

Plantation Road, Bicycle, Pedestrian, and Streetscape Improvements Phase 2 Project

**VDOT UPC #111366
State Project No. 0115-080-911, P101, R201, C501**

**County of Roanoke, Virginia
Invitation For Bid (IFB) #2020 – 082**



Prepared By:



January 15, 2021

COUNTY OF ROANOKE, VIRGINIA

**PLANTATION ROAD, BICYCLE, PEDESTRIAN, AND STREETSCAPE
IMPROVEMENTS PHASE 2 PROJECT**

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COUNTY OF ROANOKE
ROANOKE, VA
PLANTATION ROAD, BICYCLE, PEDESTRIAN, AND STREETScape IMPROVEMENTS PHASE 2 PROJECT

ADVERTISEMENT FOR BIDS

Sealed Bids for the construction of the Plantation Road, Bicycle, Pedestrian, and Streetscape Improvements Phase 2 Project (VDOT UPC #111366 and County of Roanoke IFB #2020-082) will be received by the Finance Department Purchasing Division, at the office of the County of Roanoke, 5204 Bernard Drive, Suite 300F, Roanoke, VA 24018, until 2:00 P.M. local time on February 12, 2021, at which time the Bids received will be publicly opened and read. The Project consists of constructing pedestrian improvements along the Plantation Road corridor.

Bids will be received for a single prime Contract. Bids shall be on a lump sum and unit price basis as indicated in the Bid Form.

The Issuing Office is: The Finance Department Purchasing Division (Attn: Ms. Dawn Rago), County of Roanoke (540) 283 – 8150, DRAGO@roanokecountyva.gov. Address all questions to this office.

A Non - Mandatory Virtual Pre-Bid Conference will be held at 10:00 A.M. local time on January 27, 2021 using Microsoft Teams. The Bid Documents and Microsoft Teams link including the Microsoft Teams meeting instructions (Teams Link Information.docx) are available from Roanoke County's Purchasing Website at: www.roanokecountyva.gov/bids.aspx. Bidding documents, including addenda, may be viewed and downloaded at this site. This Invitation for Bid (IFB) has been cross posted on both Roanoke County's Purchasing Website at: www.roanokecountyva.gov/bids.aspx and the Commonwealth of Virginia Website, eVA.: <https://eva.virginia.gov/>

Bid security shall be furnished in accordance with the Instructions to Bidders.

Owner: County of Roanoke, VA

By: Dawn Rago

Title: Buyer, Purchasing Division

+ + END OF ADVERTISEMENT FOR BIDS + +

INSTRUCTIONS TO BIDDERS

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ARTICLE 1 – DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. *Issuing Office* – The office from which the Bidding Documents are to be issued.
- 1.02 Where the term Roanoke County, County or Roanoke Board of Supervisors is used it is understood to include Roanoke County School Board, in addition, any contract awarded from this solicitation may be used by Roanoke County Public Schools and any other public entity for which County of Roanoke acts as a fiscal or purchasing agent.

ARTICLE 2 – COPIES OF BIDDING DOCUMENTS

- 2.01 Bidding Documents, including all Addenda are available to view and download from the Roanoke County website at www.roanokecountyva.gov/bids.aspx. Sign up for all notifications on the “Notify Me” portion of the site at <https://www.roanokecountyva.gov/list.aspx?Mode=subscribers#bids>.
- 2.02 Complete sets of Bidding Documents shall be used in preparing Bids; neither Owner nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 2.03 Owner and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for the Work and do not authorize or confer a license for any other use.
- 2.04 All addenda will be posted at www.roanokecountyva.gov/bids.aspx. It is the prospective bidders’ responsibility to check this website to ensure that they have all addenda.

ARTICLE 3 – QUALIFICATIONS OF BIDDERS

- 3.01 To demonstrate Bidder’s qualifications to perform the Work, Bidder shall submit with its Bid (a) written evidence establishing its qualifications such as financial data, previous experience, and present commitments, and (b) the following additional information:
- A. Evidence of Bidder’s authority to do business in the state where the Project is located.
- B. Bidder’s state or other contractor license number, if applicable.
- C. Subcontractor and Supplier qualification information; coordinate with provisions of Article 12 of these Instructions, “Subcontractors, Suppliers, and Others.”
- 3.02 A Bidder’s failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder’s qualifications.
- 3.04 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder’s representations and certifications.
- 3.05 VDOT Prequalified Contractors and/or Subcontractors are required for this project. Prequalification of Contractors and/or Subcontractors shall be in accordance with VDOT Road and Bridge Specifications, Section 102.

ARTICLE 4 – SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE

4.01 *Site and Other Areas*

- A. The Site is identified in the Bidding Documents. By definition, the Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

4.02 *Existing Site Conditions*

- A. Subsurface and Physical Conditions; Hazardous Environmental Conditions
 - 1. The Supplementary Conditions identify:
 - a. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site.
 - b. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities).
 - c. reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site.
 - d. Technical Data contained in such reports and drawings.
 - 2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
 - 3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
- B. Underground Facilities: Information and data shown or indicated in the Bidding Documents with respect to existing Underground Facilities at or contiguous to the Site are set forth in the Contract Documents and are based upon information and data furnished to Owner and Engineer by owners of such Underground Facilities, including Owner, or others.
- C. Adequacy of Data: Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to subsurface conditions, other physical conditions, and Underground Facilities, and possible changes in the Bidding Documents due to differing or unanticipated subsurface or physical conditions appear in Paragraphs 5.03, 5.04, and 5.05 of the General Conditions. Provisions concerning responsibilities for the adequacy of data furnished to prospective Bidders with respect to a Hazardous Environmental Condition at the Site, if any, and possible changes in the Contract Documents due to any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work, appear in Paragraph 5.06 of the General Conditions.

4.03 *Site Visit and Testing by Bidders*

- A. Bidder shall conduct the required Site visit during normal working hours, and shall not disturb any ongoing operations at the Site.
- B. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.
- C. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site.
- D. Bidder shall comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- E. Bidder shall fill all holes and clean up and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

4.04 *Owner's Safety Program*

- A. Site visits and work at the Site may be governed by an Owner safety program. As the General Conditions indicate, if an Owner safety program exists, it will be noted in the Supplementary Conditions.

4.05 *Other Work at the Site*

- A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

ARTICLE 5 – BIDDER'S REPRESENTATIONS

5.01 It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, and any data and reference items identified in the Bidding Documents;
- B. visit the Site, conduct a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfy itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work;
- C. become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work;
- D. carefully study all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions,

especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings;

- E. consider the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs;
- F. agree, based on the information and observations referred to in the preceding paragraph, that at the time of submitting its Bid no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of its Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents;
- G. become aware of the general nature of the work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents;
- H. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Engineer is acceptable to Bidder;
- I. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work; and
- J. agree that the submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 6 – PRE-BID CONFERENCE

- 6.01 A non-mandatory pre-Bid conference will be held at the time and location stated in the invitation or advertisement to bid. Representatives of Owner and Engineer will be present to discuss the Project. Bidders are encouraged to attend and participate in the conference. Purchasing will issue such Addendum as Purchasing considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.

ARTICLE 7 – INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to the Purchasing Department, Attention: Dawn M. Rago at drago@roanokecountyva.gov, in writing. Interpretations or clarifications considered necessary in response to such questions will be by Addenda posted on the project website. Questions received less than seven days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.
- 7.02 Addenda may be issued to clarify, correct, supplement, or change the Bidding Documents.

ARTICLE 8 – BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of five percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a certified check or a Bid bond (on the form included in the Bidding Documents) issued by a surety meeting the requirements of Paragraphs 6.01 and 6.02 of the General Conditions. Bid security may also be in the form of cash, which is deposited in advance with the County of Roanoke Treasurer.
- Owner will also accept personal bond or letter of credit issued by an authorized financial institution in the face amount required for the Bid Security, made payable to the County of Roanoke. The forms of security shall be submitted for review and must be approved by the County Attorney, in their sole discretion, at least 3 business days prior to receipt of bids. Approval is based upon a determination that the form of security offered will adequately protect the interest of the County as equivalent to a corporate surety's bond.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract Documents, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. Such forfeiture shall be Owner's exclusive remedy if Bidder defaults.
- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of seven days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within seven days after the Bid opening.

ARTICLE 9 – CONTRACT TIMES

- 9.01 The number of days within which, or the dates by which, the Work is to be substantially completed and ready for final payment are set forth in the Agreement.

ARTICLE 10 – LIQUIDATED DAMAGES

- 10.01 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

ARTICLE 11 – SUBSTITUTE AND "OR-EQUAL" ITEMS

- 11.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or "or-equal" items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or "or-equal" item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.

- 11.01 The Contract for the Work, as awarded, will be on the basis of materials and equipment specified or described in the Bidding Documents, and those "or-equal" or substitute materials and equipment subsequently approved by Engineer prior to the submittal of Bids and identified by Addendum. No item of material or equipment will be considered by Engineer as an "or-equal" or substitute unless written request for approval has been submitted by Bidder and has been received by Engineer at least 15 days prior to the date for receipt of Bids. Each such request shall comply with the requirements of Paragraphs 7.04 and 7.05 of the General Conditions. The burden of proof of the merit of the proposed item is upon Bidder. Engineer's decision of approval or disapproval of a proposed item will be final. If Engineer approves any such proposed item, such approval will be set forth in an Addendum issued to all prospective Bidders. Bidders shall not rely upon approvals made in any other manner.
- 11.02 All prices that Bidder sets forth in its Bid shall be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.

ARTICLE 12 – SUBCONTRACTORS, SUPPLIERS, AND OTHERS

- 12.01 A Bidder shall be prepared to retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of the Work if required by the Bidding Documents (most commonly in the Specifications) to do so. If a prospective Bidder objects to retaining any such Subcontractor, Supplier, or other individual or entity, and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 12.02 Subsequent to the submittal of the Bid, Owner may not require the Successful Bidder or Contractor to retain any Subcontractor, Supplier, or other individual or entity against which Contractor has reasonable objection.
- 12.03 The apparent Successful Bidder, and any other Bidder so requested, shall within five days after Bid opening, submit to Owner a list of the Subcontractors or Suppliers proposed for the following portions of the Work: Asphalt, Water System Relocation and Sewer System Relocation.
- If requested by Owner, such list shall be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor, Supplier, or other individual or entity. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor, Supplier, individual, or entity, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder shall submit a substitute. Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 12.04 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors, Suppliers, or other individuals or entities. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor, Supplier, individual, or entity so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in Paragraph 7.06 of the General Conditions.

ARTICLE 13 – PREPARATION OF BID

13.01 The Bid Form is included with the Bidding Documents.

- A. All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
- B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words “No Bid” or “Not Applicable.”

13.02 A Bid by a corporation shall be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown.

13.03 A Bid by a limited liability company shall be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.

13.04 A Bid by an individual shall show the Bidder’s name and official address.

13.05 A Bid by a joint venture shall be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.

13.06 All names shall be printed in ink below the signatures.

13.07 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.

13.08 Postal and e-mail addresses and telephone number for communications regarding the Bid shall be shown.

13.09 The Bid shall contain evidence of Bidder’s authority and qualification to do business in the state where the Project is located, or Bidder shall covenant in writing to obtain such authority and qualification prior to award of the Contract and attach such covenant to the Bid. Bidder’s state contractor license number, if any, shall also be shown on the Bid Form.

ARTICLE 14 – BASIS OF BID

14.01 Unit Price

- A. Bidders shall submit a Bid on a unit price basis for each item of Work listed in the Bid Form. Some items of Work are identified individually as lump sum items.
- B. The “Bid Price” (sometimes referred to as the extended price) for each unit price Bid item will be the product of the “Estimated Quantity” (which Owner or its representative has set forth in the Bid Form) for the item and the corresponding “Bid Unit Price” offered by the Bidder. The total of all unit price Bid items will be the sum of these “Bid Prices”; such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with Paragraph 13.03 of the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

ARTICLE 15 – SUBMITTAL OF BID

- 15.01 The Bidding Documents include the Bid Form and the Bid Bond Form. An unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 7 of the Bid Form. In addition to the unbound original, the Bidder shall submit three (3) copies and one (1) electronic copy (CD/DVD/USB Flash Drive) of the Bid Package.
- 15.02 A Bid shall be received no later than the date and time prescribed and at the place indicated in the advertisement or invitation to bid and shall be enclosed in a plainly marked package with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted), the name and address of Bidder, and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid shall be addressed to Ms. Dawn Rago, Finance Department Purchasing Division, County of Roanoke, 5204 Bernard Drive, Roanoke, VA 24018.
- 15.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 16 – MODIFICATION AND WITHDRAWAL OF BID

- 16.01 A Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice, the unopened Bid will be returned to the Bidder.
- 16.02 A Bidder may withdraw its 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 judgement 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 of original work papers, documents, and material used in the preparation of the bid sought to be withdrawn.
- 16.03 The Bidder shall give notice in writing and shall submit the original work papers with such notice to the County of its claim of right to withdraw its bid within two (2) business days after the conclusion of the opening of bids as set forth in part (1) of Section 2.2-4330 (B), of the Code of Virginia. If accepted by the County, the Bid Security will be returned.
- 16.04 Other applicable provisions of Section 2.2-4300, of the Code of Virginia shall apply to any errors in the bids or any requested withdrawal due to errors in bids.
- 16.05 If a bid is withdrawn after the Bid Opening, the Bidder will be disqualified from further bidding on the Work if it is rebid.
- 16.06 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 16.01 and submit a new Bid prior to the date and time for the opening of Bids.

ARTICLE 17 – OPENING OF BIDS

- 17.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.
- 17.02 Individuals with disabilities, who require assistance or special arrangements in order to participate in bidding, please contact (540) 772-2061. Provide at least 48 hours' notice so that reasonable efforts may be made to provide the proper arrangements. You may be requested to specify the nature of any accommodations or assistance, which may be required for your participation.

ARTICLE 18 – BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 18.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 19 – EVALUATION OF BIDS AND AWARD OF CONTRACT

- 19.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible. If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, then the Owner will reject the Bid as nonresponsive; provided that Owner also reserves the right to waive all minor informalities not involving price, time, or changes in the Work.
- 19.02 If Owner awards the contract for the Work, such award shall be to the responsible Bidder submitting the lowest responsive Bid.
- 19.03 Evaluation of Bids
 - A. In evaluating Bids, Owner will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
 - B. In the comparison of Bids, alternates will be applied in the same order of priority as listed in the Bid Form. To determine the Bid prices for purposes of comparison, Owner shall announce to all bidders a "Base Bid plus alternates" budget after receiving all Bids, but prior to opening them. For comparison purposes alternates will be accepted, following the order of priority established in the Bid Form, until doing so would cause the budget to be exceeded. After determination of the Successful Bidder based on this comparative process and on the responsiveness, responsibility, and other factors set forth in these Instructions, the award may be made to said Successful Bidder on its base Bid and any combination of its additive alternate Bids for which Owner determines funds will be available at the time of award.
- 19.04 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.

- 19.05 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

ARTICLE 20 – BONDS AND INSURANCE

- 20.01 Article 6 of the General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the Agreement (executed by Successful Bidder) to Owner, it shall be accompanied by required bonds and insurance documentation.

ARTICLE 21 – SIGNING OF AGREEMENT

- 21.01 When Owner issues a Notice of Award to the Successful Bidder, it shall be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder shall execute and deliver the required number of counterparts of the Agreement (and any bonds and insurance documentation required to be delivered by the Contract Documents) to Owner. Within ten days thereafter, Owner shall deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in Paragraph 2.02 of the General Conditions.

ARTICLE 22 – FEDERAL BIDDING REQUIREMENTS

- 22.01 The Bidder is hereby alerted to the Federal Bidding Requirements for the project. The requirements are administered by the Federal Highway Administration (FHWA) and are contained within Appendix A of this manual.
- 22.02 It is the policy of the Virginia Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 must have the maximum opportunity to participate in the performance of federally funded contracts. A list of DBE firms certified by the SBSD and MWAA is maintained on SBSD's website (<http://www.SBSD.virginia.gov>) under the DBE Directory of Certified Vendors. Contractors/consultants are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on contract, including participation in any subsequent supplement contracts. If the contractor/consultant intends to subcontract a portion of the services on the project, the contractor/consultant is encouraged to seek out and consider DBEs as potential Sub-contractors/sub-consultants. The contractor/Sub-contractor is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a contractor/consultant and a DBE whereby the DBE promises not to provide services to other contractors/consultants is prohibited.
- The DBE contract goal for this procurement is 10%

ARTICLE 23 – ROANOKE COUNTY BIDDING REQUIREMENTS

- 23.01 Authority to Transact Business in Virginia: A Contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a Contract with the County pursuant to the Virginia Public Procurement Act 2.2-4300

et seq. shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the Contract. The County may void any Contract with a business entity if the business entity fails to remain in compliance with the provisions of this section. All corporations, LLC's and LLP's shall be registered with the State Corporation Commission. To determine whether your firm should register, please contact the SCC. By my signature on this solicitation, I certify compliance with federal, state, and local laws and regulations applicable to the performance of the services described herein.

