of the work of the originally committed DBE firm. The Contractor shall furnish all pertinent information including the Contract I.D. number, project number, bid item, item description, bid unit and bid quantity, unit price, and total price. In addition, the Contractor shall submit

documentation for the requested substitute DBE as described in this section of this Special Provision.

Should the Contractor be unable to commit the remaining required dollar value to the substitute DBE, the Contractor shall provide written evidence of good faith efforts made to obtain the substitute value requirement. The Department will review the quality, thoroughness, and intensity of those efforts. Efforts that are viewed by VDOT as merely superficial or pro-forma will not be considered good faith efforts to meet the Contract goal for DBE participation. The Contractor must document the steps taken that demonstrated its good faith efforts to obtain participation as set forth in the **Good Faith Efforts Described** section of this Special Provision.

3. Factors Used to determine if a DBE Trucking Firm is performing a CUF:

The following factors will be used to determine whether a DBE trucking company is performing a CUF:

- a. To perform a CUF the DBE trucking firm shall be completely responsible for the management and supervision of the entire trucking operation for which the DBE is responsible by subcontract on a particular contract. There shall not be a contrived arrangement, including, but not limited to, any arrangement that would not customarily and legally exist under regular construction project subcontracting practices for the purpose of meeting the DBE contract goal;
- b. The DBE must own and operate at least one fully licensed, insured, and operational truck used in the performance of the Contract work. This does not include a supervisor's pickup truck or a similar vehicle that is not suitable for and customarily used in hauling the necessary materials or supplies;
- c. The DBE receives full contract goal credit for the total reasonable amount the DBE is paid for the transportation services provided on the Contract using trucks the DBE owns, insures, and operates using drivers that the DBE employs and manages;
- d. The DBE may lease trucks from another certified DBE firm, including from an owner-operator who is certified as a DBE. The DBE firm that leases trucks from another DBE will receive credit for the total fair market value actually paid for transportation services the lessee DBE firm provides on the Contract;
- e. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of the transportation services provided by non-DBE lessees, *not to exceed the value of transportation services provided by DBE-owned trucks on the Contract*. For additional participation by non-DBE lessees, the DBE will only receive credit for the fee or commission it receives as a result of the lease arrangement.

EXAMPLE

DBE Firm X uses two (2) of its own trucks on a contract. The firm leases two (2) trucks from DBE Firm Y and six (6) trucks from non-DBE Firm Z.

Firm X		Value of Trans. Serv.
		(For Illustrative Purposes Only)
Truck 1	Owned by DBE	\$100 per day
Truck 2	Owned by DBE	\$100 per day

Firm Y

Truck 1	Leased from DBE	\$110 per day
Truck 2	Leased from DBE	\$110 per day

Firm Z

Truck 1	Leased from Non DBE	\$125 per day
Truck 2	Leased from Non DBE	\$125 per day
Truck 3	Leased from Non DBE	\$125 per day
Truck 4	Leased from Non DBE	\$125 per day
Truck 5	Leased from Non DBE*	\$125 per day
Truck 6	Leased from Non DBE*	\$125 per day

DBE credit would be awarded for the total transportation services provided by DBE Firm X and DBE Firm Y, and may also be awarded for the total value of transportation services by four (4) of the six (6) trucks provided by non-DBE Firm Z (not to exceed the value of transportation services provided by DBE-owned trucks).

Credit = 8 Trucks
Total Value of Transportation Services = \$820

In all, full DBE credit would be allowed for the participation of eight (8) trucks (twice the number of DBE trucks owned and leased) and the dollar value attributable to the Value of Transportation Services provided by the 8 trucks.

* With respect to the other two trucks provided by non-DBE Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks that DBE Firm X receives as a result of the lease with non-DBE Firm Z.

- f. For purposes of this section, the lease must indicate that the DBE firm leasing the truck has exclusive use of and control over the truck. This will not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, provided the lease gives the DBE absolute priority for and control over the use of the leased truck. Leased trucks must display the name and identification number of the DBE firm that has leased the truck at all times during the life of the lease.
4. **Data Collection:** In accordance with 49CFR Section 26.11, all firms bidding on prime contracts and bidding or quoting subcontracts on federal-aid projects shall provide the following information to the Contract Engineer annually.
- Firm name
 - Firm address
 - Firm's status as a DBE or non-DBE

- The age of the firm and
- The annual gross receipts of the firm

The means of transmittal and the risk for timely receipt of this information shall be the responsibility of the bidder. However, the above information can be submitted by means of the Annual Gross Receipts Survey as required in the Prequalification/Certification application.

All bidders, including DBE prime Contractor bidders, shall complete and submit to the Contract Engineer the Subcontractor/Supplier Solicitation and Utilization Form C-48 for each bid submitted; to be received within ten (10) business days after the bid opening. Failure of bidders to submit this form in the time frame specified may be cause for disqualification of the bidder and rejection of their bid in accordance with the requirements of this Special Provision, the Contract specifications, and VDOT Road and Bridge specifications.

(o) Suspect Evidence of Criminal Behavior

Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted, prosecution.

Suspected DBE Fraud

In appropriate cases, VDOT will bring to the attention of the U. S. Department of Transportation (USDOT) any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49CFR Part 31.

(p) Summary of Remedies for Non-Compliance with DBE Program Requirements

Failure of any bidder\Contractor to comply with the requirements of this Special Provision for Section 107.15 of the Virginia Road and Bridge Specifications, which is deemed to be a condition of bidding, or where a contract exists, is deemed to constitute a breach of contract shall be remedied in accordance with the following:

1. Disadvantaged Business Enterprise (DBE) Program Requirements

The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award, administration, and performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

All administrative remedies noted in this provision are automatic unless the Contractor exercises the right of appeal within the required timeframe(s) specified herein.

2. DBE Program-Related Certifications Made by Bidders\Contractors

Once awarded the contract, the Contractor shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each certified DBE firm participating in the Contract shall fully perform the designated work items with the DBE's own forces and equipment under the DBE's direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their

requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the Contract in the event of such a contract breach.

3. **Disqualification of Bidder**

Bidders may be disqualified from bidding for failure to comply with the requirements of this Special Provision, the Contract specifications, and VDOT Road and Bridge Specifications.

4. **Bidding Procedures**

The failure of a bidder to submit the required documentation within the timeframes specified in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision may be cause for rejection of that bidder's bid. If the lowest bidder is rejected for failure to submit required documentation in the specified time frames, the Department may either award the work to the next lowest bidder, or re-advertise and construct the work under contract or otherwise as determined by the Commonwealth.

In order to award a contract to a bidder that has failed to meet DBE contract goal requirements, VDOT will determine if the bidder's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were to the extent a bidder actively and aggressively seeking to meet the requirements would make. Regardless of the DBE contract goal participation level proposed by the bidder or the extent of good faith efforts shown, all bidders shall timely and separately file their completed and executed Forms C-111, C-112, C-48, and Form C-49, as aforementioned, or face potential bid rejection. If a bidder does not submit it's completed and executed C-111, or C-112, when required by this Special Provision, the bidder's bid will be considered non-responsive and may be rejected. If, after reconsideration, the Department determines the bidder has failed to meet the requirements of the Contract goal and has failed to make adequate good faith efforts to achieve the level of DBE participation as specified in the bid proposal, the bidder's bid will be rejected. If sufficient documented evidence is presented to demonstrate that the apparent low bidder made reasonable good faith efforts, the Department will award the Contract and reduce the DBE requirement to the actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is encouraged to seek additional participation during the life of the Contract.

If the Contractor fails to conform to the schedule of DBE participation as shown on the progress schedule, or at any point at which it is clearly evident that the remaining dollar value of allowable credit for performing work is insufficient to obtain the scheduled participation, the Contractor and any aforementioned affiliates may be enjoined from bidding for 60 days or until such time as conformance with the schedule of DBE participation is achieved. In such instances, the Contractor is expected to seek DBE participation towards meeting the goal during the prosecution of the Contract.

If the Contractor fails upon completion of the project to meet the required participation, the Contractor and any prime contractual affiliates, as in the case of a joint venture, may be enjoined from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects for a period of 90 days.

Prior to enjoinder from bidding or denial to participate as a subcontractor for failure to comply with participation requirements, as provided hereinbefore, the Contractor may submit documentation to the State Construction Engineer to substantiate that failure was due solely to quantitative underrun(s) or elimination of items subcontracted to DBEs, and that all feasible means have been used to obtain the required participation. The State Construction Engineer

upon verification of such documentation shall make a determination whether or not the Contractor has met the requirements of the Contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. The injunction period will begin upon the Contractor's failure to request a hearing within the designated time frame or upon the Administrative Reconsideration Panel's decision to enjoin, as applicable.

5. Verification of DBE Participation and Imposed Damages

If the Contractor fails to comply with correctly completing and submitting any of the required documentation requested by this provision within the specified time frames, the Department will withhold payment of the monthly progress estimate until such time as the required submissions are received by VDOT. Where such failures to provide required submittals or documentation are repeated the Department will move to enjoin the Contractor and any prime contractual affiliates, as in the case of a joint venture, from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects until such submissions are received.

(q) Suspect Evidence of Criminal Behavior

In addition to the remedies described heretofore in this provision VDOT also exercises its rights with respect to the following remedies:

- Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted prosecution.
- In appropriate cases, VDOT will bring to the attention of the U. S. Department of Transportation (USDOT) any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49CFR Part 31.

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
ASPHALT MATERIAL PRICE ADJUSTMENT

April 28, 2017

All asphalt material contained in the attached master listing of eligible bid items and designated by pay items in the contract will be price adjusted according to the provisions as set forth herein. Other items will not be adjusted, except as otherwise specified in the contract. If new pay items which contain asphalt material are established by Work Order, they will not be subject to Price Adjustment unless specifically designated in the Work Order to be subject to Price Adjustment.

Each month, the Department will publish an average state-wide PG 64S-22 f.o.b. price per ton and an average PG 64E-22 f.o.b. price per ton developed from the average terminal prices provided to the Department from suppliers of asphalt cement to contractors doing work in Virginia. The Department will collect terminal prices from approximately 12 terminals each month. These prices will be received once each month from suppliers on or about the last weekday of the month. The high and low prices will be eliminated and the remaining values averaged to establish the average statewide price for the following month. The monthly state-wide average price will be posted on the Construction Division website on or about the first weekday of the following month. In the event the average prices were to change by 10 percent or more of the Base Index during the middle of the month the Contractor can submit a letter to the Department and supplier that provides evidence of the difference in price. Upon receipt of the letter consideration will be given to extend additional adjustments as deemed necessary.

This monthly statewide average price will be the Base Index for all contracts on which bids are received during the calendar month of its posting and will be the Current Index for all asphalt placed during the calendar month of its posting. In the event an index changes radically from the apparent trend, as determined by the Engineer, the Department may establish an index which it determines to best reflect the trend.

The amount of adjustment applied will be based on the difference between the contract Base Index and the Current Index for the applicable calendar month during which the work is performed. The quantity of asphalt cement for asphalt concrete pavement to which adjustment will be applied will be the quantity based on the percent of asphalt cement shown on the appropriate approved job mix formula.

Adjustment of any asphalt material other than PG 64S-22 and PG 64E-22 will be based on the indexes for PG 64S-22.

The quantity of asphalt emulsions to which adjustment will be applied will be the quantity based on 65 percent residual asphalt.

Price adjustment will be shown as a separate entry on the monthly progress estimate; however, such adjustment will not be included in the total cost of the work for progress determination or for extension of contract time.

Any apparent attempt to unbalance bids in favor of items subject to price adjustment or failure to submit required cost and price data as noted hereinbefore may result in rejection of the bid proposal.

VIRGINIA DEPARTMENT OF TRANSPORTATION
**MASTER LISTING OF
 ASPHALT MATERIAL ITEMS ELIGIBLE FOR PRICE ADJUSTMENT**

ITEM	DESCRIPTION	UNITS	SPECIFICATION
10062	Asphalt-Stab. Open-Graded Material	Ton	313
10416	Liquid Asphalt	Gal	311 312
10417	Tack Coat	Gal	310
10420	Blotted Seal Coat Ty. B	SY	ATTD
10422	Blotted Seal Coat Ty. C	SY	ATTD
10423	Blotted Seal Coat Ty. C-1	SY	ATTD
10424	Blotted Seal Coat Ty. D	SY	ATTD
10598	NS Asphalt Concrete	Ton	315
10603	Asphalt Concrete Ty. SM-19.0A	Ton	315
10604	Asphalt Concrete Ty. SM-19.0D	Ton	315
10605	Asphalt Concrete Ty. SM-19.0E (76-22 or 64E)	Ton	315
10606	Asphalt Concrete Ty. SM-9.5	Ton	315
10607	Asphalt Concrete Ty. SM-12.5A	Ton	315
10608	Asphalt Concrete Ty. SM-12.5D	Ton	315
10609	Asphalt Concrete Ty. SM-12.5E (64E-22)	Ton	315
10610	Asphalt Concrete Ty. IM-19.0A	Ton	315
10611	Asphalt Concrete Ty. IM-19.0D	Ton	315
10612	Asphalt Conc. Base Cr. Ty. BM-25.0	Ton	315
10613	Asphalt Concrete Ty. BM-37.5	Ton	315
10614	Asphalt Concrete Ty. IM-19.0E (76-22 or 64E)	Ton	315
10635	Asphalt Concrete Ty. SM-9.5A	Ton	315
10636	Asphalt Concrete Ty. SM-9.5D	Ton	315
10637	Asphalt Concrete Ty. SM-9.5E (64E-22)	Ton	315
10639	Asphalt Concrete Ty. SM-19.0	Ton	315
10642	Asphalt Concrete Ty. BM-25.0A	Ton	315
10643	Asphalt Concrete Ty. BM-25.0D	Ton	315
10650	Stone Matrix Asphalt SMA-9.5(64H-22)	Ton	317
10651	Stone Matrix Asphalt SMA-9.5(64E-22)	Ton	317
10652	Stone Matrix Asphalt SMA-12.5(64H-22)	Ton	317
10653	Stone Matrix Asphalt SMA-12.5(64E-22)	Ton	317
10654	Stone Matrix Asphalt SMA-19.0(64H-22)	Ton	317
10655	Stone Matrix Asphalt SMA-19.0(64E-22)	Ton	317
10701	Liquid Asphalt Coating	SY	ATTD
12505	Asphalt Concrete Curb Backup Material	Ton	315
13240	Asphalt Concrete Sidewalk	Ton	504
16110	Emul. Asph. Slurry Seal Type A	SY	ATTD
16120	Emul. Asph. Slurry Seal Type B	SY	ATTD
16130	Emul. Asph. Slurry Seal Type C	SY	ATTD
16144	Latex Mod. Emul. Treat. Type B	Ton	ATTD
16145	Latex Mod. Emul. Treat. Type C	Ton	ATTD
16146	Latex Mod. Emul. Treat. Rutfilling	Ton	ATTD
16161	Modified Single Seal	SY	ATTD
16162	Modified Double Seal	SY	ATTD
16249	Nontracking Tack Coat	Gal.	ATTD