- 23.02 Nondiscrimination Provision: During the performance of this contract, the Contractor will not discriminate against any employee or applicant for employment because of age, race, religion, color, sex or national origin, except where religion, sex or national origin 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. 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.
- 23.03 Assignment of Contract: A contract shall not be assignable by the Contractor in whole or in part without the written consent of Roanoke County.
- 23.04 Availability of Funds: It is understood and agreed between the parties herein that Roanoke County shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this contract.
- 23.05 Compliance with Laws, Regulations, and Immigration Law: Contractor agrees to and shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including all applicable licensing requirements. Contractor further agrees that Contractor does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- 23.06 Drug-Free Workplace: 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 violation 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 workplaces; 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 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.

BID FORM
COUNTY OF ROANOKE
ROANOKE, VA
PLANTATION ROAD, BICYCLE, PEDESTRIAN, AND STREETSCAPE IMPROVEMENTS PHASE 2 PROJECT
VDOT UPC #111366
State Project No.: 0115-080-911, P101, R201, C501

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ARTICLE 1 – BID RECIPIENT

1.01 This Bid is submitted to:

Finance Department Purchasing Division, County of Roanoke, VA, 5204 Bernard Drive, Suite 300F, Roanoke, VA 24018

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 – BIDDER'S ACKNOWLEDGEMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

ARTICLE 3 – BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the following Addenda:

<u>Addendum No.</u>	<u>Addendum, Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related

reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.

- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4 – BIDDER'S CERTIFICATION

4.01 Bidder certifies that:

- A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;
- B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;
- C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and
- D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

ARTICLE 5 – BASIS OF BID

- 5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

THIS SPACE INTENTIONALLY
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BASE BID
VDOT UPC#111366

Item No.	VDOT Spec.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
1	513	Mobilization	LS	1		
2	303	Grading	LS	1		
3		Storm Sewer Pipes				
3a	302	Concrete Storm Sewer Pipe - 15-inch	LF	165		
3b	302	Concrete Storm Sewer Pipe - 18-inch	LF	58		
3c	302	Concrete Storm Sewer Pipe - 24-inch	LF	126		
3d	302	Concrete Storm Sewer Pipe - 30-inch	LF	170		
3e	302	Storm Sewer Pipe - 48-inch	LF	100		
3f	302	Storm Sewer Pipe - 10-inch HDPE	LF	8		
4		Drop Inlets and End Section				
4a	302	Drop Inlet DI-1	EA	1		
4b	302	Drop Inlet DI-2B, L= 8 feet	EA	1		
4c	302	Drop Inlet DI-2C, L= 6 feet	EA	1		
4d	302	Drop Inlet DI-2B, L= 6 feet	EA	2		
4e	302	Drop Inlet DI-3B, L= 8 feet	EA	2		
4f	302	Drop Inlet DI-3CC, L= 6 feet	EA	1		
4g	302	Modified DI-3B Top Unit, L=8 feet	EA	1		
4h	302	End Section 24"	EA	1		
4i	302	Modify Existing Structure	EA	6		
5	302	Storm Sewer Manhole MH-1 or MH-2	VLF	32		
6	302	Frame and Cover for Storm System Manholes	EA	12		
7		Water Main and Fittings				
7a	WVWA	6-inch DI Water Main	LF	61		
7b	WVWA	8-inch DI Water Main	LF	109		
7c	WVWA	12-inch DI Water Main	LF	987		
8		Gate Valve and Vault				
8a	WVWA	6-inch Diameter Gate Valve and Vault	EA	2		
8b	WVWA	8-inch Diameter Gate Valve and Vault	EA	2		
8c	WVWA	12-inch Diameter Gate Valve and Vault	EA	4		
9	WVWA	Fire Hydrant Assembly	EA	2		
10	WVWA	1-inch Water Service Line	LF	40		
11	WVWA	Connect to Existing Water Main	EA	6		
12	WVWA	Sanitary Collection Sewer	LF	147		
13	WVWA	Sanitary Sewer Manhole	VLF	34		

14	WVWA	Frame and Cover for Sanitary Sewer	EA	3		
15	WVWA	Connect to Existing 8" Sanitary Sewer	EA	3		
16	308	Aggregate Base Material Type I, No. 21B	TON	650		
17		Asphalt Concrete Pavement				
17a	315	Asphalt Concrete Ty. BM-25.0A	TON	758		
17b	315	Asphalt Concrete Ty. SM-9.5D	TON	217		
18	315	Saw Cut Asphalt Concrete	LF	1600		
19		Curb & Gutter				
19a	502	Radial Curb CG-2	LF	45		
19b	502	Std. Combination Curb & Gutter CG-6	LF	75		
19c	502	Radial Combination Curb & Gutter CG-6	LF	58		
19d	502	Std. Combination Curb & Gutter CG-7	LF	640		
19e	502	Radial Combination Curb & Gutter CG-7	LF	450		
19f	504	CG-12 Detectable Warning Surface	SY	28		
20	515	Flexible Pavement Planing 0"-2"	SY	175		
21	504	Hydraulic Cement Concrete Sidewalk 4"	SY	430		
22	502	Saw Cut Hydraulic Cement Concrete Items	LF	15		
23	512	Maintenance of Traffic	LS	1		
24		Erosion Control Seeding				
24a	603	Regular Seed	LB	125		
24b	603	Overseeding	LB	60		
24c	603	Hydraulic Erosion Control Product Type 2	SY	2420		
24d	603	Hydraulic Erosion Control Product Type 3	SY	2420		
25		Soil Amendments				
25a	603	Fertilizer Nitrogen – N	LB	43		
25b	603	Fertilizer Phosphorus – P	LB	56		
25c	603	Fertilizer Potassium – K	LB	28		
25d	603	Lime	TON	2		
26		Erosion Control Devices				
26a	303	Check Dam Rock Type II	EA	2		
26b	303	Siltation Control Excavation	CY	150		
26c	303	Temporary Silt Fence, Type A	LF	460		
26d	303	Inlet Protection, Type A	EA	2		
26e	303	Inlet Protection, Type B	EA	8		
27		Landscaping				
27a	605	Autumn Brilliance Serviceberry (NS)	EA	3		

27b	605	American Hornbeam/Musclewood (NS)	EA	2		
27c	605	Eastern Redbud (NS)	EA	1		
27d	605	Shamrock Inkberry	EA	24		
27e	605	Winter Red Winterberry (F)	EA	25		
27f	605	Jim Dandy Winterberry (M)	EA	4		
27g	605	Otto Luyken Laurel	EA	51		
27h	602	Topsoil Class A	CY	125		
27i	605	Watering	UNIT	10		
27j	605	Bed Preparation	UNIT	8		
27k	605	Mulching (Beds Only)	UNIT	8		
27l	605	Remulching	CY	8		
28		VDOT Standard Traffic and Safety Items				
28a	701	Sign Panel	SF	74		
28b	700	Sign Post STP-1, 2-1/2", 12 Gauge	LF	42		
28c	700	Sign Post STP-1, 2-1/2", 10 Gauge	LF	15		
28d	700	Sign Post STP-1, 2", 14 Gauge	LF	78		
28e	700	Concrete Sign Foundation STP-1, Type A	EA	10		
28f	700	Concrete Sign Foundation STP-1, Type B	EA	1		
29		Disposition of Existing Signage				
29a	700	Remove Existing 1 Post Sign Structure	EA	11		
29b	700	Relocate Existing 1 Post Ground Mounted Sign Panel	EA	6		
30		Lane Marking and Traffic Control				
30a	704	Type B Class I Pavement Line Marking 4"	LF	3400		
30b	704	Type B Class I Pavement Line Marking 6"	LF	235		
30c	704	Type B Class II Pavement Line Marking 24"	LF	435		
30d	512	Eradicate Existing Linear Pavement Marking	LF	6950		
30e	512	Eradicate Existing Non-Linear Pavement Marking	SF	110		
30f	704	Pavement Symbol Marking Single Turn Arrow Type B, Class II	EA	12		
31	517	Construction Surveying Construction	LS	1		
32		Pedestrian Signal and Lighting				
32a	703	Traffic Signal Head Section 12" LED, HVS Backplate	EA	10		
32b	703	Pedestrian Actuation PA-4 (Audible/Accessible)	EA	4		
32c	700	Pedestal Pole PF-2 10'	EA	4		
32d	700	Concrete Foundation PF-2	EA	4		

32e	700	14/4 Conductor Cable	LF	1065		
32f	703	Hanger Assembly SM-3, One Way	EA	3		
32g	703	Hanger Assembly SMB-2, One Way	EA	4		
32h	703	Pedestrian Signal Head SP-8	EA	4		
32i	700	8 Conductor Cable	LF	120		
32j	700	2" PVC Conduit	LF	105		
32k	700	Trench Excavation ECI-1	LF	105		

Bidder acknowledges that (1) each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and (2) estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all unit price Bid items will be based on actual quantities, determined as provided in the Contract Documents.

Total Base Bid Price \$ _____

ARTICLE 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security;
 - B. List of Proposed Subcontractors;
 - C. List of Proposed Suppliers;
 - D. List of Project References;
 - E. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids;
 - F. Contractor's License No.: _____;
 - G. Required Bidder Qualification Statement with supporting data; and
 - H. Required Federal Bid Forms

ARTICLE 8 – DEFINED TERMS

- 8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 – BID SUBMITTAL

BIDDER: *[Indicate correct name of bidding entity]*

By:

[Signature]

[Printed name]

(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

[Signature]

[Printed name]

Title:

Submittal Date:

Address for giving notices:

Telephone Number:

Fax Number:

Contact Name and e-mail address:

Bidder's License No.:

(where applicable)

Virginia SCC # *

*(or provide explanation why firm is not required to be authorized in accord with VA CODE 2.2-4311.2)

BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (*Name and Address*):

SURETY (*Name, and Address of Principal Place of Business*):

OWNER: County of Roanoke, VA, PO Box 29800, 5204 Bernard Drive, Roanoke, VA 24018

BID

Bid Due Date: _____

Description: Plantation Road, Bicycle, Pedestrian, and Streetscape Improvements Phase 2 Project
County of Roanoke IFB#2020-082

BOND

Bond Number: _____

Date: _____

Penal sum _____ \$ _____
(Words) (Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER	(Seal)	SURETY	(Seal)
_____		_____	
Bidder's Name and Corporate Seal		Surety's Name and Corporate Seal	

By: _____	By: _____
Signature	Signature (Attach Power of Attorney)

_____	_____
Print Name	Print Name

_____	_____
Title	Title

Attest: _____	Attest: _____
Signature	Signature

_____	_____
Title	Title

Note: Addresses are to be used for giving any required notice.

Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from the Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after the Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

QUALIFICATIONS STATEMENT

THE INFORMATION SUPPLIED IN THIS DOCUMENT IS CONFIDENTIAL TO THE EXTENT
PERMITTED BY LAWS AND REGULATIONS

1. SUBMITTED BY:

Official Name of Firm:

Address:

2. SUBMITTED TO:

3. SUBMITTED FOR:

Owner:

Project Name:

TYPE OF WORK:

4. CONTRACTOR'S CONTACT INFORMATION

Contact Person:

Title:

Phone:

Email:

5. AFFILIATED COMPANIES:

Name: _____

Address: _____

6. TYPE OF ORGANIZATION:

☐ SOLE PROPRIETORSHIP

Name of Owner: _____

Doing Business As: _____

Date of Organization: _____

☐ PARTNERSHIP

Date of Organization: _____

Type of Partnership: _____

Name of General Partner(s): _____

☐ CORPORATION

State of Organization: _____

Date of Organization: _____

Executive Officers:

- President: _____

- Vice President(s): _____

- Treasurer: _____

- Secretary: _____

☐ LIMITED LIABILITY COMPANY

State of Organization:

Date of Organization:

Members:

☐ JOINT VENTURE

State of Organization:

Date of Organization:

Form of Organization:

Joint Venture Managing Partner

- Name:

- Address:

Joint Venture Managing Partner

- Name:

- Address:

Joint Venture Managing Partner

- Name:

- Address:

7. CONSTRUCTION EXPERIENCE:

Has firm listed in Section 1 ever failed to complete a construction contract awarded to it?

☐ YES ☐ NO

If YES, attach as an Attachment details including Project Owner's contact information.

Has any Corporate Officer, Partner, Joint Venture participant or Proprietor ever failed to complete a construction contract awarded to them in their name or when acting as a principal of another entity?

☐ YES ☐ NO

If YES, attach as an Attachment details including Project Owner's contact information.

Are there any judgments, claims, disputes or litigation pending or outstanding involving the firm listed in Section 1 or any of its officers (or any of its partners if a partnership or any of the individual entities if a joint venture)?

☐ YES ☐ NO

If YES, attach as an Attachment details including Project Owner's contact information.

I HEREBY CERTIFY THAT THE INFORMATION SUBMITTED HERewith, INCLUDING ANY ATTACHMENTS, IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

NAME OF ORGANIZATION: _____

BY: _____

TITLE: _____

DATED: _____

NOTARY ATTEST:

SUBSCRIBED AND SWORN TO BEFORE ME

THIS _____ DAY OF _____, 20____

NOTARY PUBLIC - STATE OF _____

MY COMMISSION EXPIRES: _____

NOTICE OF AWARD

Date of Issuance:

Owner: County of Roanoke

VDOT's Project No.: UPC #111366

County's Contract No.: 2020 - 082

Engineer: Whitman, Requardt & Associates, LLP

Engineer's Project No.: 45808.003

Project: Plantation Road, Bicycle, Pedestrian, and
Streetscape Improvements Phase 2 Project

Contract Name:

Bidder:

Bidder's Address:

TO BIDDER:

You are notified that Owner has accepted your Bid dated [_____] for the
above Contract, and that you are the Successful Bidder and are awarded a Contract for:

[describe Work, alternates, or sections of Work awarded]

The Contract Price of the awarded Contract is: \$_____ *[note if subject to unit prices, or cost-plus]*

Four unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the
Contract Documents accompanies this Notice of Award, or has been transmitted or made available to
Bidder electronically. *[revise if multiple copies accompany the Notice of Award]*

☐ a set of the Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice
of Award:

1. Deliver to Owner four counterparts of the Agreement, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security *[e.g., performance and payment bonds]*
and insurance documentation as specified in the Instructions to Bidders and General Conditions,
Articles 2 and 6.
3. Other conditions precedent (if any):

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default,
annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed
counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in
Paragraph 2.02 of the General Conditions.

Owner:

Authorized Signature

By:

Title:

Copy: Engineer

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between County of Roanoke, VA, PO Box 29800,
5204 Bernard Drive, Roanoke, VA 24018 ("Owner") and
 ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Improve intersection of Walrond Drive at Plantation Road, concrete walk between Walrond Drive and Gander Way, and pedestrian signals at Gander Way/Friendship Lane and Plantation Road, along with associated storm drainage and other utility work.

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: Plantation Road, Bicycle, Pedestrian, and Streetscape Improvements Phase 2 Project.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Whitman, Requardt & Associates LLP ("Engineer").

3.02 The Owner has retained Whitman, Requardt & Associates LLP ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Contract Times: Days

A. The Work of the Base Bid, will be substantially completed within 270 days respectively after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 330 days respectively after the date when the Contract Times commence to run.

4.03 Liquidated Damages

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any

extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$600.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$200.00 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 *Special Damages*

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 15th day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such

Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 100 percent of Work completed; and
 - b. 100 percent of cost of materials and equipment, delivered and properly stored, not yet incorporated in the Work.
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment. In no event shall more than 98 percent of the total Contract value be invoiced prior to final completion of the work.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest at the statutory rate per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to ___, inclusive).
 - 2. Performance bond (pages ___ to ___, inclusive).
 - 3. Payment bond (pages ___ to ___, inclusive).
 - 4. Other bonds.
 - a. ___ (pages ___ to ___, inclusive).
 - 5. General Conditions (pages ___ to ___, inclusive).
 - 6. Supplementary Conditions (pages ___ to ___, inclusive).
 - 7. Specifications as listed in the table of contents of the Project Manual.
 - 8. Drawings (not attached but incorporated by reference) consisting of ___ sheets with each sheet bearing the following general title: ___ [or] the Drawings listed on the attached sheet index.
 - 9. Addenda (numbers ___ to ___, inclusive).
 - 10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages ___ to ___, inclusive).
 - b. VDOT and Federal forms and requirements to meet funding requirements

11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

By: _____

By: _____

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

License No.: _____
(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTICE TO PROCEED

Owner:	County of Roanoke	VDOT's Project No.:	UPC #111366
		County Contract No.:	2020 – 082
Contractor:		Contractor's Project No.:	
Engineer:	Whitman, Requardt & Associates, LLP	Engineer's Project No.:	45808.003
Project:	Plantation Road, Bicycle, Pedestrian, and Streetscape Improvements Phase 2 Project	Contract Name:	
		Effective Date of Contract:	

TO CONTRACTOR:

Owner hereby notifies Contractor that the Contract Times under the above Contract will commence to run on [_____, 20__]. *[see Paragraph 4.01 of the General Conditions]*

On that date, Contractor shall start performing its obligations under the Contract Documents. No Work shall be done at the Site prior to such date. In accordance with the Agreement, [the date of Substantial Completion is _____, and the date of readiness for final payment is _____] or [the number of days to achieve Substantial Completion is _____, and the number of days to achieve readiness for final payment is _____].