ITEM	DESCRIPTION	UNITS	SPECIFICATION
16250	Liquid Asphalt Matl. CMS-2 (Mod)	Gal	ATTD
16251	Liquid Asphalt Matl. CMS-2	Gal	ATTD
16252	Liquid Asphalt Matl. CRS-2	Gal	ATTD
16253	Liquid Asphalt Matl. CRS-2H	Gal.	ATTD.
16254	Liquid Asphalt Matl. RC-250	Gal	ATTD
16256	Liquid Asphalt Matl. RC-800	Gal	ATTD
16257	NS Liquid Asphalt Matl.	Gal	ATTD
16260	Liquid Asphalt Matl. CRS-2L	Gal	ATTD
16325	NS Asphalt Concrete	Ton	N/A
16326	Asphalt Concrete Ty. SM-4.75A	Ton	315
16327	Asphalt Concrete Ty. SM-4.75D	Ton	315
16328	Asphalt Concrete Ty. SM-4.75E	Ton	315
16330	Asphalt Concrete Ty. SM-9.0A	Ton	315
16335	Asphalt Concrete Ty. SM-9.5A	Ton	315
16337	Asph. Conc. Ty. SM-9.5ASL (Spot Level)	Ton	315
16340	Asphalt Concrete Ty. SM-9.5D	Ton	315
16342	Asph. Conc. Ty. SM-9.5DSL (Spot Level)	Ton	315
16345	Asphalt Concrete Ty. SM-9.5E (64E-22)	Ton	315
16350	Asphalt Concrete Ty. SM-12.5A	Ton	315
16352	Asph. Con. Ty. SM-12.5ASL (Spot Level)	Ton	315
16355	Asphalt Concrete Ty. SM-12.5D	Ton	315
16357	Asph. Con. Ty. SM-12.5DSL (Spot Level)	Ton	315
16360	Asphalt Concrete Ty. SM-12.5E (64E-22)	Ton	315
16362	Asphalt Concrete Ty. SM-19.0A	Ton	315
16363	Asphalt Concrete Ty. SM-19.0D	Ton	315
16364	Asphalt Concrete Ty. SM-19.0E (76-22 or 64E)	Ton	315
16365	Asphalt Concrete Ty. IM-19.0A	Ton	315
16370	Asphalt Concrete Ty. IM-19.0D	Ton	315
16371	Asphalt Concrete Ty. IM-19.0E (76-22 or 64E)	Ton	315
16373	Asphalt Concrete Ty. IM-19.0A (T)	Ton	315
16374	Asphalt Concrete Ty. IM-19.0D (T)	Ton	315
16377	Asphalt Concrete Ty. BM-37.5	Ton	315
16379	Asphalt Concrete Ty. IM-19.0T	Ton	315
16390	Asphalt Concrete Ty. BM-25.0A	Ton	315
16392	Asphalt Concrete Ty. BM-25.0D	Ton	315
16395	Asphalt Concrete Ty. BM-25.0A (T)	Ton	315
16397	Asphalt Concrete Ty. BM-25.0D (T)	Ton	315
16400	Stone Matrix Asphalt SMA-9.5(64H-22)	Ton	ATTD
16401	Stone Matrix Asphalt SMA-9.5(64E-22)	Ton	ATTD
16402	Stone Matrix Asphalt SMA-12.5(64H-22)	Ton	ATTD
16403	Stone Matrix Asphalt SMA-12.5(64E-22)	Ton	ATTD
16404	Stone Matrix Asphalt SMA-19.0(64H-22)	Ton	ATTD
16405	Stone Matrix Asphalt SMA-19.0(64E-22)	Ton	ATTD
16490	Hot Mix Asphalt Treatment	Ton	ATTD
16500	Surf.Preparation & Restoration Type I	Ton	ATTD
16502	Surf.Preparation & Restoration Type II	Ton	ATTD
16504	Surf.Preparation & Restoration Type III	Ton	ATTD

ITEM	DESCRIPTION	UNITS	SPECIFICATION
67201	NS Asphalt Concrete Overlay	Ton	315
67210	NS Asphalt Concrete	Ton	315
68240	NS Asphalt Concrete	Ton	315

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
NON-DISCRIMINATION IN EMPLOYMENT AND CONTRACTING PRACTICES

January 10, 2017

I. Description

This Special Provision implements Executive Order 61, ensuring equal opportunity and access for all Virginians in state contracting and public services.

II. Non-Discrimination

The Contractor shall maintain a non-discrimination policy, which prohibits discrimination by the Contractor on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status. This policy shall be followed in all employment practices, subcontracting practices, and delivery of goods or services. The Contractor shall also include this requirement in all subcontracts valued over \$10,000.

III. Measurement and Payment

Conformance with this Special Provision will not be measured for individual payment, and will be considered incidental to the Work.

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
USE OF DOMESTIC MATERIAL

May 1, 2018

SECTION 102.05 PREPARATION OF BID of the Specifications is amended to include the following:

In accordance with the provisions of Section 635.410(b) of Title 23 CFR, hereinafter referred to as "Buy America", except as otherwise specified, all iron and steel (including miscellaneous items such as fasteners, nuts, bolts and washers) to be permanently incorporated for use on federal aid projects shall be produced in the United States of America. This applies to any iron or steel item brought onto the project, regardless of the percentage of iron or steel that exists in the pay item or in the final form they take; however, electrical components (i.e., combination products such as signal controllers and similar products which are only sold as a unit) are not subject to Buy America provisions if the product as purchased by the Contractor is less than 50% steel and iron. "Produced in the United States of America" means all manufacturing processes occur in one of the 50 United States, the District of Columbia, Puerto Rico or in the territories and possessions of the United States. "Manufacturing processes" are defined as any process which alters or modifies the chemical content, physical size or shape, or final finish of iron or steel material (such as rolling, extruding, bending, machining, fabrication, grinding, drilling, finishing, or coating). For the purposes of satisfying this requirement "coating" is defined as the application of epoxy, galvanizing, painting or any other such process that protects or enhances the value of the material to which the coating is applied. Non-iron and non-steel materials used in the coating process do not need to be produced in the United States as long as the application of the coating occurred in the United States. The manufacturing process is considered complete when the resultant product is ready for use as an item in the project (e.g. fencing, posts, girders, pipe, manhole covers, etc.) or is incorporated as a component of a more complex product by means of further manufacturing. Final assembly of a product may occur outside of the United States of America provided no further manufacturing processes take place.

For the purposes of this provision, all steel or iron material meeting the criteria as produced in the United States of America will be considered as "Domestic Material." All iron and steel items not meeting the criteria as produced in the United States of America will be considered "Non-Domestic Material."

A minimal amount of "Non-Domestic" steel or iron material may be incorporated in the permanent work on a federal-aid contract provided that the cost of such materials or products does not exceed one-tenth of one percent of the Contract amount or \$2500, whichever is greater. The cost of the "Non-Domestic Material" is defined as its monetary value delivered to the job site and supported by invoices or bill of sale to the Contractor. This delivered-to-site cost must include transportation, assembly, installation and testing.

Buy America provisions do not apply to iron or steel products used temporarily in the construction of a project such as temporary sheet piling, temporary bridges, steel scaffolding, falsework or such temporary material or product or material that remains in place for the Contractor's convenience.

Raw materials such as iron ore, pig iron, processed, pelletized and reduced iron ore, waste products (including scrap, that is, steel or iron no longer useful in its present form from old automobiles, machinery, pipe, railroad rail, or the like and steel trimmings from mills or product manufacturing) and other raw materials used in the production of steel and/or iron products may, however, be imported. Extracting, handling, or crushing the raw materials which are inherent to the transporting the materials for later use in the manufacturing process are exempt from Buy America.

Any items containing foreign source steel or iron billet shall be considered "Non-Domestic Materials." Additionally, iron or steel ingots or billets produced in the United States, but shipped outside the United

States of America for any manufacturing process and returned for permanent use in a project shall be considered "Non-Domestic Materials."

Waivers:

The process for receiving a waiver for Buy America provisions is identified in 23 CFR 635.410(c). The Contractor shall not anticipate that any Buy America provisions will be waived.

Certification of Compliance:

The Contractor is required to submit a Certificate of Compliance prior to incorporating any items containing iron or steel items into the project. This shall be accomplished by the Contractor submitting the following Certificate of Compliance to the Department when the items are delivered to the project site. The Certification of Compliance will certify whether the items are considered "Domestic Material" or "Non-Domestic Material" as referenced in this Special Provision. The certificate must be signed and dated by the Prime Contractor's Superintendent and include a Buy America Submittal Number. The Buy America Submittal Number is simply the Contractor's project specific sequential numbering system that will allow the Contractor and Department to track the total number of certificates provided and the individual items containing iron or steel associated with each certificate.

Supporting Documentation:

Supporting documentation to demonstrate compliance with Buy America provisions (such as mill test reports manufacturer/supplier certifications, etc.) shall be organized by Buy America Submittal Number and maintained by the Contractor from the date of delivery until three years after project acceptance. The Contractor may maintain this documentation electronically or in paper format.

The Department or FHWA may review the Contractor's supporting documentation to verify compliance with the Buy America provisions at any time. Supporting documentation shall be provided within five business days of the request. The burden of proof to meet the Buy America provisions rests with the Contractor. If the supporting documentation does not undeniably demonstrate to FHWA or the Department that the "Domestic Materials" identified in the Certificates of Compliance were produced in the United States of America, then the Department may deduct payment from moneys due the Contractor for the value of the iron and steel that did not meet the Buy America provisions.

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
PROGRESS SCHEDULE FOR CATEGORY I PROJECTS

April 28, 2008; Reissued July 12, 2016

Section 103.06(e) Progress Schedule of the Specifications is deleted and replaced by this provision.

Section 108.03 Progress Schedule of the Specifications is deleted and replaced by this provision.

I. GENERAL REQUIREMENTS

The Contractor shall plan and schedule the work and shall submit his initial plan in the form of a Baseline Progress Schedule for the Engineer's review and acceptance. Upon acceptance, the Progress Schedule shall become the project Schedule of Record (SOR). The SOR shall be used by the Engineer for planning and coordination of the Department activities, and for evaluation of the Contractor's progress and the effects of time-related related impacts on the project.

Prior to preparing the schedule, the Engineer or the Contractor may request a schedule development planning meeting to discuss any project specific items required for preparation of the progress schedule. The Contractor shall prepare and submit a practicable schedule to reflect a logical progress of the work. The Progress Schedule shall represent the Contractor's overall work plan to accomplish the entire scope of work according to the Contract. It shall include all items of work required for coordination and inspection and to show progress of the work including, but not limited to the controlling items of work and other relevant time-based tasks required for timely completion of the work, including as applicable, the work to be performed by sub-contractors, suppliers, the Department, and/or others. When preparing the schedule, the Contractor shall consider all known constraints and restrictions such as holidays, seasonal, weather, traffic, utility, railroad, right-of-way, environmental, permits, or other limitations to the work.

The Contractor may be required, as determined by the Engineer, to attend a pre-construction scheduling conference. If required, the scheduling conference may be held in conjunction with the pre-construction conference or at a separate meeting called by the Engineer. The Contractor shall be prepared to discuss his planned or contemplated operations relative to the contract requirements and this special provision. Until the Baseline Progress Schedule is accepted by the Engineer, the Contractor shall keep the Engineer informed of his planned or contemplated operations on a continuing basis.

II. PROGRESS SCHEDULE SUBMITTAL REQUIREMENTS

Baseline Progress Schedule – The Contractor shall submit to the Engineer his initial progress schedule in the form of a Baseline Progress Schedule at least seven (7) calendar days prior to beginning work. The Baseline Progress Schedule shall include a written Progress Schedule Narrative and a Progress Earnings Schedule. *Progress Earnings Schedules will not be required for projects with contract duration of sixty (60) calendar days or less.* The Contractor shall submit three (3) sets of the written Progress Schedule Narrative and the Progress Earnings Schedule as defined herein:

1. Progress Schedule Narrative: The Progress Schedule Narrative shall consist of the following written information:

- a) A description of the Contractor's overall plan of operations including the planned procedures and crew(s) required to complete each feature or major operation;
 - b) A Tabular Schedule to establish milestone(s) for completing each phase or stage of work, feature, major traffic switch, and other key milestone dates as specified in the Contract or required to assess progress of the work. The schedule shall also indicate the planned sequence and start/finish dates for each operation, maintenance of traffic (MOT) activities, and other relevant time-based tasks required to complete the work;
 - c) A discussion on the proposed working calendar to indicate the number of working days per week as well as the anticipated number of non-working days per month with considerations for known constraints or restrictions; (i.e. normal weather, traffic, holidays, time of year, utility, etc.);
 - d) A description of any potential issues that may impact the schedule.
2. Progress Earnings Schedule: The Progress Earnings Schedule shall be prepared on the Form C-13C. The Progress Earnings Schedule shall indicate the Contractor's anticipated cumulative percent complete for each month as of the Contractor's progress estimate date as defined in Section 109.08(a) of the Specifications. The anticipated cumulative percent complete shall be based on the anticipated cumulative progress earnings relative to the total contract value. Total contract value will be considered to mean the original amount of the contract including any authorized adjustments for changes to the work according to, but not limited to, the provisions of Sections 109.04 and 109.05 of the Specifications. Anticipated payments for Material on Hand according to Section 109.09 of the Specifications or for other adjustments including asphalt, fuel, retainage, liquidated damages, incentives, disincentives, etc., will not be considered in the Progress Earnings Schedule.

Revised Progress Schedule - A Revised Progress Schedule will be required when:

- The Contractor proposes to revise his work plan. (The Contractor may revise his Progress Schedule at any time at his discretion.)
- The Engineer determines the Contractor's work plan or the progress of the work differs or deviates significantly from the SOR. Differs or deviates significantly will be construed to mean major deviations from the SOR that will affect the schedule milestone(s), progress earnings, or project completion.
- The Engineer issues a written request for changes or a directive for changes
- Any of the above conditions impacts or will impact the progress earnings or scheduled dates of any project milestones including project completion

Examples of changes, relative to the above, that will prompt the Engineer to require a Revised Progress schedule include but are not limited to: major deviations from the SOR such as changes to phasing, changes to the general sequence, changes to the proposed method or means, additions or deletions to the work, unanticipated changes deemed beyond the Contractor's control such as those caused by other parties (utilities and railroads) or changes as defined in Section 104 of the Specifications.

When required by the Engineer, the Contractor shall submit the Revised Progress Schedule within ten (10) calendar days of receipt of the Engineer's written request. The Revised Progress Schedule shall be prepared and submitted in the form of a Baseline Progress Schedule; however, it shall reflect the actual progress of accomplished work, including actual dates for completed work or work in progress, any impact of a change, and the proposed plan for completing the remaining work. The Revised Progress Schedule submittal will be reviewed by the Engineer for acceptance as specified herein.

Failure to Furnish Progress Schedules – Work shall not commence until the Contractor submits his complete Baseline Progress Schedule according to this special provision, unless otherwise approved in writing by the Engineer.

Delays in work resulting from the Contractor's failure to provide the progress schedule will not be considered just cause for extension of the contract time limit or for additional compensation.

III. REVIEW AND ACCEPTANCE

The Engineer will review all progress schedule submittals within seven (7) calendar days of receipt of the Contractor's complete submittal. The progress schedule submittal shall be considered complete only when all required submittal items and schedule information as defined herein are provided. Acceptance by the Engineer will be based on completeness and conformance with this provision and the Contract. Such contract requirements may include phasing, sequence of construction, Maintenance of Traffic (MOT), interim milestone(s), or other specified constraints or restrictions.