Before starting any Work at the Site, Contractor must comply with the following:
[Note any access limitations, security procedures, or other restrictions]

Owner: County of Roanoke, VA

Authorized Signature

By:

Title:

Date Issued:

Copy: Engineer

PERFORMANCE BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER: County of Roanoke, VA, PO Box 29800, 5204 Bernard Drive, Roanoke, VA 24018

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description: Plantation Road, Bicycle, Pedestrian, and Streetscape Improvements Phase 2 Project

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

Contractor's Name and Corporate Seal *(seal)*

Surety's Name and Corporate Seal *(seal)*

By: _____
Signature

By: _____
Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence,

to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims

for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

PAYMENT BOND

CONTRACTOR *(name and address):*

SURETY *(name and address of principal place of business):*

OWNER: County of Roanoke, VA, PO Box 29800, 5204 Bernard Drive, Roanoke, VA 24018

CONSTRUCTION CONTRACT

Effective Date of the Agreement:

Amount:

Description: Plantation Road, Bicycle, Pedestrian, and Streetscape Improvements Phase 2 Project

BOND

Bond Number:

Date *(not earlier than the Effective Date of the Agreement of the Construction Contract):*

Amount:

Modifications to this Bond Form: ☐ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

(seal)

Contractor's Name and Corporate Seal

(seal)

Surety's Name and Corporate Seal

By: _____

Signature

By: _____

Signature *(attach power of attorney)*

Print Name

Print Name

Title

Title

Attest: _____

Signature

Attest: _____

Signature

Title

Title

Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
 - 5.1 Claimants who do not have a direct contract with the Contractor,
 - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2 Pay or arrange for payment of any undisputed amounts.
 - 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
 - 16.1 Claim: A written statement by the Claimant including at a minimum:
 1. The name of the Claimant;
 2. The name of the person for whom the labor was done, or materials or equipment furnished;
 3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 4. A brief description of the labor, materials, or equipment furnished;
 5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 7. The total amount of previous payments received by the Claimant; and
 - 16.2 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
 - 16.3 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
 - 16.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 16.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
18. Modifications to this Bond are as follows:

Contractor's Application for Payment No. _____

Application Period:	Application Date:
To (Owner):	From (Contractor):
Project:	Contract:
Owner's Contract No.:	Contractor's Project No.:
Via (Engineer):	
Engineer's Project No.:	

Application For Payment Change Order Summary

Approved Change Orders Number	Additions	Deductions	
			1. ORIGINAL CONTRACT PRICE..... \$ _____
			2. Net change by Change Orders..... \$ _____
			3. Current Contract Price (Line 1 ± 2)..... \$ _____
			4. TOTAL COMPLETED AND STORED TO DATE (Column F total on Progress Estimates)..... \$ _____
			5. RETAINAGE:
			a. X Work Completed..... \$ _____
			b. X Stored Material..... \$ _____
			c. Total Retainage (Line 5.a + Line 5.b)..... \$ _____
			6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5.c)..... \$ _____
			7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)..... \$ _____
			8. AMOUNT DUE THIS APPLICATION..... \$ _____
			9. BALANCE TO FINISH, PLUS RETAINAGE (Column G total on Progress Estimates + Line 5.c above)..... \$ _____
TOTALS			
NET CHANGE BY CHANGE ORDERS			

Contractor's Certification

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all Liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such Liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Payment of:	\$ _____	(Line 8 or other - attach explanation of the other amount)
is recommended by:	_____	(Engineer) _____ (Date) _____
Payment of:	\$ _____	(Line 8 or other - attach explanation of the other amount)
is approved by:	_____	(Owner) _____ (Date) _____
Approved by:	_____	Funding or Financing Entity (if applicable) _____ (Date) _____

Contractor Signature

By: _____ Date: _____

CERTIFICATE OF SUBSTANTIAL COMPLETION

Owner: County of Roanoke, VA	VDOT's Project No.: UPC # 111366
	County's Contract No.: 2020 - 082
Contractor:	Contractor's Project No.:
Engineer:	Engineer's Project No.: 45808.003
Project: Plantation Road, Bicycle, Pedestrian, and Streetscape Improvements Phase 2 Project	
Contract Name:	

This [preliminary] [final] Certificate of Substantial Completion applies to:

☐ All Work ☐ The following specified portions of the Work:

Date of Substantial Completion

The Work to which this Certificate applies has been inspected by authorized representatives of Owner, Contractor, and Engineer, and found to be substantially complete. The Date of Substantial Completion of the Work or portion thereof designated above is hereby established, subject to the provisions of the Contract pertaining to Substantial Completion. The date of Substantial Completion in the final Certificate of Substantial Completion marks the commencement of the contractual correction period and applicable warranties required by the Contract.

A punch list of items to be completed or corrected is attached to this Certificate. This list may not be all-inclusive, and the failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract.

The responsibilities between Owner and Contractor for security, operation, safety, maintenance, heat, utilities, insurance, and warranties upon Owner's use or occupancy of the Work shall be as provided in the Contract, except as amended as follows: *[Note: Amendments of contractual responsibilities recorded in this Certificate should be the product of mutual agreement of Owner and Contractor; see Paragraph 15.03.D of the General Conditions.]*

Amendments to Owner's responsibilities: ☐ None ☐ As follows

Amendments to Contractor's responsibilities: ☐ None ☐ As follows:

The following documents are attached to and made a part of this Certificate: *[punch list; others]*

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligation to complete the Work in accordance with the Contract.

EXECUTED BY ENGINEER:	RECEIVED:	RECEIVED:
By: _____ (Authorized signature)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer

has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5501 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.

37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.
38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words "furnish," "install," "perform," or "provide," then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor's Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner's Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 2. a preliminary Schedule of Submittals; and

3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or

computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
 - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict,

error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies:*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. abnormal weather conditions;
 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.

- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas:*

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part

by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 2. is of such a nature as to require a change in the Drawings or Specifications; or
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,

- c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after

becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.

- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
 - 1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
 - 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 - 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:
1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.

- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.H shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is

maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).

4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 2. claims for damages insured by reasonably available personal injury liability coverage.
 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Broad form property damage coverage.
 4. Severability of interest.
 5. Underground, explosion, and collapse coverage.
 6. Personal injury coverage.
 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
 8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability:* Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result

of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.

- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
- I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
 - 1. include at least the specific coverages provided in this Article.
 - 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 - 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 - 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 - 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 - 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
 - 2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
 - 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 - 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).

5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance:* If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property:* If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
 - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the

policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.

- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct 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 Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and

guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.

- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 "Or Equals"

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.

- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
 - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and

- 2) available engineering, sales, maintenance, repair, and replacement services.
- d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.

- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.

O. Nothing in the Contract Documents:

1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
 - C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
 - D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
 - E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
 - F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
 - G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or

exchanged between or among employers at the Site in accordance with Laws or Regulations.

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

7.16 *Shop Drawings, Samples, and Other Submittals*

A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*

- a. Contractor shall submit the number of copies required in the Specifications.
- b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to

provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.

2. *Samples:*

- a. Contractor shall submit the number of Samples required in the Specifications.
- b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.

C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.

8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
 1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.

- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
 - 1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 - 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop

Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during

or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an

adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
 3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on

the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).

- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.01.C.2.a and 11.01.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim

submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable

thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes

other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require special inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will

include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

- a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
 - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
 - a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount

remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

- A. *Application for Payment:*
 - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of

inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation,

including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses,

and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC® C-700 (2013 Edition). All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

ARTICLE 2 – PRELIMINARY MATTERS

SC-2.01 Delivery of Bonds and Evidence of Insurance

SC-2.01 Delete Paragraph 2.01 C. in its entirety and insert the following in its place:

- C. Evidence of Owner's Insurance: Owner is self-insured. Owner shall promptly deliver to Contractor information to the extent available to show the insurance limits, terms and conditions.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

SC-5.03 Subsurface and Physical Conditions

SC-5.03 Add the following new paragraph immediately after Paragraph 5.03.B:

- C. The Plantation Road Geotechnical Report dated January 2014 has been included as Appendix D.

SC-5.04 Differing Subsurface and Physical Conditions

SC-5.04 Delete the following words from Paragraph 5.04D.2.a: "or becoming bound under a negotiated contract, or otherwise."

SC-5.06 Hazardous Environmental Conditions

SC 5.06 Delete Paragraphs 5.06.A and 5.06.B in their entirety and insert the following:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. Not Used.

ARTICLE 6 – BONDS AND INSURANCE

SC-6.03 Contractor's Liability Insurance

SC 6.03 Add the following new paragraph immediately after Paragraph 6.03.J:

K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:

State:	<u>Statutory</u>
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Federal, if applicable (e.g., Longshoreman's):	<u>Statutory</u>
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Jones Act coverage, if applicable:

Bodily injury by accident, each accident	\$ <u>N/A</u>
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Bodily injury by disease, aggregate	\$ <u>N/A</u>
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Employer's Liability:

Bodily injury, each accident	\$ <u>Statutory</u>
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Bodily injury by disease, each employee	\$ <u>Statutory</u>
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Bodily injury/disease aggregate	\$ <u>Statutory</u>
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For work performed in monopolistic states, stop-gap liability coverage shall be endorsed to either the worker's compensation or commercial general liability policy with a minimum limit of:	\$ <u>N/A</u>
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Foreign voluntary worker compensation	<u>Statutory</u>
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2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions:

General Aggregate	\$ <u>3,000,000</u>
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Products - Completed Operations Aggregate	\$ <u>1,000,000</u>
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Personal and Advertising Injury	\$ <u>1,000,000</u>
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Each Occurrence (Bodily Injury and Property Damage)	\$ <u>2,000,000</u>
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3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:

Bodily Injury:

Each person	\$ <u>2,000,000</u>
Each accident	\$ <u>2,000,000</u>

Property Damage:

Each accident	\$ <u>2,000,000</u>
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Combined Single Limit of	\$ <u>N/A</u>
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4. Excess or Umbrella Liability:

Per Occurrence	\$ <u>10,000,000</u>
General Aggregate	\$ <u>10,000,000</u>

5. Contractor's Pollution Liability:

Each Occurrence	\$ <u>N/A</u>
General Aggregate	\$ <u>N/A</u>



If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract

6. Additional Insureds: In addition to Owner and Engineer, include as additional insureds the following:

7. Contractor's Professional Liability:

Each Claim	\$ <u>N/A</u>
Annual Aggregate	\$ <u>N/A</u>

SC-6.05 Property Insurance

SC 6.05.A. Delete Paragraph 6.05.A of the General Conditions and substitute the following in its place:

Contractor shall provide and maintain installation floater insurance for property under the care, custody, or control of Contractor. The installation floater insurance shall be a broad form or "all risk" policy providing coverage for all materials, supplies, machinery, fixtures, and equipment that will be incorporated into the Work. Coverage under the Contractor's installation floater will include:

1. any loss to property while in transit,
2. any loss at the Site, and
3. any loss while in storage, both on-site and off-site.

Coverage cannot be contingent on an external cause or risk, or limited to property for which the Contractor is legally liable. The Contractor will be solely responsible for any deductible carried under this coverage and claims on materials, supplies, machinery, fixture, and equipment that will be incorporated into the Work while in transit or in storage. This policy will include a waiver of subrogation applicable to Owner, Contractor, Engineer, all Subcontractors, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

SC-7.02 Labor; Working Hours

SC-7.02.B. Add the following new subparagraphs to the end of Paragraph 7.02.B:

1. Regular working hours will be Monday through Friday, 7 A.M. to 5 P.M. During lane closures working hours will be 9 A.M. to 3 P.M.
2. Owner's legal holidays are:

New Year's Day	Martin Luther King, Jr. Day
President's Day	Memorial Day
Juneteenth Day	Independence Day
Labor Day	Columbus Day
Election Day	Veterans Day
Thanksgiving Day	Day after Thanksgiving
Christmas Eve Day	Christmas Day
3. Owner may allow night work. If night work is allowed, it must comply with the requirements of the County Noise Ordinance. If a waiver to the Noise Ordinance is sought, the Contractor shall consider the time required by the Board of Supervisors to consider the waiver. Granting of a waiver to the Noise Ordinance is not guaranteed

SC-7.02.C. Add the following new paragraph immediately after Paragraph 7.02.B:

Contractor shall be responsible for the cost of any overtime pay or other expense incurred by the Owner for Engineer's services (including those of the Resident Project Representative, if any), Owner's representative, and construction observation services, occasioned by the performance of Work on Saturday, Sunday, any legal holiday, or as overtime on any regular work day. If Contractor is responsible but does not pay, or if the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

SC-7.06 Concerning Subcontractors, Suppliers, and Others

SC 7.06 Delete the following words from Paragraph 7.06C: "or final negotiation of the terms of the Contract."

SC-7.08 Permits

SC 7.07 Delete paragraph 7.07B in its entirety.

SC 7.08 Delete the following words from Paragraph 7.08A: "(or when Contractor became bound under a negotiated Contract)."

SC-7.09 Taxes

SC 7.09 Add a new paragraph immediately after Paragraph 7.09A:

B. Contractor shall pay BPOL taxes.

SC-7.10 Laws and Regulations

SC 7.10 Delete the following words from Paragraph 7.10C: "(or after the date when the Contractor became bound under a negotiated Contract)."

ARTICLE 8 – OTHER WORK AT THE SITE

SC-8.01 Other Work

SC 8.01 Add a new sub-paragraph immediately after Paragraph 8.01D:

E. Owner is not aware of other scheduled work on the site except for advanced utility relocation relative to this project, which is expected to be completed prior to Contractor's entry onto this site for work on this project.

SC-8.03 Legal Relationships

SC 8.03 Delete the following words from Paragraph 8.03A: "or the final negotiation of the terms of the Contract."

ARTICLE 9 – OWNER'S RESPONSIBILITIES

SC-9.13 Owner's Site Representative

SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:

SC-9.13 Owner will furnish an "Owner's Site Representative" to represent Owner at the Site and assist Owner in observing the progress and quality of the Work. The Owner's Site Representative may or may not be the Engineer's Resident Project Representative, consultant, agent, or employee. The duties of the Owner's Site Representative will be identical to those identified in General Conditions Article 10.03 for the Engineer's Resident Project Representative.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

SC-10.03 Project Representative

SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.A:

- B. The Resident Project Representative (RPR) will be Engineer's representative at the Site, will act as directed by and under the supervision of Engineer, and will confer with Engineer regarding RPR's actions.
1. General: RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor. RPR shall generally communicate with Owner only with the knowledge of and under the direction of Engineer.
 2. Schedules: Review the progress schedule, schedule of Shop Drawing and Sample submittals, and Schedule of Values prepared by Contractor and consult with Engineer concerning acceptability.
 3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings, and prepare and circulate copies of minutes thereof.
 4. Liaison:
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
 5. Interpretation of Contract Documents: Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer.

6. Shop Drawings and Samples:
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.
 - c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, if any, to Engineer. Transmit to Contractor in writing decisions as issued by Engineer.
8. Review of Work and Rejection of Defective Work:
 - a. Conduct on-Site observations of Contractor's work in progress to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Engineer whenever RPR believes that any part of Contractor's work in progress is defective, will not produce a completed Project that conforms generally to the Contract Documents, or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
9. Inspections, Tests, and System Start-ups:
 - a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
 - b. Observe, record, and report to Engineer appropriate details relative to the test procedures and systems start-ups.
10. Records:
 - a. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Engineer.