If the Contractor's progress schedule is deemed to be unacceptable, the Engineer will issue a written notification of non-conformance or incompleteness with a request for resubmission. The Engineer's response will include comments describing the deficiencies prompting the Engineer's decision.

If the Contractor's progress schedule is deemed to be acceptable, the Engineer will issue a written notice of acceptance that may include comments or concerns on the schedule or a request for clarification. When the Engineer's responses include any comments, concerns, or requests for clarification, the Contractor shall respond accordingly within seven (7) calendar days of receipt of the Engineer's response. Failure on the part of the Contractor to respond to the Engineer may adversely affect the Engineer's ability to completely evaluate the Contractor's schedule.

Upon acceptance, the Progress Schedule will become the Schedule of Record (SOR) and will replace any previous SOR. For the purposes of this Special Provision the SOR is defined as the currently accepted progress schedule by which all schedule references will be made and progress will be compared. The SOR will be basis for evaluating the effects of any time-related changes or impacts on the work.

Review and acceptance by the Engineer will not constitute a waiver of any contract requirements and will in no way assign responsibilities of the work plan, scheduling assumptions, and validity of the schedule to the Department. Failure of the Contractor to include in the Progress Schedule any element of work required by contract for timely completion of the project shall not excuse the Contractor from completing the entire scope of work within the contract specified completion milestone(s).

IV. MONITORING THE WORK AND ASSESSING PROGRESS

Monitoring The Work – The Engineer will monitor the work regularly to identify any deviations from the Contractor's scheduled performance relative to the SOR. The Engineer may request a meeting with the Contractor to discuss the Contractor's current progress or to review the approximate date for starting each critical inspection stage during the following thirty (30) calendar days. At least once a week, the Contractor shall advise the Engineer of the approximate timing for anticipated critical stages for the subsequent week. The Engineer shall be advised at least twenty-four (24) hours in advance of any changes in the Contractor's planned operations or critical stage work requiring Department inspection.

Progress Evaluation – Progress will be evaluated by the Engineer at the time of the monthly progress estimate relative to the currently accepted Baseline or Revised Progress Schedule. The

Contractor's actual progress may be considered unsatisfactory if any of the following conditions occurs:

1. The actual Total earnings to date percentage for work completed is more than ten (10) percentage points behind the cumulative earnings percentage for work scheduled; or
2. Any interim milestone is later than the scheduled milestone by fourteen (14) calendar days or the projected project completion date is later than the contract completion date by fourteen (14) calendar days or ten (10) percent of the contract duration, whichever is less.

Progress Deficiency and Schedule Slippage – When the Contractor's actual progress is trending toward unsatisfactory status, the Engineer will encourage the Contractor to meet to specifically and substantially discuss reversing this trend and the steps he is taking to recover satisfactory progress.

When the Contractor's actual progress is deemed to be unsatisfactory as defined by any of the conditions listed under **Progress Evaluation** of this provision, the Engineer will issue a written notice of unsatisfactory performance to advise the Contractor that five (5) percent retainage of the monthly progress estimate is being withheld and will continue to be withheld as described in Section 109.08(c) of the Specifications, for each month the Contractor's actual progress is determined to be unsatisfactory. When the Contractor fails to respond with good faith efforts as described herein to restore satisfactory progress, the Engineer may issue a notice to indicate that he will recommend to the State Contract Engineer or State Construction Engineer that the Contractor be temporarily disqualified from bidding on contracts with the Department as described in Section 102.08 of the Specifications, if progress remains unsatisfactory at the time of preparation of the next monthly progress estimate following the Engineer's notice. Prior to recommendation for removal from the list of pre-qualified bidders, the Engineer will allow the Contractor fourteen (14) calendar days from the date of the notice to respond. As an example of good faith efforts the Contractor may submit to the Engineer, a proposed recovery plan in the form of a Revised Progress Schedule and a written statement to describe the Contractor's proposed actions and timeframe to correct the progress deficiency or schedule slippage. The Contractor may also submit to the Engineer a written explanation and supporting documentation to establish that such delinquency was attributable to conditions beyond his control. Any schedule revisions resulting from a recovery plan will be reviewed according to Section III, but shall not replace the current SOR.

When the Engineer determines the Contractor's progress is again satisfactory, the five (5) percent retainage previously withheld will be released to the Contractor according to the provisions of Section 109.08 (c) of the Specifications.

If the Contractor is temporarily disqualified from bidding on contracts with the Department, the Contractor will not be reinstated until either the Engineer deems that his progress has improved to the extent that the work can be completed within the contract time limit or the project has received final acceptance according to the provisions of Section 108.09 of the Specifications.

V. MEASUREMENT AND PAYMENT

Category I progress schedule submittals including the baseline and any subsequent revisions requested by the Engineer as described herein, will not be measured or paid for separately. All associated costs to prepare, revise, and/or furnish the progress schedules for Category 1 projects according to the requirements herein shall be considered incidental to the work.

VIRGINIA DEPARTMENT OF TRANSPORTATION
2016 ROAD AND BRIDGE SUPPLEMENTAL SPECIFICATIONS
SECTION 105—CONTROL OF WORK

SECTION 105—CONTROL OF WORK of the Specifications is amended as follows:

Section 105.12—Coordination of Plans, Standard Drawings, Specifications, Supplemental Specifications, Special Provisions, and Special Provision Copied Notes of the Specifications is replaced with the following:

The plans, Standard Drawings, Specifications, Supplemental Specifications, Special Provisions, Special Provision Copied Notes, and other Contract Documents defined in Section 103.06 are parts of the Contract. A requirement occurring in one Contract Document shall be as binding as though occurring in all. The Contract Documents are intended to be complementary, and to include, describe and provide all items necessary for the Contractor's proper and complete performance of the Work.

In case of a discrepancy, the following order of priority will apply, with the highest governing item appearing first and the least governing item appearing last:

- (a) Special Provision Copied Notes. The Contract items, units and unit prices listed in the Contract's Schedule of Items have the same status as Special Provision Copied Notes.
- (b) Special provisions.
- (c) Plans.
- (d) Supplemental Specifications. Those present in the physical, executed Contract will govern over those published in the annual supplemental volume.
- (e) Specifications.
- (f) Standard Drawings (including all revisions issued through the date of Advertisement).

Calculated dimensions, unless obviously incorrect, will govern over scaled dimensions.

Drawings (with the exception of Standard Drawings), sketches, general notes, and other written information that are not included in Special Provisions or Special Provision Copied Notes used in No Plan and Minimum Plan Concept projects will have the same status as plans.

The Contractor shall not take advantage of any obvious or apparent ambiguity, conflict, error or omission in the plans or the Contract. If after beginning work the Contractor discovers an ambiguity, conflict, error, or omission in the Contract, he shall immediately notify the Engineer and before proceeding further with the affected work. The Engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Contract.

Section 105.14(a)3 Flagging Traffic is replaced with the following:

Flagging Traffic: Flaggers shall be able to communicate to the traveling public in English while performing the job duty as a flagger at the flagger station.

Certification for flaggers will be awarded upon a candidate's satisfactory completion of an examination. Certification cards shall be carried by flaggers while performing flagging duties.

Flaggers found not to be in possession of their certification card shall be removed from the flagging site and operations requiring flagging will be suspended by the Engineer until a certified flagger is on-site to perform flagging duties in accordance with the requirements herein. Flaggers performing duties improperly will have their certifications revoked.

Section 105.17 Inspection of Work is amended by replacing the third paragraph with the following:

If the Engineer requests it, the Contractor shall remove or uncover such portions of the finished work as may be directed at any time before final acceptance. The Contractor shall restore such portions of the finished work to comply with the appropriate contract specification requirements. If the work exposed does not contain a defect, the uncovering or removing and replacing the covering or making good the parts removed will be paid for as extra work in accordance with Section 104.02 of the Specifications. If the uncovered work contains a defect, the cost of uncovering or removing and replacing the covering or making good the parts removed shall be borne by the Contractor whether or not the Engineer directs the Contractor to mitigate the defective work. Acceptance of substandard work does not negate the presence of the defect. For the purposes of this section, a defect shall mean any part of the Work that does not conform to the Contract.

Section 105.19(a) Notice of Intent to File a Claim is amended by replacing the second paragraph with the following:

In addition, at the time of each and every occurrence that the Contractor believes to be the basis of a claim or prior to beginning the work upon which a claim and any subsequent action will be based, the Contractor shall furnish the Engineer an itemized list of materials, equipment, and labor for which additional compensation will be claimed. Only actual cost for materials, labor and equipment will be considered. The Contractor shall afford the Engineer every facility for keeping an actual cost record of the work. The Contractor and the Engineer shall compare records and bring them into agreement at the end of each day. Failure on the part of the Contractor to afford the Engineer proper facilities for keeping a record of actual costs will constitute a waiver of a claim for such extra compensation except to the extent that it is substantiated by the Department's records. The filing of such notice of intent by the Contractor and the keeping of cost records by the Engineer shall in no way establish the validity of a claim.

VIRGINIA DEPARTMENT OF TRANSPORTATION
2016 ROAD AND BRIDGE SUPPLEMENTAL SPECIFICATIONS
SECTION 303—EARTHWORK

SECTION 303—EARTHWORK of the Specifications is amended as follows:

Section 303.02(c) – Geotextile materials used for embankment stabilization is replaced with the following:

Geotextile materials used for embankment stabilization shall conform to Section 245.03(d).

Section 303.02(f) – Fabric used for Turbidity Curtains is inserted as follows:

Fabric used for Turbidity Curtains shall conform to Section 245.03(k).

Section 303.03(b) – Soil Stabilization is amended by replacing the first paragraph with the following:

Soil Stabilization: The Contractor shall begin soil stabilization as soon as practicable, but no later than the end of the next business day, following the day when the land-disturbing activities on any portion of the Project have permanently or temporarily ceased for an anticipated duration of greater than 14 days. The Contractor shall complete soil stabilization within seven days of reaching final grade or from when land-disturbing activities have permanently or temporarily ceased for an anticipated duration of greater than 14 days. Initiation of soil stabilization includes, but is not limited to, prepping the soil for vegetative or non-vegetative stabilization, applying mulch or other non-vegetative product to exposed soil, and seeding or planting the exposed area. The Contractor can initiate soil stabilization activities on a portion of the area to be stabilized and not on the entire area, so long as the initiation and completion of stabilization activities occurs on the entire disturbed area within the allowable timeframe for soil stabilization. Areas within 100 feet of the limits of ordinary high water or a delineated wetland are excluded from this requirement, but the work shall be continuously prosecuted until completed, and then stabilized immediately upon completion of the work in each impacted area. Soil stabilization includes: temporary and permanent seeding, riprap, aggregate, sod, mulching, and soil stabilization blankets and matting in conjunction with seeding. The applicable type of soil stabilization shall depend upon the location of areas requiring stabilization, time of year, weather conditions, and stage of construction operations.

Section 303.03(c) – Check Dams is amended by replacing the second paragraph with the following:

Synthetic check dams recorded in the Department's Approved List No. 58 may be substituted for Standard EC-4, Rock Check Dams, Type II, with the approval of the Engineer at no additional cost to the Department. Synthetic check dams shall be installed in accordance with the manufacturer's instructions.

Section 303.03(e)3 – Temporary filter barriers is deleted.

Section 303.03(g) – Erosion Control Mulch is amended by replacing the second paragraph with the following:

Mulch shall be applied to exposed slopes requiring mulch or to areas to be stabilized or paved within 48 hours after performance of grading operations in accordance with Section 603.03(e).

Section 303.03(i) – Turbidity Curtain is replaced with the following:

Turbidity Curtain: This work consists of installation, maintenance, and removal of a turbidity curtain, including all necessary cables, weights, and floats in accordance with this provision and in conformity with the lines, grades and details shown on the Plans or established by the Engineer. The curtain shall be provided as a temporary measure to minimize the drift of suspended material during construction of the Project.

Type I turbidity curtain shall be used in protected areas that are sheltered from waves; and exposed only to light winds, and to current velocities of less than one foot per second.

Type II turbidity curtain shall be used in areas subject to small to moderate current velocities (up to 2 knots or 3.5 feet per second) or moderate wind and wave action.

TYPE III turbidity curtain shall be used in areas subject to considerable current (up to 3 knots or 5 feet per second), tidal action, or where the curtain is potentially subject to wind and wave action.

In locations with currents greater than 3 knots (5 feet per second) perpendicular to the barrier, or weather conditions that cause a turbidity barrier to be ineffective, a turbidity barrier shall not be used.

Floatation shall be flexible, buoyant units contained in a floatation sleeve or collar attached to the curtain. Buoyancy provided by the floatation units shall be sufficient to support the required width of the curtain and maintain a freeboard of at least 3 inches above the water surface level, to a minimum of one foot above the bottom or a maximum ten foot depth at all stages of water levels.

Load lines shall be fabricated into the top and bottom of the curtain. The top load line shall consist of woven webbing or vinyl-sheathed steel cable and shall have a minimum break-strength of 9,800 pounds. The bottom load line shall consist of a chain incorporated into the bottom hem of the curtain of sufficient weight to serve as ballast to hold the curtain in a vertical position. Additional anchorage shall be provided if necessary to top load lines. The load lines shall have suitable devices, which develop the full breaking strength for connecting to load lines in adjacent sections.

The Contractor shall submit Working Drawings to the Engineer for review in accordance with Section 105.

The curtain shall be placed at the locations shown on the Plans and in accordance with the approved Working Drawings. The Contractor shall maintain the turbidity curtain in order to ensure the continuous protection of the waterway.

The curtain shall extend the entire depth of the watercourse whenever the watercourse is not subject to tidal action or significant wind or wave action.

In tidal or wind-and-wave action situations, the curtain shall never touch the bottom. A minimum 1-foot gap shall be established between the weighted lower end of the skirt and the bottom at the mean low water.

Turbidity curtains installed in a navigable waterway shall be marked with lighted buoys that conform to U.S. Coast Guard regulations.

When the curtain is no longer required as determined by the Engineer, the curtain and related components shall be removed in such a manner as to minimize turbidity. The curtain and related components shall become the property of the Contractor and shall be removed from the project.

Section 303.06(e)8 – Temporary filter barriers is deleted.

Section 303.06(e)20 – Turbidity Curtain is replaced with the following:

Turbidity curtain will be measured in linear feet from edge of the curtain along the support cable. Turbidity curtain will be paid for at the contract unit price per linear foot for the type specified. This price shall include design details, furnishing, installing, maintaining, and removal of all materials necessary to complete the work.

VIRGINIA DEPARTMENT OF TRANSPORTATION
2016 ROAD AND BRIDGE SUPPLEMENTAL SPECIFICATIONS
SECTION 512 – MAINTAINING TRAFFIC

SECTION 512 – Maintaining Traffic of the Specifications is amended as follows:

Section 512.01 – Description of the Specifications is replaced with the following:

This work shall consist of maintaining traffic and protecting workers through temporary work areas, maintaining public and private entrances and mailbox turnouts, constructing and obliterating temporary traffic Diversions, providing positive guidance to the traveling public within the limits of the work area and over approved traffic Detours. All work shall be in accordance with the VWAPM, the MUTCD, and the Contract, as directed by the Engineer.