- b. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
 - c. Maintain records for use in preparing Project documentation.
 - 11. Reports:
 - a. Furnish to Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the Progress Schedule and schedule of Shop Drawing and Sample submittals.
 - b. Draft and recommend to Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
 - c. Immediately notify Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, force majeure or delay events, damage to property by fire or other causes, or the discovery of any Constituent of Concern or Hazardous Environmental Condition.
 - 12. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Engineer, noting particularly the relationship of the payment requested to the Schedule of Values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
 - 13. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
 - 14. Completion:
 - a. Participate in Engineer's visits to the Site to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of a punch list of items to be completed or corrected.
 - b. Participate in Engineer's final visit to the Site to determine completion of the Work, in the company of Owner and Contractor, and prepare a final punch list of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Engineer concerning acceptance and issuance of the notice of acceptability of the work.
- C. The RPR shall not:
- 1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 - 2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.

3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN WORK

SC-11.04 Change of Contract Price

Delete Paragraphs 11.04.C.2.c. and 11.04.C.2.d., and replace with:

- c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the total Contractor's fee shall be based upon a fee of 15 percent of the costs incurred.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC-13.01 Cost of the Work

SC 13.01.B.5.b. Amend the first sentence of Paragraph 13.01.B.5.b by adding after "cost", "less taxes".

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

SC-15.01 Progress Payments

SC 15.01.D.1 Amend the first sentence of Paragraph 15.01.D.1 by striking the word "Ten" and replacing it with the word "Thirty."

SC-15.03 Substantial Completion

SC 15.03.B Add the following new subparagraph to Paragraph 15.03.B:

1. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, shall be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

ARTICLE 18 – MISCELLANEOUS

SC-18.09 Disadvantaged Business Enterprise

Add Paragraph SC-18.09 as follows:

SC-18.09 – VDOT requires Disadvantaged Business Enterprise (DBE) participation in the construction of this project. The participation goal is 10% as a portion of the overall contract amount. Program details are provided in Appendix A of this project manual.

ADD the following Articles to the Standard General Conditions:

ARTICLE 19 – AUTHORITY TO TRANSACT BUSINESS IN VIRGINIA

A Contractor organized as a stock or non-stock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described herein that enters into a Contract with the County pursuant to the Virginia Public Procurement Act 2.2-4300 et seq. shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code of Virginia, to be revoked or cancelled at any time during the term of the Contract. The County may void any Contract with a business entity if the business entity fails to remain in compliance with the provisions of this section. All corporations, LLC's and LLP's shall be registered with the State Corporate Commission. To determine whether your firm should register, please contact the SCC. By my signature on this solicitation, I certify compliance with federal, state, and local laws and regulations applicable to the performance of the services described herein.

ARTICLE 20 – NONDISCRIMINATION PROVISION

During the performance of this contract, the Contractor will not discriminate against any employee or applicant for employment because of age, race, religion, color, sex or national origin, except where religion, sex or national origin 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. 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.

ARTICLE 21 – ASSIGNMENT OF CONTRACT

A contract shall not be assignable by the Contractor in whole or in part without the written consent of Roanoke County.

ARTICLE 22 – AVAILABILITY OF FUNDS

It is understood and agreed between the parties herein that Roanoke County shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this contract.

ARTICLE 23 – COMPLIANCE WITH LAWS, REGULATIONS, AND IMMIGRATION LAW

Contractor agrees to and shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including all applicable licensing requirements. When conflicts arise between federal, state and local codes, the federal-aid or most conservative code shall apply. Contractor further agrees that Contractor does not, and shall not during the performance of this Contract, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

ARTICLE 24 – DRUG-FREE WORKPLACE

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 violation 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.

Work Change Directive No.

Date of Issuance:

Effective Date:

Owner:

VDOT's Project No.: UPC # 111366

Contractor:

Owner's Contract No.: 2020 - 082

Engineer:

Contractor's Project No.:

Engineer's Project No.:

Project:

Contract Name:

Contractor is directed to proceed promptly with the following change(s):

Description:

Attachments: *[List documents supporting change]*

Purpose for Work Change Directive:

Directive to proceed promptly with the Work described herein, prior to agreeing to changes on Contract Price and Contract Time, is issued due to: *[check one or both of the following]*

☐ Non-agreement on pricing of proposed change.

☐ Necessity to proceed for schedule or other Project reasons.

Estimated Change in Contract Price and Contract Times (non-binding, preliminary):

Contract Price \$ [increase] [decrease].

Contract Time days [increase] [decrease].

Basis of estimated change in Contract Price:

☐ Lump Sum

☐ Unit Price

☐ Cost of the Work

☐ Other

RECOMMENDED:

AUTHORIZED BY:

RECEIVED:

By:

Engineer (Authorized Signature)

By:

Owner (Authorized Signature)

By:

Contractor (Authorized Signature)

Title:

Title:

Title:

Date:

Date:

Date:

Approved by Funding Agency (if applicable)

By:

Date:

Title:

Change Order No. _____

Date of Issuance:

Effective Date:

Owner:

VDOT's Project No.: UPC #111366

Contractor:

County's Contract No.: 2020 - 082

Engineer:

Contractor's Project No.:

Project:

Engineer's Project No.:

Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Description:

Attachments: *[List documents supporting change]*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES <i>[note changes in Milestones if applicable]</i>
Original Contract Price: \$ _____	Original Contract Times: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] from previously approved Change Orders No. ____ to No. ____: \$ _____	[Increase] [Decrease] from previously approved Change Orders No. ____ to No. ____: Substantial Completion: _____ Ready for Final Payment: _____ days
Contract Price prior to this Change Order: \$ _____	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
[Increase] [Decrease] of this Change Order: \$ _____	[Increase] [Decrease] of this Change Order: Substantial Completion: _____ Ready for Final Payment: _____ days or dates
Contract Price incorporating this Change Order: \$ _____	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for Final Payment: _____ days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: _____ Engineer (if required)	By: _____ Owner (Authorized Signature)	By: _____ Contractor (Authorized Signature)
Title: _____	Title: _____	Title: _____
Date: _____	Date: _____	Date: _____

Approved by Funding Agency (if applicable)

By: _____ Date: _____
Title: _____

Field Order No. _____

Date of Issuance:

Effective Date:

Owner:

VDOT's Project No.:

UPC #111366

Contractor:

County's Contract No.:

2020 - 082

Engineer:

Contractor's Project No.:

Engineer's Project No.:

Project:

Contract Name:

Contractor is hereby directed to promptly execute this Field Order, issued in accordance with General Conditions Paragraph 11.01, for minor changes in the Work without changes in Contract Price or Contract Times. If Contractor considers that a change in Contract Price or Contract Times is required, submit a Change Proposal before proceeding with this Work.

Reference:

Specification(s)

Drawing(s) / Detail(s)

Description:

Attachments:

ISSUED:

RECEIVED:

By:

Engineer (Authorized Signature)

By:

Contractor (Authorized Signature)

Title:

Title:

Date:

Date:

Copy to: Owner

SECTION 01280**MEASUREMENT AND PAYMENT****PART 1 - GENERAL****1.01 GENERAL**

- A. The Contractor shall receive and accept the compensation provided in the Contract Documents as full payment for furnishing all labor, materials, tools, equipment and services for performing all operations necessary to complete the Work under the Contract, and also in full payment for all loss or damages arising from the nature of the Work, or from any discrepancy between the actual quantities of work and the quantities herein estimated by the Owner, unless a unit price contract, or from action of the elements or from any unforeseen difficulties which may be encountered during the prosecution of the Work until the final acceptance by the Owner.
- B. The prices stated in the Bid Form include all costs and expenses for taxes, labor, equipment, materials, commissions, transportation, patent fees and royalties, labor for handling materials during inspection, together with any and all other costs and expenses for performing and completing the Work as shown on the Contract Drawings and specified herein. The basis of payment for an item at the unit or lump sum price in the Bid Form shall be in accordance with the description of that item in this section.
- C. The Contractor's attention is called to the fact that the quotations for the various items of the Work are intended to establish a total price for completing the Work in its entirety. Should the Contractor feel that the cost for any item of work has not been defined by a Bid Form Pay Item, he shall include the cost for that work in some other applicable bid item, so that his proposal for the Work reflects his total price for completing the Work in its entirety.
- D. Items listed in the Bid Form as contingent; alternate, additive, or to be authorized by the Owner; are to be used and will be paid for only at the written direction and authorization of the Owner. Payment under this section will be made for materials furnished and placed in addition to those shown or beyond the limits indicated or reasonably inferred by the Contract Documents. Measurement and payment will be in accordance with the Bid Form and will include, but not necessarily be limited to, furnishing, hauling, placing and installing of materials and the furnishing of such manpower and equipment as required to accomplish the work as directed in writing by the Owner.

E. Alterations

1. The Owner reserves the right to change the alignment, grade, form, length, dimensions or materials of the Work under the Contract, whenever conditions or obstructions are met that render the changes desirable or necessary. All such alterations shall be paid for under the total lump sum bid or at a unit price bid for these items of work, except as follows:
 - a. In the case that such alterations make the Work less expensive to the Contractor, a proper deduction shall be made from the contract prices and the Contractor shall have no claim on this account for damages or for anticipated profits on the work that may be dispensed with.
 - b. In the case such alterations make the Work more expensive to the Contractor, a proper addition shall be made to the contract prices.
 - c. Any additions or subtractions to the contract prices shall be proposed by the Contractor and then reviewed and approved by the Owner.
 - d. In case the quantity of Work in individual unit price items of work increases or decreases greater than 25% of the bid quantity for each applicable section (i.e. Base Bid, Additive Bid No. 1), unit prices may be renegotiated.

F. Owner May Increase or Decrease Quantities

1. The Owner reserves the right to increase or decrease the quantity of material to be furnished or work to be done under the Contract whenever he deems it advisable or necessary. Such increase or decrease shall in no way violate or invalidate the Contract.
2. For the unit price items included in the bid, the Contractor will be paid for the actual amount of the authorized work done or material furnished under each item of the Proposal, at the unit price bid for that item. In case the quantity of any item is increased, the Contractor shall not be entitled to compensation over and above the unit price bid for each item. In case the quantity is decreased, the Contractor shall have no claim for damages on account of loss of anticipated profits because of such decrease.
3. For the contingency items, the Contractor shall be paid for actual quantities installed, on written order of the Owner.

- G. Except as modified herein, measurement and payment shall be in accordance with the Standard General Conditions of the Construction Contract – Section 00700.

1.02 MEASUREMENT

- A. Except as otherwise provided, the quantities for payment under this Contract shall be determined by actual measurement of the completed items, in place and accepted by the Owner, in accordance with the General Terms and Conditions. A representative of the Contractor and Owner shall witness all field measurements.

1.03 PAYMENT

- A. Payments during the course of the Work for unit price items will be made on the basis of actual amount of the work item installed at the end of the pay period. Determination of the amount of the work item installed shall be made by the Contractor and reviewed and approved by the Owner. Payments during the course of the Work for lump sum items will be made on the basis of percentage of completion of the work items listed in the Schedule of Values for each lump sum or unit price item. The Schedule of Values shall be prepared by the Contractor and submitted to the Owner within 15 days of the execution of the Contract and shall serve as a breakdown of the lump sum bid for the purpose of arriving at a basis for the monthly estimate. The Schedule of Values shall be broken down into categories and each category further broken down into each applicable specification section. The schedule shall add up to 100% of the total Bid.

1.04 BID ITEMS

- A. The bid items identified below correspond with the bid form for this project. Each item provides instructions relating to the measurement for the item and the payment provisions. In several cases, the method for measurement and payment are referenced to the 2020 Virginia Department of Transportation (VDOT) Road and Bridge Specifications. Access to the VDOT document is provided through www.virginiadot.org/business/resources/const/VDOT_2020_RB_Specs.pdf. A pdf version of the specifications is identified as “2020 Road and Bridge Specifications.”
- B. Contract Item No. 1: Mobilization
1. Lump sum cost to mobilize/demobilize labor, materials, tools and equipment to perform the work shown on the Contract Drawings and specified in the Specifications.
 2. No measurement shall be made for mobilization.
 3. Lump sum cost for mobilization shall include, but not be limited to:
 - bonds,
-

- insurance,
 - demobilization,
 - remobilization to complete work,
 - preconstruction video,
 - permits,
 - shop drawings, and
 - other incidental items required prior to commencement of construction.
4. Mobilization shall not exceed 5.0% of the total of all Base Bid items. Application for payment of up to fifty percent (50%) of the lump sum bid for Mobilization may be made on the first “Request for Payment”. The second Request for Payment,” filed 30 days or later after the first request, may include up to 25% of the lump sum amount. The final 25% will be paid on the final “Request for Payment.”
5. VDOT Specification Section 513 (Mobilization) shall not apply.

C. Contract Item No. 2: Grading

1. Payment for grading will be made at the lump sum price bid for grading as detailed, specified and directed. Grading shall include, but not be limited to:
- Clearing and grubbing,
 - regular excavation,
 - construction of embankments,
 - grading of unpaved shoulders, ditches and channels,
 - allaying of dust,
 - removal and disposal of excess or unsuitable material above grade,
 - removal and disposal of existing minor structures and roadway surface materials,
 - bulk excavation for cut and fill operations,
 - rough and finish grading,
 - demolition of pavement.
2. No measurement shall be made to define payment for grading.
3. VDOT Specification Section 303 (Earthwork) shall apply and payment shall be in accordance with VDOT Section 303.06.

D. Contract Item No. 3: Storm Sewer Pipes

1. Bid Items included:
- a. Concrete Storm Sewer Pipe – 15-inch
-

- b. Concrete Storm Sewer Pipe – 18-inch
- c. Concrete Storm Sewer Pipe – 24-inch
- d. Concrete Storm Sewer Pipe – 30-inch
- e. Storm Sewer Pipe – 48-inch
- f. Storm Sewer Pipe – 10-inch HDPE

- 2. Payment for furnishing and installing storm sewer pipes shall be made at the unit price bid per linear foot for each size and material type included in the bid schedule and based upon the actual lengths installed. Post installation inspection of existing and new piping, including CCTV work following installation, shall be included in this item. Storm sewer end sections shall be included in this item and cost therefor shall be included in the linear footage.
- 3. VDOT Specification Section 302 (Drainage Structures) shall apply and payment shall be in accordance with VDOT Section 302.04.

E. Contract Item No. 4: Drop Inlets and End Section

- 1. Bid Items included:
 - a. Drop Inlet DI-1
 - b. Drop Inlet DI-2B, L=8 feet
 - c. Drop Inlet DI-2C, L=6 feet
 - d. Drop Inlet DI-2B, L=6 feet
 - e. Drop Inlet DI-3B, L=8 feet
 - f. Drop Inlet DI-3CC, L= 6 feet
 - g. Modified DI-3B Top Unit, L=8 feet
 - h. End Section 24"
 - i. Modify Existing Structure
- 2. Payment for furnishing and installing, or modifying, drop inlet structures and end section shall be made at the unit price bid per each size and type included in the bid schedule.
- 3. VDOT Specification Section 302 (Drainage Structures) shall apply and payment shall be in accordance with VDOT Section 302.04.

F. Contract Item No. 5: Storm Sewer Manhole MH-1 or MH-2

- 1. Payment for furnishing and installing storm sewer manholes shall be made at the unit price bid per vertical linear foot for the manholes actually installed. This includes the 42" high weir wall located in Manhole 3-19A as detailed on Sheet 2B(9).

2. VDOT Specification Section 302 (Drainage Structures) shall apply and payment shall be in accordance with VDOT Section 302.04.

G. Contract Item No. 6: Frame and Cover for Storm System Manholes

1. Payment for furnishing and installing frames and covers shall be made at the unit price bid per each included in the bid schedule.
2. VDOT Specification Section 302 (Drainage Structures) shall apply and payment shall be in accordance with VDOT Section 302.04.

H. Contract Item No. 7: Water Main and Fittings

1. Bid Items included:
 - a. 6-inch DI Water Main
 - b. 8-inch DI Water Main
 - c. 12-inch DI Water Main
2. Payment for furnishing and installing the specified water main shall be made at the unit price bid per linear foot for size indicated for the lengths of ductile iron pipe actually installed.
3. Measurement of lengths will be made horizontally, along the centerline of pipe, and no deduction will be made for the lengths of fittings or valves.
4. The unit price bid per linear foot shall include all labor, materials, tools, equipment and services for furnishing and installing the specified water main including, but not be limited to:
 - furnishing and installing pipe and all required fittings,
 - making of plain and restrained joints,
 - surveying, layout and measurement,
 - temporary controls and facilities,
 - saw cut and pavement removal,
 - concrete thrust blocks,
 - test pitting all existing utilities,
 - excavation and storage of excavated materials,
 - excavation and offsite disposal of unsuitable material,
 - backfill and bedding,
 - backfill as specified to the underside of the pavement section,
 - stone backfill as specified,
 - trench support,
 - dewatering,
 - removal of abandoned water mains where specified,

- cap abandoned water mains,
 - furnishing and installing flowable fill for remaining abandoned water mains,
 - removal of abandoned valve boxes,
 - testing, disinfection, and flushing,
 - dechlorination, and
 - any other incidental items required for the proper operation of the water main.
5. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

I. Contract Item No. 8: Gate Valve and Vault

1. Bid Items included:
 - a. 6-inch Diameter Gate Valve and Vault
 - b. 8-inch Diameter Gate Valve and Vault
 - c. 12-inch Diameter Gate Valve and Vault
2. Payment for furnishing and installing the specified gate valve and vault shall be made at the unit price bid per each for each size valve and vault actually installed.
3. Measurement will be made per each valve and vault installed at the locations shown on the plans.
4. The unit price bid per each shall include all labor, materials, tools, equipment and services for furnishing and installing the specified gate valves and vaults, but not be limited to:
 - handling and placing of valves,
 - handling and setting of valve vaults,
 - making of restrained connections,
 - valve vault,
 - saw cut and pavement removal,
 - excavation and storage of excavated materials,
 - excavation and offsite disposal of unsuitable material,
 - backfill and bedding to the underside of the pavement section,
 - bearing block,
 - trench support,
 - dewatering,
 - stone backfill as specified,
 - testing, and

- any other incidental items required for the proper operation of the valves.

5. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

J. Contract Item No. 9: Fire Hydrant Assembly

1. Payment for furnishing and installing a fire hydrant at the locations shown on the plans shall be made at the unit price bid per each for each fire hydrant actually installed.
2. Measurement will be made per each fire hydrant installed at the locations shown on the plans.
3. The unit price bid per each shall include all labor, materials, tools, equipment and services for furnishing and installing a fire hydrant including, but not be limited to:
 - handling and connecting hydrant to pipe and valve,
 - making of restrained joints,
 - fire hydrant extensions,
 - excavation and storage of excavated materials,
 - excavation and offsite disposal of unsuitable material,
 - backfill and bedding,
 - temporary blocking,
 - thrust block,
 - drainage stone,
 - testing, and
 - any other incidental items required for the proper operation of the fire hydrant.
4. The 6-inch diameter pipe and gate valve for fire hydrant laterals are excluded from this bid item.
5. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

K. Contract Item No. 10: 1-inch Water Service Line

1. Payment to furnish and install temporary or permanent water service connections to the existing or new water main from the existing or new meter box shall be made at the unit price bid per linear foot for the length of water service connections actually installed.

2. Measurement will be made per linear foot for service connection at the locations shown on the plans.
3. The unit price bid per each shall include all labor, materials, tools, equipment and services to furnish and install water service connections, but not be limited to:
 - locating existing water services,
 - tapping new or existing water mains for water services,
 - connection to existing water service pipe,
 - relocation of existing meter, box and yoke, where shown,
 - corporation stop,
 - relocating existing water meter, box, and yoke,
 - cap existing service, where shown,
 - pavement removal and replacement for WSC,
 - excavation and storage of excavated materials,
 - excavation and offsite disposal of unsuitable material,
 - backfill and bedding,
 - trench support,
 - dewatering, and
 - any other incidental items required for the proper operation of the water service connection.
4. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

L. Contract Item No. 11: Connect to Existing Water Main

1. Payment for connection to the existing water main, 4-inches in diameter or larger, shall be made at the unit price bid per each connection actually installed.
2. Measurement will be made per each connection installed and tested at the locations shown on the plans.
3. The unit price bid per each shall include all labor, materials, tools, equipment and services for furnishing and installing the connection to the existing water main, but is not limited to;
 - excavation and storage of excavated materials,
 - excavation and offsite disposal of unsuitable soil,
 - backfill,
 - trench support,

- dewatering,
 - making of all required connections to the existing water main,
 - thrust restraint,
 - fittings,
 - temporary water system shutdown coordination and assistance,
 - test pitting,
 - testing, and
 - any other incidental items required for the proper connection to the existing water main.
4. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

M. Contract Item No. 12: Sanitary Collection Sewer

1. Payment for furnishing and installing the specified sanitary collection sewer shall be made at the unit price bid per linear foot for size indicated for the lengths of sewer pipe actually installed.
2. Measurement of lengths will be made horizontally, along the centerline of pipe, and no deduction will be made for the lengths through new manholes.
3. The unit price bid per linear foot shall include all labor, materials, tools, equipment and services for furnishing and installing the specified sanitary sewer including, but not be limited to:
 - furnishing and installing pipe and all required appurtenances,
 - surveying, layout and measurement,
 - temporary controls and facilities,
 - saw cut and pavement removal,
 - test pitting all existing utilities,
 - excavation and storage of excavated materials,
 - excavation and offsite disposal of unsuitable material,
 - backfill and bedding,
 - backfill as specified to the underside of the pavement section,
 - stone backfill as specified,
 - trench support,
 - dewatering,
 - removal of abandoned sanitary sewer end manholes where specified,
 - cap abandoned sanitary sewers,
 - furnishing and installing flowable fill for remaining abandoned sanitary sewers,
 - cap and abandon manholes, where specified,

- post installation inspection, including CCTV,
- testing, and
- any other incidental items required for the proper operation of the sanitary sewer.

4. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

N. Contract Item No. 13: Sanitary Sewer Manhole

1. Payment for furnishing and installing sanitary sewer manholes shall be made at the unit price bid per vertical linear foot for the manholes actually installed.
2. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

O. Contract Item No. 14: Frame and Cover for Sanitary Sewer

1. Payment for furnishing and installing frames and covers shall be made at the unit price bid per each included in the bid schedule.
2. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

P. Contract Item No. 15: Connect to Existing 8" Sanitary Sewer

1. Payment for connection to the existing 8" sanitary sewer shall be made at the unit price bid per each connection actually installed.
2. Measurement will be made per each connection installed and tested at the locations shown on the plans.
3. The unit price bid per each shall include all labor, materials, tools, equipment and services for furnishing and installing the connection to the existing sewer system, but is not limited to;
 - excavation and storage of excavated materials,
 - excavation and offsite disposal of unsuitable soil,
 - backfill,
 - trench support,
 - dewatering,
 - making of all required connections to the existing sewer system,
 - fittings,

- temporary sewer system bypassing, including pumps, piping, electrical power, controls, and oversight,
 - test pitting,
 - testing, and
 - any other incidental items required for the proper connection to the existing sewer system.
4. VDOT Specification Section 520 (Water and Sanitary Sewer Facilities) shall not apply.

Q. Contract Item No. 16: Aggregate Base Material Type 1, No. 21B

1. Payment for aggregate base material, shall be made at the unit price bid per ton of material installed in accordance with the specifications and as directed.
2. The unit price bid per ton shall include all labor, materials, tools, equipment and services for furnishing and placing aggregate base material, but not be limited to:
- transportation,
 - placement,
 - compaction,
 - dewatering,
 - maintenance of surface, and
 - any other incidental items required for aggregate base.
3. VDOT Specification Sections 308 (Subbase Course) and 309 (Aggregate Base Course) shall apply.
4. Measurement and Payment shall be made in accordance with VDOT Sections 308.05 and 309.06.

R. Contract Item No. 17: Asphalt Concrete Pavement

1. Bid Items included:
- a. Asphalt Concrete Ty. BM-25.0A
 - b. Asphalt Concrete Ty. SM-9.5D
2. Payment for asphalt concrete pavement shall be made at the unit price bid per ton of material installed in accordance with the Standard Detail Drawings, VDOT requirements, including the surface course, and as specified herein.

3. The unit price bid per ton shall include all labor, materials, tools, equipment and services for furnishing and placing asphalt concrete pavement, but not be limited to:
 - milling of existing pavement,
 - excavation, storage and disposal of milled and excavated materials,
 - transportation,
 - base mix asphalt BM-25.0A,
 - surface mix asphalt SM-9.5D,
 - compaction,
 - dewatering, and
 - any other incidental items required for proper pavement overlay.
4. VDOT Specification Section 315 (Asphalt Concrete Placement) shall apply and payment shall be made in accordance with VDOT Section 315.08.

S. Contract Item 18: Saw Cut Asphalt Concrete

1. Payment for saw cutting asphalt concrete, including all labor, materials, tools and equipment to perform the work shown on the drawings, shall be made at the unit price bid per linear foot as specified and directed.
2. VDOT Specification Section 315 (Asphalt Concrete Pavement) shall apply and payment shall be made in accordance with VDOT Section 315.08.

T. Contract Item No. 19: Curb & Gutter

1. Bid Items included:
 - a. Radial Curb CG-2
 - b. Std. Combination Curb & Gutter CG-6
 - c. Radial Combination Curb & Gutter CG-6
 - d. Std. Combination Curb & Gutter CG-7
 - e. Radial Combination Curb & Gutter CG-7
 - f. CG-12 Detectable Warning Surface
 2. Payment for linear and radial curbs and gutters shall be made at the unit price bid per linear foot as specified and directed.
 3. Payment for detectable warning surface shall be made at the unit price bid per square yard as specified and directed.
 4. VDOT Specification Section 502 (Incidental Concrete Items) and Section 504 (Sidewalks, Steps, and Handrails) shall apply and payment shall be made in accordance with Section 502.04 and Section 504.04.
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U. Contract Item No. 20: Flexible Pavement Planing 0"-2"

1. Payment for flexible pavement planing shall be made at the unit price bid per square yard as specified and directed.
2. VDOT Specification Section 515 (Planing or Milling Pavement) shall apply and payment shall be made in accordance with VDOT Section 515.05.

V. Contract Item No. 21: Hydraulic Cement Concrete Sidewalk 4"

1. Payment for hydraulic cement concrete sidewalk 4" shall be made at the unit price bid per square yard as specified and directed.
2. VDOT Specification Section 504 (Sidewalks, Steps, and Handrails) shall apply and payment shall be made in accordance with VDOT Section 504.04.

W. Contract Item No. 22: Saw Cut Hydraulic Cement Concrete Items

1. Payment for saw cut hydraulic cement concrete items shall be made at the unit price bid per linear foot as specified and directed.
2. VDOT Specification Section 502 (Incidental Concrete Items) shall apply and payment shall be made in accordance with VDOT Section 502.04.

X. Contract Item No. 23: Maintenance of Traffic

1. Payment for Maintenance of Traffic shall be made at the lump sum price bid for traffic protective items as detailed, specified and directed. The traffic protective items shall include, but not be limited to, the furnishing, installing, maintaining and removing of the following:
 - a. Allaying Dust
 - b. Type III Barricade
 - c. Construction Signs
 - d. Truck Mounted Attenuator
 - e. Group 2 Channelization Devices
 - f. Portable Changeable Message Sign
 - g. Construction Pavement Marking Type D, CI II- 4-inch
 - h. Electronic Arrow

Traffic protective items shall include all provisions of the latest edition of the "Virginia Work Area Protection Manual."

2. Payments to the Contractor shall be made monthly across the scheduled duration in equal payments. If the project schedule changes during the project, the monthly progress payments for this item may be adjusted accordingly.
3. VDOT Specification Sections 511 (Allaying Dust) and 512 (Maintaining Traffic) shall apply. Payment methods noted in VDOT Sections 511.04 and 512.04 shall not apply.

Y. Contract Item No. 24: Erosion Control Seeding

1. Bid Items included:
 - a. Regular Seed
 - b. Overseeding
 - c. Hydraulic Erosion Control Product Type 2
 - d. Hydraulic Erosion Control Product Type 3
2. Payment for erosion control seeding shall be made at the unit price per pound of seed applied and the hydraulic erosion control product shall be made at the unit price per square yard as specified and directed.
3. VDOT Specification Section 603 (Seeding) shall apply and payment shall be in accordance with VDOT Section 603.04.

Z. Contract Item No. 25: Soil Amendments

1. Bid Items included:
 - a. Fertilizer Nitrogen – N
 - b. Fertilizer Phosphorus – P
 - c. Fertilizer Potassium – K
 - d. Lime
2. Payment for soil amendments shall be made at the unit price bid per pound for fertilizer and per ton for lime as specified and directed.
3. VDOT Specification Section 603 (Seeding) shall apply and payment shall be in accordance with VDOT Section 603.04.

AA. Contract Item No. 26: Erosion Control Devices

1. Bid Items included:
 - a. Check Dam Rock Type II
 - b. Siltation Control Excavation
 - c. Temporary Silt Fence, Type A
 - d. Inlet Protection, Type A

e. Inlet Protection, Type B

2. Payment for erosion control devices shall be made at the unit prices bid, as shown on the plans, specified and directed, in the units noted below:
 - Check Dam Each
 - Siltation Control Excavation Cubic Yard
 - Temporary Silt Fence Linear Foot
 - Inlet Protection Each
3. VDOT Specification Section 303 (Earthwork) shall apply and payment shall be in accordance with VDOT Section 303.06.

AB. Contract Item No. 27: Landscaping

1. Bid Items included:
 - a. Autumn Brilliance Serviceberry (NS)
 - b. American Hornbeam/Musclewood (NS)
 - c. Eastern Redbud (NS)
 - d. Shamrock Inkberry
 - e. Winter Red Winterberry (F)
 - f. Jim Dandy Winterberry (M)
 - g. Otto Luyken Laurel
 - h. Topsoil Class A
 - i. Watering
 - j. Bed Preparation
 - k. Mulching (Beds Only)
 - l. Remulching
2. Payment for landscaping shall be made at the unit price bid, to include all elements shown on the plans, specified and directed. All items include mowing, watering, bed preparation, mulching and re-mulching as necessary to establish plants and landscaping.
3. VDOT Specification Section 605 (Planting) shall apply and payment shall be in accordance with VDOT Section 605.10.

AC. Contract Item No. 28: VDOT Standard Traffic and Safety Items

1. Bid Items included:
 - a. Sign Panel
 - b. Sign Post STP-1, 2-1/2", 12 Gauge
 - c. Sign Post STP-1, 2-1/2", 10 Gauge
 - d. Sign Post STP-1, 2", 14 Gauge
 - e. Concrete Sign Foundation STP-1, Type A
 - f. Concrete Sign Foundation STP-1, Type B

2. Payment for VDOT standard traffic and safety items shall be made at the unit prices bid, as shown on the plans, specified and directed, in the units noted below:
 - Sign Panel Square Foot
 - Sign Post Linear Foot
 - Concrete Sign Foundation Each
3. VDOT Specification Sections 700 (General) and 701 (Traffic Signs) shall apply and payment shall be in accordance with VDOT Sections 700.06 and 701.04.

AD. Contract Item No. 29: Disposition of Existing Signage

1. Bid Items included:
 - a. Remove Existing 1 Post Sign Structure
 - b. Relocate Existing 1 Post Ground Mounted Sign Panel
2. Payment for removal, relocation and disposal of existing signage shall be made at the unit prices bid for each as shown on the plans, specified and directed, for the elements noted below:
 - Remove Existing Sign Structure Each
 - Relocate Existing Sign Panel Each
3. There is no VDOT Specification Section applicable to this item.

AE. Contract Item No. 30: Lane Marking and Traffic Control

1. Bid Items included:
 - a. Type B Class I Pavement Line Marking 4"
 - b. Type B Class I Pavement Line Marking 6"
 - c. Type B Class II Pavement Line Marking 24"
 - d. Eradicate Existing Linear Pavement Marking
 - e. Eradicate Existing Non-Linear Pavement Marking
 - f. Pavement Symbol Marking Single Turn Arrow Type B, Class II
2. Payment for lane marking and traffic control shall be made at the unit prices bid, as shown on the plans, specified and directed, in the units noted below:
 - Pavement line marking Linear Foot
 - Eradicate existing linear pavement markings Linear Foot
 - Eradicate existing non-linear pavement markings Square Foot
 - Pavement Symbol Marking Single Turn Arrow Each

3. VDOT Specification Sections 512 (Maintaining Traffic) and 704 (Pavement Markings and Markers) shall apply and payment shall be in accordance with VDOT Sections 512.04 and 704.04.

AF. Contract Item No. 31: Construction Surveying Construction

1. Payment for Construction Surveying Construction shall be made at the lump sum price bid to perform the work shown on the Contract Drawings and specified in the Specifications.
2. VDOT Specification Section 517 (Contractor Construction Surveying) shall apply and payment shall be in accordance with VDOT Section 517.07.