Section 512.02(f) – Temporary (Construction) signs is replaced with the following:

Temporary (Construction) signs for traffic control during construction, maintenance, permits, utility, and incident management activities shall have retroreflective sign sheeting in accordance with Sections 247 and 701 of the Specifications, and shall be installed in accordance with Section 701 of the Specifications.

Sign substrates for rigid temporary (construction) signs mounted on posts and temporary (construction) sign panels for overlays shall be either fabricated of aluminum at least 0.080-inches thick, conforming to Section 229.02(a) of the Specifications, or one of the following from the Traffic Engineering Division’s Approved Products List: 0.4-inch-thick corrugated polypropylene; 0.4-inch-thick corrugated polyethylene plastic; or 0.079-inch-thick aluminum/plastic laminate. Sign substrates shall be smooth, flat, and free of metal burrs or splinters.

Sign substrate materials for signs mounted on drums, Type 3 barricades, and portable sign stands shall be as specified below and shall be the same material that was used when the device was tested and found to be in compliance with the requirements of National Cooperative Highway Research Program (NCHRP) Report 350, Test Level 3, or of other materials allowed in the FHWA acceptance letter. Drums, Type 3 barricades, and portable sign stands shall be from Location & Design Division’s NCHRP 350/MASH Approved Products List.

Sign Substrates for Type 3 Barricades and Portable Sign Stands

Rollup sign
0.4 inch thick corrugated polypropylene or polyethylene plastic
0.079 inch thick aluminum/plastic laminate

Sign Substrates for Drums

0.4 inch thick corrugated polypropylene or polyethylene plastic

Section 512.03 – Procedures is amended by replacing the seventh paragraph with the following:

The color of Automated Flagger Assistance Device trailers, arrow board trailers, portable traffic control signal trailers, Intelligent Traffic Systems (ITS) trailer equipment, and portable changeable message sign trailers and sign frames shall be either Virginia highway orange (DuPont Color No. LF74279 AT or color equivalent) or federal yellow. The back traffic facing trailer frame, where the signal and brake lights are located, shall be fully covered with 2 inch high retroreflective sheeting conforming to Section 247.02(c) of the Specifications. The sheeting shall have alternating 11 inch wide vertical red stripes and 7 inch wide vertical white stripes.

Section 512.03(b) – Flagger Service is replaced with the following:

Flagger Service: The Contractor shall provide certified flaggers in sufficient numbers and locations as necessary for control and protection of vehicular and pedestrian traffic in accordance with the VWAPM, or as directed by the Engineer. Flaggers shall use sign paddles to regulate traffic in accordance with the VWAPM. Certified flaggers shall conform to Section 105.14.

Section 512.03(g)2b(1) – Drums is amended to replace the third paragraph with the following:

Drums shall be used in all unmanned work zone locations and shall also be used to delineate the locations of all non-crashworthy trailer mounted devices such as, but not limited to, ITS devices, Portable Changeable Message Sign, Highway Advisory Radio, Speed Trailers, CB Wizards, etc. as well as light towers. Drums shall be used to delineate merging tapers on limited access highways during nighttime operations and the location of Electronic Arrow Boards.

Portable Traffic Control Signals and AFAD units shall be delineated in accordance with the VWAPM.

Section 512.03(l) – Eradicating Pavement Markings is amended to replace the fourth paragraph with the following:

The Contractor may submit other methods of eradication for the Engineer's approval. The Contractor shall minimize roadway surface damage when performing the eradication. The Contractor shall repair the pavement if eradication of pavement markings results in damage to or deterioration of the roadway presenting unsafe conditions for motorcyclists, bicyclists, or other road users. Pavement repair, when required, shall be performed using a method approved by the Engineer.

Section 512.04 – Measurement and Payment is amended to replace the first paragraph with the following:

Flagger service will be measured in hours of operation, per flagger, as required by Section 512.03(b) and authorized or approved by the Engineer; and will be paid for at the contract unit price per hour. This price shall include paddles and safety equipment.

Section 512.04 – Measurement and Payment is amended to replace the fourteenth paragraph with the following:

Temporary traffic control signal will be paid for at the contract lump sum price for the location specified in the contract documents. This price shall include, but not be limited to, supports; span wire; tether wire; conduit; conductor cable; traffic signal heads; backplates; hanger assemblies; necessary control items; vehicle detection; uninterruptable power supply; channelizing devices; and, when approved, portable traffic control signal equipment. The price shall also include installing, maintaining, adjusting, and aligning signal equipment; when required plan development, inclusive of signal layout, signal timing, phasing, and/or sequencing; providing electrical service; utility company costs; and removing temporary signal equipment when no longer required.

Section 512.04 – Measurement and Payment is amended to replace the seventeenth paragraph with the following:

Temporary (Construction) Pavement message (word) markings will be measured in units of each and will be paid for at the contract unit price per each. This price shall include surface preparation, premarking, furnishing, installing, quality control tests, daily log, guarding devices, primer or adhesive, glass beads, reflective optics materials (when required), maintenance, and warranty.

Temporary (Construction) Pavement symbol markings will be measured in units of each per location for the symbol and type material specified and will be paid for at the contract unit price per each. This price shall include surface preparation, premarking, furnishing, installing, quality control tests, daily log, guarding devices, primer or adhesive, glass beads, reflective optics materials when required, maintenance, and warranty.

Section 512.04 – Measurement and Payment is amended to replace the nineteenth paragraph with the following:

Eradication of existing linear pavement markings will be measured in linear feet of a 6 inch width or portion thereof as specified herein. Widths that exceed a 6 inch increment by more than 1/2 inch will be measured as the next 6 inch increment. Measurement and payment for eradication of existing pavement markings specified herein shall be limited to linear pavement line markings. Eradication of existing pavement markings will be paid for at the contract unit price per linear foot. This price shall include removing linear pavement line markings, cleanup, and disposing of residue.

Section 512.04 – Measurement and Payment is amended by revising the Pay Item Table as follows:

The following pay items are removed:

Pay Item	Pay Unit
Temporary pavement message marking (Type and message)	Each
Eradication of existing pavement marking	Linear foot

The following pay items are inserted:

Pay Item	Pay Unit
Temporary pavement message marking (Size character, Type or class material)	Each
Temporary pavement symbol marking (Symbol, Type or class material)	Each
Eradication of existing linear pavement marking	Linear foot

EXHIBIT A – FORM OF AGREEMENT

AGREEMENT

THIS CONTRACT, made and entered into this _____ day of _____, 2019, between the COUNTY OF AUGUSTA, VIRGINIA, a municipal corporation organized under the laws of the Commonwealth of Virginia (hereinafter “County”) and _____ (hereinafter “Contractor”).

PREMISES

The County of Augusta, Virginia is requesting sealed bids for construction of Phase 4 for the Scholastic Way Enhancement Project. The project scope consists of the addition of a new five-foot sidewalk and includes traffic control, erosion and sediment control, seeding of disturbed areas, and other items necessary for the completion of the work at the following locations along Round Hill Drive. The project length is approximately 1,200 feet.

A request for sealed bids for the construction project above described was advertised. Contractor was the lowest responsible Bidder.

THE CONSTRUCTION PROJECT

Contractor will construct improvements for Phase 4 of the Scholastic Way Enhancement Project in conformity with the Contract Documents which consist of (1) this Agreement; (2) the County of Augusta, Virginia plans for Project UPC #107462 consisting of 30 sheets to include all notes and specifications contained therein; (3) the Bid Documents; (4) the current edition of the Virginia Department of Transportation (VDOT) Road and Bridge Specifications; (5) the current edition of the VDOT Road and Bridge Standards; (6) the current edition of the VDOT Work Area Protection Manual; (7) the current edition of the Virginia Erosion and Sediment Control Handbook; (8) the current edition of the Virginia Erosion and Sediment Control Regulations; (8) the current edition of the FHWA Manual on Uniform Traffic Control Devices (MUTCD); and (9) Addenda No. _____ through No. _____ which are applicable to this project and incorporated in this Agreement by reference as though included verbatim.