AG. Contract Item No. 32: Pedestrian Signal and Lighting

1. Bid Items included:
 - a. Traffic Signal Head Section 12" LED, HVS Backplate
 - b. Pedestrian Actuation PA-4 (Audible/Accessible)
 - c. Pedestal Pole PF-2 10'
 - d. Concrete Foundation PF-2
 - e. 14/4 Conductor Cable
 - f. Hanger Assembly SM-3, One Way
 - g. Hanger Assembly SMB-2, One Way
 - h. Pedestrian Signal Head SP-8
 - i. 8 Conductor Cable
 - j. 2" PVC Conduit
 - k. Trench Excavation ECI-1
2. Payment for pedestrian signal items shall be made at the unit prices bid, as shown on the plans, specified and directed, in the units noted below:

• Traffic Signal Head Section 12" LED, HVS Backplate	Each
• Pedestrian Actuation PF-4 (Audible/Accessible)	Each
• Pedestal Pole PF-2 10'	Each
• Concrete Foundation PF-2	Each
• 14/4 Conductor Cable	Linear Foot
• Hanger Assembly SM-3, One Way	Each
• Hanger Assembly SMB-2, One Way	Each
• Pedestrian Signal Head SP-8	Each
• 8 Conductor Cable	Linear Foot
• 2" PVC Conduit	Linear Foot
• Trench Excavation ECI-1	Linear Foot

3. VDOT Specification Sections 700 (General) and 703 (Traffic Signals) shall apply and payment shall be in accordance with VDOT Sections 700.06 and 703.04.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01310**PROJECT MEETINGS****PART 1 - GENERAL****1.01 SCOPE OF WORK**

- A. The Owner will schedule and administer a preconstruction meeting, periodic progress meetings, and specially called meetings throughout the progress of the work, including
 - 1. Prepare agenda for meetings,
 - 2. Make physical arrangements for meetings,
 - 3. Preside at meetings.
- B. Representatives of the Contractor, subcontractors and suppliers attending meetings shall be qualified and authorized to act on behalf of the entity each represents.
- C. The Contractor shall attend meetings to ascertain that work is expedited consistent with Contract Documents and construction schedules.

1.02 PRECONSTRUCTION MEETING

- A. A preconstruction meeting will be scheduled before the Contractor starts Work at the site.
- B. Location: Site designated by the Owner.
- C. Attendance:
 - 1. Owner and their representatives
 - 2. Contractor's project manager and superintendent
 - 3. Major subcontractors
 - 4. Utilities representatives
 - 5. Others as appropriate

D. Suggested Agenda:

1. Distribution and discussion of:
 - a. List of major subcontractors and suppliers
 - b. Projected construction schedules
2. Critical work sequencing.
3. Major equipment deliveries and priorities.
4. Project coordination:
 - a. Designation and responsible personnel
5. Procedures and processing of:
 - a. Field decisions
 - b. Proposal requests
 - c. Submittals
 - d. Change Orders
 - e. Applications for payment
6. Adequacy of distribution of Contract Documents.
7. Procedures for maintaining Record Documents.
8. Use of premises:
 - a. Office, work and storage areas.
 - b. Owner's requirements.
9. Construction facilities, controls and construction aids.
10. Temporary utilities.
11. Housekeeping procedures.
12. Check of required Bond and Insurance certifications.
13. Liquidated damages.
14. Check of required Permits and Miss Utility.

15. Laboratory testing of material requirements.
16. Inventory of material stored on site.
17. Communication lines and contact persons, including address and telephone number.
18. Regulatory agency inspections.
19. Job site safety.

1.03 PROGRESS MEETINGS

- A. Regular periodic meetings will be held every 30 days or less. The first meeting will be scheduled 30 days after the Preconstruction Meeting or 30 days or less after the date of Notice to Proceed.
 - B. Additional meetings will be scheduled as required by progress of the work.
 - C. Location of the meetings: Site designated by the Owner.
 - D. Attendance:
 1. Owner and their representatives.
 2. Contractor and his Subcontractors (as appropriate to the agenda).
 3. Others as appropriate.
 - E. Suggested Agenda:
 1. Review of work progress since previous meeting.
 2. Field observations, problems and conflicts.
 3. Problems which impede Construction Schedule.
 4. Review of off-site fabrication, delivery schedules.
 5. Corrective measures and procedures to regain projected schedule.
 6. Revisions to Construction Schedule.
 7. Progress schedule during succeeding work period.
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8. Coordination of schedules.
 9. Review submittal schedules; expedite as required.
 10. Maintenance of quality standards.
 11. Pending changes and substitutions.
 12. Review proposed changes for:
 - a. Effect on Construction Schedule and on completion date.
 - b. Effect on other contracts of the Project.
- F. The Contractor is to attend progress meetings and is to study previous meeting minutes and current agenda items, in order to be prepared to discuss pertinent topics such as deliveries of materials and equipment, progress of the work, etc.
- G. The Contractor is to provide a current shop drawing submittal log and current progress schedule at each progress meeting.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01320

CONSTRUCTION SCHEDULING, COORDINATION AND SEQUENCING

PART 1 - GENERAL

1.01 GENERAL REQUIREMENTS

- A. Construction work under this contract shall have the least amount of interferences with the operations of existing facilities. Existing facilities must be maintained in continuous operation at all times during the course of the work under this contract, unless otherwise shown on the Drawings.
- B. The existing water distribution system on the Project is owned by the Western Virginia Water Authority (WVWA, Owner). Contractor shall coordinate the Work with, and shall allow access to existing system owners to operate their systems and to inspect Work performed on their facilities.
- C. Operation of all valves required to perform the work shall be performed by the system owner. The Owner, or his designated agent, shall be informed in writing at least 48 hours, or longer where specified, in advance of the need to operate valves or other actions which could affect system operations.
- D. To achieve reliable, continuous operation, new equipment and facilities shall be tested and in operating condition before final tie-ins are made which connect new equipment and facilities to the existing system.
- E. The Contractor shall submit to the Owner, drawings showing details of all temporary connections or facilities as required.
- F. When removing a facility from service, the Contractor shall allow the facility to drain naturally or be pumped to its lowest level. All remaining fluids shall be removed by the Contractor at his expense. Solids shall be properly disposed of off-site by the Contractor at his expense. Disposal of these solids must be in accordance with federal, state and local codes.
- G. No extra payment shall be made for any labor, materials, tools, equipment or temporary facilities required during the construction of facilities. All costs therefore shall be considered to have been included in the bid price of the project.
- H. The Contractor shall submit a construction schedule in accordance with Article 2 of the General Conditions. The project schedule shall be in the format of a VDOT progress schedule for Category II projects. The Contractor shall update and submit

a schedule with each monthly application for payment in addition to the provisions of Article 15.01 of the General Conditions.

1.02 SEQUENCE OF CONSTRUCTION

- A. A plan for the sequence of construction and delivery dates is necessary to keep shutdowns and the construction to a minimum. The Contractor shall develop a sequence of construction and submit it to the Owner for review and approval. The plan shall include all work to be performed and shall be broken down to allow coordination with “Requests for Payment”. The Sequence of Construction shall be such that all work under this contract shall be completed within the construction time stated in these Contract Documents.
- B. The Contractor’s Construction Schedule shall be a critical path method or bar chart type and include all pertinent tasks, dates and periods for timely completion of the Work at a level of detail appropriate for the Project.
 - 1. Each task or activity included in the construction schedule shall be assigned a start date and a completion date, so that the Work is shown to be completed in a timely and orderly fashion consistent with the required dates of Substantial Completion and Final Completion.
 - 2. The Construction Schedule shall also include:
 - a. any applicable subcontractor and supplier sub-schedules,
 - b. a submittal schedule which allows sufficient time for review of documents and submittals,
 - c. required decision dates,
 - d. and anticipated facility shutdown dates.
 - 3. Acceptance of the Contractor’s construction schedule by the Owner does not indicate agreement with or approval of any indicated variations to the time for completion specified within the Contract Documents.
- C. The Contractor’s construction schedule shall appropriately consider time of year requirements for installation of certain elements of the work (for example: Plantings).

1.03 FACILITY SHUTDOWNS

- A. Temporary shutdown periods shall be coordinated with the facility owners.
- B. Scheduled shut downs shall be mutually agreed upon by the Owner and the Contractor.

- C. For single service shutdowns to transfer existing service to the new main, Contractor shall notify each resident, business and/or facility to be affected by the shutdown. Notification shall include the date of the shutdown and the expected duration of the shutdown. Notification shall be delivered at least forty-eight (48) hours prior to the shutdown.
- D. For water main shutdowns, the Contractor shall carefully coordinate all work and schedules and shall provide the Owner with 10 business days minimum written notice prior to each shutdown period.
- E. In order to keep each shutdown period to a minimum, the Contractor shall, prior to each shutdown, expedite completion of the work to the fullest extent. The Contractor shall have completed all necessary preparatory work including testing and shall have adequate personnel available to keep each shutdown period to a minimum. All equipment and materials required to complete the work during a shutdown period shall be on the job site before the shutdown is commenced.
- F. Prior to a shutdown, the Contractor shall submit to the Owner in writing, detailed descriptions and schedules of the proposed construction procedures during the shutdown period. Information submitted to the Owner shall include a complete inventory of materials and equipment needed to perform the work. No shutdown of a facility or operation will be permitted until the Owner has reviewed and approved, in writing, the proposed construction plans and procedures.
- G. If, during any temporary shutdown periods, the work performed is not satisfactory, as planned, or not completed with the maximum time allocated, the Owner may order the Contractor to place the facility back in service and reschedule the work, or he may order the work required to place the facility or operation back in service to be performed with other forces.
- H. During scheduled shut downs the Contractor shall be responsible for all damages and costs thereof due to negligence.

1.04 COORDINATION

- A. Contractor, Subcontractors and Owner Personnel
 - 1. The Contractor is responsible for the proper coordination of his work and his subcontractor's work, to assure timely completion of the work and to assure that the Owner is made aware in advance of proposed construction activities.

2. There will be no basis for claim for extra compensation or contract time extension due to delay caused by the Contractor's failure to give proper notice for requested shutdowns or to advise the Owner of proposed construction activities that in the judgement of the Owner will interfere with operation of the system.
3. Should an emergency condition arise, the Owner has the authority to require the Contractor and his subcontractors to suspend their operations temporarily until conditions return to normal, without claim for extra cost or contract time extension by the Contractor and his subcontractors.

B. Subcontractors

1. Where the work of any subcontractor will be installed in close proximity to work of other subcontractors, or where there is evidence that the work of any subcontractor will interfere with the work of other subcontractors, the Contractor shall work out space allocations to make a satisfactory adjustment. If so ordered by the Owner, the Contractor shall prepare composite working drawings and sections at a suitable scale, not less than 1 inch equals 20 feet, clearly showing how work is to be installed in relation to the work of others. If the Contractor permits any work to be installed before coordinating with the various subcontractors; or so as to cause interference with work of other subcontractors, he shall make necessary changes in the work to correct the condition without extra cost to the Owner.
2. The Contractor shall arrange that each subcontractor determines the location, size and arrangement of all chases and openings and shall establish clearances in concealed spaces required for the proper installation of its work and shall see that such are provided.

1.05 PERMITS

- A. The Owner shall provide the Contractor with all permits which have been received and notify the Contractor of all permits still required. The cost to obtain these permits will be the responsibility of the Contractor.

PART 2 - PRODUCTS (Not used)

PART 3 - EXECUTION (Not used)

END OF SECTION

SECTION 01330**SUBMITTAL PROCEDURES****PART 1 - GENERAL****1.01 GENERAL**

- A. The Contractor shall submit to the Owner for review and approval such shop drawings, test reports and product data on materials and equipment (hereinafter in this section called data), and material samples (hereinafter in this section called samples) as are required for the proper control of work, including but not limited to those shop drawings product data and samples for materials and equipment specified elsewhere in the Specifications and in the Contract Drawings.
- B. Within thirty (30) days after the effective date of the Contract, the Contractor shall submit to the Owner a complete list of preliminary data on items for which Shop Drawings are to be submitted. Included in this list shall be the names of all proposed manufacturers furnishing specified items. Review of this list by the Owner shall in no way, expressed or implied, relieve the Contractor from submitting complete Shop Drawings and providing materials, equipment, etc., fully in accordance with the Specifications. The procedure is required in order to expedite final review of Shop Drawings.
- C. The Contractor is to maintain an accurate updated submittal log and will bring this log to each scheduled progress meeting. This log should include the following items:
 - 1. Submittal-Description and Number assigned.
 - 2. Date Submitted to Owner.
 - 3. Date returned to Contractor (from Owner).
 - 4. Status of Submittal (Approved, Approved as Noted, Revise and Return, Rejected).
 - 5. Date of Resubmittal and Return (as applicable).
 - 6. Date material release (for fabrication).
 - 7. Projected date of fabrication.
 - 8. Projected date of delivery to site.
 - 9. Status of O&M manuals submittal.
 - 10. Specification Section.
 - 11. Drawings Sheet Number.

1.02 TYPES OF SUBMITTALS

- A. Shop drawings for manufactured or fabricated items, schedules, diagrams and like material prepared specially for this project.
- B. Product Data which include pre-printed material, manufacturer's descriptive literature, illustrations, catalog data, performance charts and the like intended to identify a part of the work but not necessarily prepared exclusively for this Contract.
- C. Samples which include physical examples of products, materials, assemblies or workmanship which are identical to a portion of the work and which establish standards for materials, workmanship, or appearance of the finished work.
- D. Administrative data to include information required to support the administrative requirements of the contract as called for in the specifications.

1.03 PROCEDURE FOR SUBMITTALS

- A. Except where specifically stated otherwise, all submittals shall be made to the Owner for their approval. Submittals of all but administrative data shall be made in at least six (6) copies. Three (3) copies of the submittal will be retained by the Owner. The remaining copies will be retained by Engineer (1), VDOT (1), WVWA (1) and/or returned to the Contractor. Submittals shall be complete for each component of work or system and shall include all inter-related portions of a system. At the completion of the project, the Contractor shall furnish the Owner one revised record copy as described in Paragraph 1.06.
- B. Administrative data shall be submitted in triplicate (3 copies).
- C. Technical paper submittals may be submitted electronically in pdf format.

1.04 CONTRACTOR'S RESPONSIBILITY

- A. It is the duty of the Contractor to check all drawings, data and samples prepared by or for them before submitting to the Owner for review. Each and every copy of the Drawings and data shall bear a Contractor's stamp showing that they have been checked. Shop drawings submitted to the Owner without the Contractor's stamp will be returned to the Contractor for conformance with this requirement. Shop drawings shall indicate any deviations in the submittal from requirements of the Contract Documents.
- B. The Contract Drawings shall not be reproduced for the purpose of making shop drawings.

- C. Determine and verify:
 - 1. Field measurements.
 - 2. Field construction criteria.
 - 3. Catalog numbers and similar data.
 - 4. Conformance with Specifications.
- D. The Contractor shall furnish the Owner a schedule of Shop Drawings submittals fixing the respective dates for the submission of shop drawings, the beginning of manufacture, testing and installation of materials, supplies and equipment. This schedule shall indicate those submittals that are critical to the progress schedule.
- E. The Contractor shall ensure that no work is begun on any item of work requiring an approved submittal until such approval is obtained.
- F. The Contractor shall not begin any work covered by a drawing, data, or a sample returned marked "REVISE AND RETURN" OR "REJECTED" until a revision or correction thereof has been reviewed and returned to Contractor, by the Owner, with approval.
- G. One approved copy of all submittals shall be held by the Contractor at the construction site.
- H. Each submittal shall be assigned a sequential number by the Contractor, for purposes of easy identification, and shall retain its assigned number with appropriate subscript, on required resubmissions. The assigned number shall consist of the Contract Number, followed by the specification section number where the item is specified, followed by a sequential number indicating the number of submittals in that Section (e.g., 03300-11 is the 11th separate submittal for items specified in Section 03300). Resubmittals shall be identified with the same number as the original submittal, followed by the subscript R1, R2, etc. All products and materials submitted shall be clearly identified with the appropriate equipment name and number as it appears in the Contract Document.
- I. The Contractor shall submit to the Owner all drawings and schedules sufficiently in advance of construction requirements to provide no less than 30 calendar days for reviewing and appropriate action from the time the Owner receives them.
- J. All submittals shall be accompanied with a transmittal letter prepared in duplicate containing the following information:
 - 1. Date.
 - 2. Project Title and Number.
 - 3. Contractor's name and address.
 - 4. The Number of each Shop Drawing, Project Data, and Sample submitted.

5. Notification of Deviations from Contract Documents.
 6. Submittal Log Number conforming to Specification Section Numbers.
- K. The Contractor shall submit six (6) copies of shop drawing submittals to the Owner, three of which will be returned to the Contractor.
- L. The Contractor shall be responsible for and bear all costs of damages which may result from the ordering of any material or from proceeding with any part of work prior to the completion of the review by Owner of the necessary Shop Drawings.
- M. The Contractor shall be fully responsible for observing the need for and making any changes in the arrangement of piping, connections, wiring, manner of installation, etc., which may be required by the proposed materials/equipment at no cost to the Owner.