BONDS

Contractor with this contract tenders a performance bond on a form approved by the County with corporate surety in the amount of one hundred percent (100%) of the contract price. Additionally, Contractor tenders with this contract a payment bond guaranteeing payment to all subcontractors, material men, and any other supplying material or labor to the construction project in the amount of one hundred percent (100%) of the contract price.

INSURANCE

Contractor shall have in place a liability policy commensurate with the requirements of Section 2.1 General Conditions, Item 12 – Contractor’s and Subcontractor’s Insurance, of the Invitation to Bid.

EMPLOYMENT DISCRIMINATION

In accordance with the Code of Virginia, Section 2.2-4311, during the performance of this contract, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contract. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Contractor will include the provisions of the foregoing paragraphs a, b, and c in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

DRUG-FREE WORKPLACE

In accordance with the Code of Virginia, Section 2.2-4312, during the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor in accordance with this chapter, the employees of who are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of this contract.

IMMIGRATION LAWS

During the performance of this contract, the Contractor shall not employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

WORK SCHEDULE

Contractor shall commence construction in accordance with a written Notice to Proceed to be issued by the County. Contractor shall complete all construction within ninety (90) contract days after the date of commencement indicated on the Notice to Proceed.

Contract Time may be extended for delays caused by act of God or weather which prevents the prosecution of any work on the project, if Contractor requests an extension of time within ten (10) calendar days of the delaying event and County approves an extension of time in writing. County's approval shall not be unreasonably withheld.

DILIGENCE

Contractor shall at all times maintain sufficient personnel, material, and equipment, including necessary subcontractors, on the project to prosecute the work on every day that weather permits except Sundays and authorized holidays observed by County unless otherwise approved by County. Contractor's failure to prosecute the work as set forth herein may be cause for County to close the project and keep the project closed until Contractor has provided adequate assurances that sufficient personnel, material, and equipment will be present on the project at all times in the future. Additionally, Contractor shall provide a full time Project Superintendent who shall be present on the project at all times while work is in progress. In instances of the Project Superintendent's necessary absence, Contractor shall designate another qualified person to assume the responsibilities of Project Superintendent until the return of Project Superintendent and shall make said person's identity known to County's agent on the project prior to Project Superintendent leaving the project. Failure by the Contractor or Project Superintendent to comply with this provision may result in County's closure of the project until Contractor has provided sufficient assurance that qualified supervisory personnel will be present at all times in the future. Delays caused by a shutdown shall not be cause for an extension of the contract time. The contract price payable by County shall be reduced by **Three Hundred and Fifty Dollars (\$350.00)** per day as liquidated damages to compensate County for each day the project is delayed beyond the contract completion date and unless such additional days are an approved extension in time.

CONTRACT PRICE

County shall pay to Contractor the sum of _____ Dollars and Cents (\$ _____), subject to additions and deletions as provided in the Contract Documents, for all work necessary for the proper completion of the construction project. Contractor shall complete all such work for the contract price agreed upon as set forth hereinabove. There shall be no addition(s) or deletion(s) to the contract price without prior written approval of a Change Order by County.

SCHEDULE OF PROGRESS PAYMENTS

County shall by the fifteenth (15th) of each month, pay to Contractor all amounts for completed work billed to County in the form of a proper invoice by the sixteenth (16th) of each preceding month, subject to the following reductions:

1. Contractor shall submit pay applications to Engineer for review. Failure of Contractor to submit any monthly billing shall not be cause for County paying more than a single thirty (30) day billing at any time during the course of the project except as provided hereafter.

MISCELLANEOUS

1. This Agreement will be governed by the laws of the Commonwealth of Virginia.
2. Each of the provisions and sub-provisions of the Agreement are declared by the parties to be severable. If any provision or sub-provision of this Agreement is declared to be invalid, all other provisions and sub-provisions of this Agreement shall remain in full force and effect.
3. Contractor shall not assign any rights or obligations it has in this Agreement without prior written consent of the County.
4. Contractor shall submit to County, prior to commencement of construction, a list of subcontractors and material men who Contractor proposes to involve in the construction project. Said subcontractors and material men shall be subject to approval by County. If County objects to any subcontractor or material man, the basis for such objection shall be provided to Contractor in writing and Contractor shall provide a substitute subcontractor or material man acceptable to the County, at no cost to the County.
5. No modification of this Agreement shall be effective unless the same shall be reduced to writing and executed by both parties of this Agreement.
6. Notices and all other writings given to County pursuant to this Agreement shall be made to Misty Cook, Augusta County Government Center, P.O. Box 590, Verona, VA 24482, and to Contractor at _____.

Witness the signatures and seals of the parties the day, month and year first above written.

THE COUNTY OF AUGUSTA, VIRGINIA

BY: _____
(Name, Title)

ATTEST: _____
(Name, Title)

**STATE OF VIRGINIA
COUNTY OF AUGUSTA**

The foregoing instrument was acknowledged before me this _____ day of _____, 2019
by _____ on behalf of the County of
Augusta, Virginia, a Virginia Municipal Corporation.

Notary Public

My Commission Expires _____

CONTRACTOR

BY: _____
(Name, Title)

ATTEST: _____
(Name, Title)

**STATE OF VIRGINIA
COUNTY/COUNTY OF _____**

The foregoing instrument was acknowledged before me this _____ day of _____,
2019 by _____ on behalf of _____

Notary Public

My Commission Expires _____

END OF EXHIBIT

EXHIBIT B - SUPPLEMENTARY PROVISIONS

INDEX

<u>Description</u>	<u>Page</u>
Sign Specifications	160
CG-12 Specifications	161

SIGN SPECIFICATIONS

Sign installations shall meet the requirements of the current editions of the Manual of Uniform Traffic Control Devices (MUTCD), the Virginia Department of Transportation Road and Bridge Standards, and the Virginia Department of Transportation Road and Bridge Specifications.

The proposed item “Relocate Existing Sign Structure, Type I” will be measured in units of each and paid for at the Contract unit price per each for the type of sign structure specified. This price shall include removing the existing sign panel, furnishing new mounting hardware, brackets, and structure, and installing onto a new structure.

CG-12 SPECIFICATIONS

CG-12 Detectable Warning Surface: The sidewalk ramps shall be constructed in accordance with Section 502 of the VDOT Road and Bridge Specifications, the provisions of Section 504 for hydraulic cement concrete sidewalk and the details shown in the VDOT Road and Bridge Standard. Detectable warning/truncated domes and detectable warning surfaces shall be furnished and installed in accordance with the details in Section 504, the manufacturer's recommendations where applicable, the VDOT Road and Bridge Standard and the plans.

All permanent installations of detectable warning surfaces shall be "wet set" in freshly placed concrete. Concrete pavers shall be wet set in concrete with a minimum depth of 4 inches of concrete underneath, unless otherwise shown on the plans or recommended by the manufacturer.

Surface mounted detectable warning surfaces are permitted only for temporary installations where the detectable warning will be in service 6 months or less.

The Contractor shall provide the County with the manufacturer's installation instructions at least 48 hours in advance of the start of installation.

CG-12 Detectable Warning Surface will be measured in square yards and paid for at the contract unit price per square yard. This price shall be full compensation for furnishing and installing approved truncated dome finished materials including but not limited to concrete pavers, other Department approved materials, integral visual contrast, dowels or other anchorage devices.

END OF EXHIBIT