1.05 ENGINEER'S REVIEW OF SHOP DRAWINGS

- A. The Engineer's review of drawings, data and samples submitted by the Contractor will be only for conformance with the design concept of the Project and for general compliance with the information given in the Contract Documents. The Engineer's review and approval will not constitute an approval of dimensions, quantities, and details of the material, equipment, device, or item shown.
- B. The review of drawings and schedules will be general, and shall not be construed:
1. as permitting any departure from the Contract requirements;
 2. as relieving the Contractor of responsibility for any errors, including details, dimensions, and materials;
 3. as approving departures from details furnished by the Owner, except as otherwise provided herein.
 4. as approving Contractor's means, methods, techniques, sequences or procedures of construction or to safety precautions or programs incident thereto.
- C. If the drawings or schedules as submitted describe variations and show departure from the Contract requirements which the Engineer finds to be in the best interest of the project and to be so minor as not to involve a change in Contract Price or time for performance, the Engineer may return the reviewed drawings without noting an exception.
- D. When reviewed by the Engineer, each of the Shop Drawings will be identified as having received such review being so stamped and dated. Shop Drawings stamped "REVISE AND RESUBMIT" and with required corrections shown will be returned to the Contractor for correction and resubmittal.

- E. Resubmittals will be handled in the same manner as first submittals. On resubmittals, the Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, to revisions other than the corrections requested by the Engineer on previous submissions. The Contractor shall make any corrections required by the Engineer.
- F. If the Contractor considers any correction indicated on the drawings to constitute a change to the Contract Drawings or Specifications, the Contractor shall give written notice thereof to the Owner.
- G. Shop drawings and submittal data shall be reviewed by the Engineer for each original submittal and first resubmittal; thereafter review time for subsequent resubmittals will be charged to the Contractor at the rate of \$100 per hour.
- H. When the Shop Drawings have been completed to the satisfaction of the Owner, the Contractor shall carry out the construction in accordance therewith and shall make no further changes therein except upon written instructions from the Owner.
- I. No partial submittals will be reviewed. Incomplete submittals will be returned to the Contractor for resubmittal.

1.06 SHOP DRAWINGS

- A. When used in the Contract Documents, the term "Shop Drawings" shall be all drawings, diagrams, illustrations, schedules 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 or equipment for some portion of the Work.
- B. Manufacturer's catalog sheets, brochures, diagrams, illustrations and other standard descriptive data shall be **CLEARLY MARKED TO IDENTIFY THOSE MATERIALS, PRODUCTS OR MODELS THAT ARE PERTINENT TO THE WORK**. Delete information which is not applicable to the Work by striking through or cross-hatching.
- C. Drawings and schedules shall be checked and coordinated with the work of all trades involved, before they are submitted for review by the Owner and shall bear the Contractor's stamp of approval as evidence of such checking and coordination. Drawings or schedules submitted without this stamp of approval shall be returned to the Contractor for resubmission.

- D. Each Shop Drawing shall have a blank area 3-1/2 inches by 3-1/2 inches, located adjacent to the title block. The title block shall display the following:
1. Project Title and Number
 2. Number and title of the shop drawing
 3. Date of shop drawing or revision
 4. Name of contractor and subcontractor submitting drawing
 5. Supplier/manufacturer.
 6. Separate detailer when pertinent
 7. Specification title and number
- E. If drawings show variations from Contract requirements because of standard shop practice or for other reasons, the CONTRACTOR SHALL DESCRIBE SUCH VARIATIONS IN HIS LETTER OF TRANSMITTAL. The transmittal letter shall delineate compliance and exceptions taken to Specifications and Contract Drawings. If acceptable, proper adjustment in the Contract shall be implemented where appropriate. If the Contractor fails to describe such variations, he shall not be relieved of the responsibility for executing the work in accordance with the Contract, even though such drawings have been reviewed.
- F. Data on materials and equipment include, without limitation, materials and equipment lists, catalog data sheets, cuts, performance curves, diagrams, materials of construction and similar descriptive material. Materials and equipment lists shall give, for each item thereon, the name and location of the supplier or manufacturer, trade name, catalog reference, size, finish and all other pertinent data.
- G. For all mechanical and electrical equipment furnished, the Contractor shall provide a list including the equipment name, and address and telephone number of the manufacturer's representative and servicing company so that service and/or spare parts can be readily obtained.
- H. All manufacturers or equipment suppliers who propose to furnish equipment or products shall submit an installation list to the Owner along with the required shop drawings. The installation list shall include at least five installations where identical equipment has been installed and has been in operation for a period of at least one (1) year.
- I. Only the Engineer will utilize the color "red" in marking Shop Drawing submittals.
- J. Before the final payment is made, the Contractor shall furnish to the Engineer one (1) set of record shop drawings all clearly revised, complete and up-to-date.

1.07 SAMPLES

- A. The Contractor shall furnish, for the approval of the Engineer, samples required by the Contract Documents or requested by the Engineer. Samples shall be delivered to the Engineer as specified or directed. The Contractor shall prepay all shipping charges on samples. Materials or equipment for which samples are required shall not be used in work until approved by the Engineer.
- B. Samples shall be sufficient size and quantity to clearly illustrate:
 - 1. Functional characteristics of the product, with integrally related parts and attachment devices.
 - 2. Full range of color, texture and pattern.
 - 3. A minimum of three samples of each item shall be submitted.
- C. Each sample shall have a label indicating:
 - 1. Name of project
 - 2. Name of Contractor and Subcontractor
 - 3. Material or Equipment Represented
 - 4. Place of Origin
 - 5. Name of Producer and Brand (if any)
 - 6. Location of Project

(Samples of finished materials shall have additional marking that will identify them under the finished schedules).
- D. The Contractor shall prepare a transmittal letter in triplicate for each shipment of samples containing the information required in subparagraph 1.04J above. The Contractor shall enclose a copy of this letter with the shipment and send a copy of this letter to the Engineer. Approval of a sample shall be only for the characteristics or use named in such approval and shall not be constructed to change or modify any Contract requirements.

1.08 MANUFACTURER'S LIST

- A. Within 30 days after receipt of a Notice to Proceed, and before ordering any equipment or materials, the Contractor shall submit to the Engineer for approval a complete list of proposed manufacturers and fabricators for all materials and equipment to be used in this Contract. The purpose of this submittal is to allow the Engineer the opportunity to predetermine the acceptability of proposed suppliers before issuance of purchase orders by the Contractor. Submission and acceptance of the manufacturers' list shall neither relieve the Contractor from submitting detailed shop drawings and product data for all materials and equipment nor shall it constitute prior acceptance of any specific item of equipment prior to submittal

of shop drawings. After submission and acceptance of the manufacturers' list, the Contractor shall not deviate from the named suppliers and manufacturers without written approval from the Engineer.

1.09 OPERATING AND MAINTENANCE INSTRUCTIONAL PERIODS

- A. Particular sections of these Specifications may require that the Contractor furnish qualified personnel to instruct the Owner's personnel in the proper operation and maintenance of equipment and systems provided in this Contract. Such instructional periods shall be for the duration of time specified and in accordance with the requirements of the individual sections of the Specifications and with the following paragraphs.

1.10 OPERATION AND MAINTENANCE MANUALS FOR EQUIPMENT AND PRODUCTS

- A. General:

- 1. The Contractor shall furnish Operation and Maintenance Manuals for all products and equipment provided under this Contract.
- 2. Prior to completion of the work, and at least 30 days prior to the 50 percent payment, the Contractor shall furnish for the Owner's review three (3) Operation and Maintenance Manual draft copies.
- 3. Prior to completion of the work, and at least 60 days prior the 85 percent payment, the Contractor shall furnish for the Owner's review three copies of the final Operation and Maintenance Manual. The final manual must be approved by the Owner before a final inspection of the work will be conducted and prior to the issuance of the Certificate of Substantial Completion.

- B. Manual Preparation:

- 1. Manuals shall include operation and maintenance information on all systems and items of equipment. The data shall consist of: catalogs, brochures, bulletins, charts, schedules, approved Shop Drawings corrected to as-built conditions and assembly drawings and wiring diagrams describing location, operation, maintenance, lubrication, operating weight, lubrication charts and schedules showing manufacturers recommended lubricants for each rotating or reciprocating unit, and other information necessary for the Owner to establish an effective operating maintenance program. The following data shall also be included:

- a. Title page giving name and location of facility, Contract Drawings No(s). where shown and Specification Section where described.
 - b. Approved Shop Drawings of each piece of equipment.
 - c. Manufacturer's cuts and dimension drawings of each piece of equipment, and details of all replacement parts.
 - d. Manufacturer's erection, operation and lubrication instructions for all equipment and apparatus, and complete listing of nameplate data.
 - e. Complete wiring diagrams of all individual pieces of equipment and systems including one line diagrams, schematic or elementary diagrams, and interconnection and terminal board identification diagrams.
 - f. Complete piping and interconnecting drawings.
 - g. Complete parts list with parts assembly drawing (preferably by exploded view), names and addresses of spare parts suppliers, recommended list of spare parts to be kept "in stock" and sample order forms for ordering spare parts. Lead time required for ordering parts shall be estimated.
 - h. Instructions with easily understood schematics or diagrams for disassembling and assembling the equipment for overhaul or repair.
2. All items listed above that are of a sheet size of 8-1/2 inches by 11 inches or can be folded (no more than twice) to this size shall be bound in 4-inch maximum loose-leaf three-ring d-post type binders with black plastic-coated covers. The contents shall be fully indexed. Binders shall be Vernon Line Royal No. R-6372 or R-372, Sparco Brand Slanted Ring Presentation Binder 68140, Universal D-Ring View Binder 20747, K & M Division VS11-40 or equal. PAGES SHALL BE LINEN REINFORCED ON BINDING EDGE.
3. Shop Drawings 24 inches by 36 inches in size shall be folded to approximately 12 inches by 9 inches with drawing title box exposed along either edge. Shop Drawings descriptive of a single item of equipment shall be grouped together. All Shop Drawings shall be placed in accordion-type folders similar to File Pocket No. 74CG (9-1/2 inches x 14-3/4 inches) as manufactured by the Cooke and Cobb Company, or equal, and fully indexed on the outside of the folders in a neat and uniform manner.
4. All Shop Drawings included in the binders and/or folders shall be those copies previously submitted for review and approval and shall bear the Owner's stamp of approval and comments as originally noted thereon.

C. Approval:

1. Subsequent to the Owner's approval and return of the final manual, the Contractor shall submit four complete sets of manuals to the Owner.
2. Substantial Completion certification will positively not be undertaken until approved Operation and Maintenance Manuals have been submitted. Partial approvals of the final manual will not be made.
3. Delivery of manufacturer's service (O&M) manuals and installation instructions satisfactory to the Owner are an essential part of the equipment delivery. Incomplete or inadequate manuals will be returned to the Contractor for correction and/or resubmission.

1.11 MANUFACTURER'S REPRESENTATIVE

- A. The definition of "manufacturer's representative" shall be as follows: a representative from the manufacturer's plant, familiar with the actual problems of manufacturing, installing and operating the particular equipment or product and with enough years of experience in this field to determine the successful operation of the equipment or product. Sales representatives or agents of the manufacturers will not be acceptable.
- B. As related to his obtaining the manufacturer's certificates, the Contractor shall include in this contract price the cost of furnishing competent and experienced manufacturer's representatives who shall represent the manufacturer on equipment and products furnished and installed under this Contract, to assist the Contractor to install, adjust, start up, and test the equipment and products in conformity with the Contract Documents. After the equipment and products have been operated through the trial period for each phase of construction and before being put into permanent service, manufacturer's representatives shall make all adjustments and tests required to provide that such equipment and products are properly installed and function satisfactorily.

1.12 ENGINEER'S REVIEW

- A. The Engineer will review, with reasonable promptness, all submittals with respect to the Contract Documents and will indicate a qualified "Approval", an "Approval As Noted", a "Revise and Return" or "Rejected" notation. The Engineer will return all submittals found incomplete without a review.

1.13 MIX DESIGNS

- A. Mix designs shall be submitted for concrete, grout, and bituminous paving. Mix design shall indicate all materials used in the product and their respective relative quantities. In any one mix design all quantities shall be expressed either by weight or volume insofar as it is practical to do so. The Contractor's attention is directed to Section 03300 of these Specifications for proportioning and testing requirements of concrete.

1.14 DESIGN CALCULATIONS

- A. Design calculations shall be presented in a neat, legible manner and shall bear the stamp and signature of a Licensed Professional Engineer, registered in the State of Virginia.

1.15 RECORD DRAWINGS

- A. The Contractor will keep one copy of all Specifications, Drawings, Addenda, Change Orders and Shop Drawings in the field office at the site, in good order and annotated to show all changes made during the construction process. These shall be available to the Owner and shall be delivered upon completion of the project. If the Contractor fails to maintain the record drawings as required herein, final payment, with respect to the Contract as a whole, will be withheld until proper record drawings have been furnished to the Owner.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01400**QUALITY CONTROL****PART 1 - GENERAL****1.01 CODES, RULES, PERMITS AND FEES****A. General:**

1. The Contractor shall comply with all applicable codes as well as the requirements of all permits obtained by the Owner or the Contractor.
2. The Contractor shall give all necessary notices, obtain all permits (except as otherwise noted herein) and pay all governmental taxes, fees, and other costs in connection with the work, file all necessary plans, prepare all documents and obtain all necessary approvals of all government departments having jurisdiction, obtain all required Certificates of Inspection and Approval for the work and deliver same to the Engineer, except as otherwise noted herein.
3. This project is to be constructed in accordance with VDOT's 2020 Road and Bridge Specifications, 2016 Road and Bridge Standards, 2009 MUTCD Revisions 1 & 2, 2011 Virginia Supplement to the MUTCD Revision 1, 2011 Virginia Work Area Protection Manual Revision 2 (Sept. 1, 2019) and as amended by contract provisions and the complete electronic PDF version of the plan assembly.

B. Included Items:

1. The Contractor shall include in his work, all labor, materials, services, apparatus, and drawings required to comply with all applicable laws, ordinances, rules and regulations, whether or not shown on the Drawings or specified.

C. Compliance:

1. All materials furnished and all work installed shall comply with all Federal, State, and Local rules and regulations.
2. The Contractor shall arrange for inspection and approval by the appropriate inspectors and shall pay all costs of these services.
3. A DRAFT Quality Assurance Plan is provided in Appendix E.

D. Permits to be Obtained by the Contractor:

1. The Contractor is responsible for acquiring all necessary permits to accomplish the work; these permits include, but are not limited to, the following:
 - a. VDOT Land Use Permit
 - b. Roanoke County Erosion and Sediment Control Permit

1.02 MATERIALS AND WORKMANSHIP

- A. All materials and equipment required for the work shall be new, unless otherwise specified, and of the best quality and especially adapted to the services required.
- B. The Contractor shall furnish a superintendent who shall be constantly in charge of the installation of the work, together with all skilled workmen and labor required to unload, transfer, erect, connect up, adjust, start, operate, and test each system.
- C. The Contractor shall locate and install all equipment which must be serviced, operated, or maintained in fully accessible positions. Such equipment shall include, but not be limited to, valves, unions, cleanouts, drain points, pressure gages, and controls. Minor deviations from the Drawings may be made to allow for better accessibility, but changes of significant magnitude or changes involving extra cost shall not be made without approval of the Owner.

1.03 STANDARDS

- A. Any reference to standards in the Contract Documents shall always imply the latest issue in effect including all amendments and errata at the time bids are taken, of said standards unless otherwise stated.
- B. Abbreviations for various organizations which may be used in these Specifications are as follows:

<u>Abbreviation</u>	<u>Organization</u>
AA	- Aluminum Association
AASHTO	- American Association of State Highway and Transportation Officials
ACI	- American Concrete Institute
ACS	- American Chemical Society
AFBMA	- Anti-Friction Bearing Manufacturers Association
AGA	- American Gas Association
AGMA	- American Gear Manufacturers Association
AHDGA	- American Hot Dip Galvanizers Association
AICHE	- American Institute of Chemical Engineers
AISC	- American Institute of Steel Construction
AASHO	- The American Association of State Highway Officials
ABPA	- Acoustical and Board Products Association
AI	- The Asphalt Institute

<u>Abbreviation</u>	<u>Organization</u>
AIEE	- American Institute of Electrical Engineers (Now IEEE)
AIMA	- Acoustical and Insulating Materials Association
AISI	- American Iron and Steel Institute
AMCA	- Air Moving and Conditioning Association
ANSI	- American National Standards Institute
API	- American Petroleum Institute
APWA	- American Public Works Association
AREA	- American Railway Engineering Association
ASA	- American Standards Association (Now ANSI)
ASCE	- American Society of Civil Engineering
ASHRAE	- American Society of Heating, Refrigerating, and Air Conditioning Engineers
ASME	- American Society of Mechanical Engineers
ASSCBC	- American Standard Safety Code for Building Construction
ASTM	- American Society of Testing and Materials
AWPA	- American Wood Preservers Association
AWPB	- American Wood Preservers Bureau
AWS	- American Welding Society
AWWA	- American Water Works Association
BIA	- Brick Institute of America
CBRA	- Copper and Brass Research Association
CIPRA	- Cast Iron Pipe Research Association
CRSI	- Concrete Reinforcing Steel Institute
CS	- Commercial Standard (U.S. Department of Commerce)
DIPRA	- Ductile Iron Pipe Research Association
VDOT Spec	- Road and Bridge Specifications Virginia Department of Transportation
EEI	- Edison Electric Institute
EPA	- U.S. Environmental Protection Agency
FM	- Factory Mutual
FTI	- Facing Tile Institute
IEEE	- Institute of Electrical and Electronic Engineers
IPCEA	- Insulated Power Cable Engineers Association
MBMA	- Metal Building Manufacturers Association
MSS	- Manufacturers Standardization Society of the Valve and Fittings Industry
NAAMM	- National Association of Architectural Metal Manufacturers
NBFU	- National Bureau of Fire Underwriters
NBS	- National Bureau of Standards
NCPI	- National Clay Pipe Institute
NCMA	- National Concrete Masonry Association
NEC	- National Electrical Code
NECA	- National Electrical Contractors Association
NEMA	- National Electrical Manufacturers Association
NFPA	- National Fire Protection Association

<u>Abbreviation</u>		<u>Organization</u>
NSF	-	National Science Foundation
OFCCP	-	Office of Federal Contracts Compliance Programs
OSHA	-	U. S. Department of Labor, Occupational Safety and Health Administration
PCA	-	Portland Cement Association
PCI	-	Prestressed Concrete Institute
PS	-	United States Products Standards
SAE	-	Society of Automotive Engineers
SCPI	-	Structural Clay Products Institute
SDI	-	Steel Decks Institute
SJI	-	Steel Joists Institute
SPIB	-	Southern Pine Inspection Board
SMACNA	-	Sheet Metal and Air Conditioning National Association
SMSA	-	Standard Metropolitan Statistical Area
SSPC	-	Steel Structures Painting Council
TEMA	-	Tubular Exchanger Manufacturers Association
UL	-	Underwriter's Laboratories
USASI or	-	United States of America Standards Institute
USGS	-	United States Geological Survey
USC&GS	-	United States Coast and Geodetic Survey

1.04 VERIFICATION OF DIMENSIONS

- A. The Contractor shall be responsible for field verification of all dimensions of existing facilities and other items that are shown on the Contract Drawings.

1.05 TESTS OF MATERIALS AND EQUIPMENT

- A. All material shall be subject to inspection, testing and approval of the Owner before being incorporated in the work. Any work in which such materials are used without prior testing and approval shall be considered defective and unauthorized and will not be paid for. The Contractor shall perform such tests as required by the specifications in a timely fashion taking into account when the items will be incorporated in the work.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01510**TEMPORARY UTILITIES****PART 1 - GENERAL****1.01 SCOPE OF WORK**

- A. Furnish, install and maintain temporary utilities required for construction and remove those temporary utilities upon completion of Work.

1.02 REQUIREMENTS OF REGULATORY AGENCIES

- A. Comply with Federal, State, and local codes and regulations and with utility company requirements.

PART 2 - PRODUCTS**2.01 MATERIALS**

- A. Materials may be new or used, but must be adequate in capacity for the required usage, must not create unsafe conditions, and must not violate requirements of applicable codes and standards.

2.02 TEMPORARY ELECTRICITY AND LIGHTING

- A. The Contractor shall pay for all costs for service and for power used during construction at no additional cost to the Owner.
- B. Install circuit and branch wiring, with area distribution boxes located so that power and lighting are available throughout the construction by the use of construction-type power cords.
- C. Provide temporary lighting in all work areas sufficient to maintain a lighting level during working hours not less than the lighting level required by applicable codes, OSHA Standards, and safety regulations.

2.03 TEMPORARY HEAT AND VENTILATION

- A. Provide temporary heat and ventilation as required to maintain adequate environmental conditions to facilitate progress of the Work, to meet specified minimum conditions for the installation of materials, and to protect materials and finishes from damage due to temperature or humidity.
- B. Provide adequate forced ventilation of enclosed areas for curing of installed materials, to disperse humidity, and to prevent hazardous accumulations of dust, fumes, vapors or gases.

- C. Portable heaters shall be standard approved units complete with controls.
- D. Pay all costs of installation, maintenance, operation and removal, and for fuel consumed.

2.04 TEMPORARY WATER

- A. The Contractor shall pay for the costs for all water required for construction at no additional cost to the Owner.
- B. Install at each and every connection to the water supply a backflow preventer meeting the requirements of ASA A40.6, latest revision.

2.05 TEMPORARY SANITARY FACILITIES

- A. Approved sanitary convenience for the use of laborers and others employed on the work, properly secluded from public observation shall be constructed and maintained by the Contractor. The collections from portable sanitary facilities shall be disinfected and/or removed when and as required.
- B. The Contractor shall provide and maintain, in a neat and sanitary condition, such accommodations for the use of his employees and others on site, as may be necessary to comply with the requirements and regulations of the Department of Health. The Contractor shall commit no public nuisance.

2.06 TEMPORARY PUMPING AND SITE DRAINAGE

- A. Keep the site free from water at all times to permit continuous access and to prevent damage to the work.

2.07 SECURITY

- A. Full-time security personnel will not be specifically required as a part of the Contract, but the Contractor shall provide inspection of work area daily and shall take whatever measures as necessary to protect the safety of the public, laborers, and materials, and provide for the security of the site, both day and night.

2.08 DUST AND MUD CONTROL

- A. Take all necessary precautions to control dust and mud associated with the Work of this Contract, as required by the Virginia Erosion and Sediment Control Manual and subject to the review of the Owner. In dry weather, spray dusty areas daily with water or provide other approved means in order to control dust. Take necessary steps to prevent the tracking of mud onto adjacent streets and highways.

2.09 CONTRACTOR'S STORAGE SHEDS

- A. Provide storage sheds for the performance of the work and protection of materials and equipment.
 - 1. Provide commercial grade chain link fence to prevent trespass by the public onto the construction trailer and storage site.
 - 2. Coordinate location of temporary fencing with property owner and Owner.

PART 3 - EXECUTION**3.01 GENERAL**

- A. Maintain and operate systems to assure continuous service.
- B. Modify and extend systems as work progress requires.

3.02 REMOVAL

- A. Completely remove temporary materials and equipment when their use is no longer required.
- B. Clean and repair damage caused by temporary installations or use of temporary facilities.
- C. Restore permanent facilities used for temporary services to specified condition.

END OF SECTION

SECTION 01720**FIELD SERVICES****PART 1 - GENERAL****1.01 SCOPE OF WORK**

- A. Work contained in this section consists of furnishing all labor, tools, equipment and services necessary to provide all field services required in the execution of the work including but not limited to: surveying, staking, establishment of horizontal and vertical controls and any other incidental items required for the proper completion of the work.

1.02 QUALITY ASSURANCE

- A. The Contractor shall retain the services of a registered Land Surveyor, licensed in the Commonwealth of Virginia, to identify existing control points and maintain a survey during construction.
- B. The method of field staking for the construction of the work shall be at the option of the Contractor.
- C. The accuracy of any method of staking shall be the responsibility of the Contractor. All engineering for vertical and horizontal controls shall be the responsibility of the Contractor.
- D. The Contractor shall be responsible for the preservation of all stakes and marks. If any stake or mark is carelessly or willfully disturbed by the Contractor, the Contractor shall not proceed with any work until he has reestablished such points, marks, lines and elevations as may be required for the prosecution of the work.
- E. Civil, structural or other professional engineering services specified or required to execute Contractor's construction methods shall be obtained by the Contractor at no additional cost to the Owner.

1.03 QUALIFICATIONS OF SURVEYOR OR ENGINEER

- A. Licensed Professional Engineer, of the discipline required for the specific service, shall be currently registered in the Commonwealth of Virginia.
- B. Licensed Land Surveyor shall be currently registered in the Commonwealth of Virginia.

- C. Professional Engineer and Land Surveyor shall be submitted to the Owner for review and approval.

1.04 SURVEY REFERENCE POINTS

- A. Locate and protect control points prior to starting site work and preserve all permanent reference points during construction.
 - 1. Make no changes or relocation of the reference points without prior written notice of the Owner.
 - 2. Report to the Owner when any reference point is lost or destroyed, or requires relocation because of necessary changes in grades or locations.
 - 3. Require the surveyor to replace Project control points that may be lost or destroyed at no additional cost to the Owner.

1.05 PROJECT SURVEY REQUIREMENTS

- A. Establish permanent benchmarks, at a maximum spacing of 2500 feet, along the alignment. Permanent benchmarks shall be referenced to data established by survey control points.
- B. Record the location of the permanent benchmarks, with horizontal and vertical data, on the Project Record Documents.
- C. Establish lines and levels, locate and lay out, by instrumentation and similar appropriate means:
 - 1. Site improvements:
 - a. Stakes for grading, fill and topsoil replacement.
 - b. Utility slopes and invert elevations.
 - 2. Batter boards for structures.
 - 3. Structure foundations and floor levels.
- D. Periodically, verify layouts by same methods.

1.06 RECORDS

- A. Maintain a complete, accurate log of all control and survey work as it progresses.

1.07 SUBMITTALS

- A. Submit names and addresses of the Surveyor and Professional Engineer to the Owner.
- B. On request of the Owner, submit documentation to verify accuracy of field engineering work.
- C. On request of the Owner, submit documentation to verify accuracy of field measuring and survey equipment.
- D. Submit certificate, signed by registered Professional Engineer or Land Surveyor, certifying that the elevations and locations of improvements are in conformance, or non-conformance, with the Contract Documents.
- E. Submit drawings showing locations of all structures constructed. This drawing shall be included with the Project Record Documents.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION

SECTION 01780**PROJECT RECORD DOCUMENTS****PART 1 – GENERAL****1.01 SUMMARY**

A. Contractor shall maintain at the site one record copy of:

1. Drawings.
2. Project Manual.
3. Addenda.
4. Change orders and other modifications to Contract.
5. Field orders, written instructions, or clarifications.
6. Approved submittals.
7. Field test records.
8. Construction photographs and videos.
9. Associated permits.
10. Certificates of inspection and approvals.
11. Building Permits

1.02 SUBMITTALS

A. Pre-Construction Video

1. Prior to any site disturbance, Contractor shall prepare an existing conditions pre-construction audio-visual survey of the project site and submit to Owner prior to the first request for payment. Pre-construction video format shall be high-resolution DVD or digital file in accordance with the DVD Forum. Video display shall show location, description of existing structures and landscaping, including existing features, date, address, and compass direction of travel and view. Footage shall be correlated to plan stationing and sheet number. Vulnerable, damaged, or deteriorated areas within the zone of influence shall be shown.

B. Record Drawings

2. At each monthly progress meeting, deliver one marked up set of record documents to the Owner current with the most recent submitted request for payment. The record documents shall consist of: “Red Line” record drawings; and “Red Line” specifications.

C. Accompany submittals with transmittal letter containing following.

1. Date.

2. Project title and number.
3. Contractor's name and address.
4. Title of record document.
5. Signature of Contractor or authorized representative.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION

3.01 MAINTENANCE OF DOCUMENTS and SAMPLES

- A. Store documents and samples on-site apart from documents used for construction.
 1. Provide files and racks for storage of documents.
 2. Provide secure storage space for storage of samples.
- B. Maintain documents in clean, dry, legible condition and in good order. Do not use record documents for construction purposes.
- C. Make documents and samples available for inspection by the Owner.
- D. Failure to properly maintain record documents may be reason to delay a portion of progress payments until records comply with the Contract Documents.

3.02 RECORD DOCUMENTS

- A. Label each document "PROJECT RECORD" in neat, large printed letters.
- B. Maintain a record set of "Red Line" Record Drawings and Specifications legibly annotated to show all changes made during construction.
 1. Graphically depict changes by modifying or adding to plans, details, sections, elevations, or schedules.
 2. Make changes on each sheet affected by changes.
- C. Record information concurrently with construction progress.
 1. Do not conceal Work until required information is recorded.
 2. Record changes made by Written Amendment, Field Order, Change Order or Work Directive Change.

D. Information to be recorded on Record Drawings:

1. Record horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
2. Record field changes.
3. Provide details not on original Drawings.
4. Record location and identification of exposed interior piping, including those shown schematically on Drawings.
5. Record size of equipment and location including connections.
6. Record the coordinates of all fittings and valves installed. Coordinates shall be tied to the established Project coordinate system.
7. Record the coordinates of all crossings of installed force mains and existing utilities. Coordinates shall be tied to the established Project coordinate system.

E. Specifications:

1. Mark Specification sections to show substantial variations in actual Work performed in comparison with test of Specifications and modifications. Give particular attention to substitutions, selection of options and similar information on elements that are concealed or cannot otherwise be readily discerned later by direct observation.
2. Note related record drawing information and Product Data.

F. Indication of Changes:

1. All changes shall be annotated in the color red.

END OF SECTION

APPENDIX A

VDOT and Federal Bidding Forms

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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 2020. References to the "Road and Bridge Standards" shall refer to the *Virginia Department of Transportation Road and Bridge Standards*, dated 2016 with revisions issued online as of the advertisement date for this project incorporated. References to the "Virginia Work Area Protection Manual" shall refer to the 2011 edition of the *Virginia Work Area Protection Manual with Revision Number 2* incorporated, dated September 1, 2019. 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.

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 publications 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 2020. 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 publications 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 2020 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.

[SP0F0-000100-00](#)

Reissued July 12, 2016

PREDETERMINED MINIMUM WAGE RATES

"General Decision Number: VA20210188 01/01/2021

Superseded General Decision Number: VA20200188

State: Virginia

Construction Type: Highway

Counties: Roanoke, Roanoke* and Salem* Counties in Virginia.

*including the independent cities of Roanoke and Salem

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 \$10.95 for calendar year 2021 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 \$10.95 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 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). 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

01/01/2021

* ELEC0080-011 06/01/2019

	Rates	Fringes
ELECTRICIAN, Includes Traffic Signalization.....	\$ 28.35	3%+19.95

SUVA2016-073 07/02/2018

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 17.65	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 19.94	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.....	\$ 14.34	0.00
LABORER: Grade Checker.....	\$ 15.07	0.00
LABORER: Pipelayer.....	\$ 13.14	0.00
LABORER: Power Tool Operator....	\$ 15.69	0.00
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 17.29	0.34
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.....	\$ 15.86	0.00
OPERATOR: Mechanic.....	\$ 20.00	0.00
OPERATOR: Milling Machine.....	\$ 23.12	3.60
OPERATOR: PAVEMENT PLANER.....	\$ 17.01	0.00
OPERATOR: Paver (Asphalt, Aggregate, and Concrete).....	\$ 16.85	0.00
OPERATOR: Piledriver.....	\$ 21.83	4.08
OPERATOR: Roller (Finishing)....	\$ 14.31	0.00
OPERATOR: Roller.....	\$ 14.81	0.00
OPERATOR: Screed.....	\$ 22.13	4.89
OPERATOR: Asphalt Spreader and Distributor.....	\$ 16.44	0.00
OPERATOR: Bulldozer, Including Utility.....	\$ 17.81	0.00
TRAFFIC CONTROL: Flagger.....	\$ 11.84	0.00
TRUCK DRIVER : HEAVY 7CY & UNDER.....	\$ 15.36	0.00
TRUCK DRIVER: 1/Single Axle Truck.....	\$ 15.95	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.....	\$ 17.53	0.00

WELDERS - Receive rate prescribed for craft performing

operation to which welding is incidental.

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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.

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

A handwritten signature in black ink, appearing to read "E. Irving Manger", is written over a small, faint circular stamp.

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 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 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 covered 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 compiled 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	23.6
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
CHANGED CONDITIONS FOR LOCAL ASSISTANCE PROJECTS

April 29, 2019

I. GENERAL

This special provision specifies the process to be followed when conditions specified in the Contract differ from what is encountered during the prosecution of work except as provided elsewhere in the Contract.

II. DIFFERING SITE CONDITIONS

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the Contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
2. Upon written notification, the Engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the Contract, an adjustment, excluding anticipated profits, will be made and the Contract modified in writing accordingly. The Engineer will notify the Contractor of the determination whether or not an adjustment of the Contract is warranted.
3. No contract adjustment which results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.
4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the Department at its option.)

III. SUSPENSION OF WORK ORDERED BY THE ENGINEER

1. If the performance of all or any portion of the work is suspended or delayed by the Engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
2. Upon receipt, the Engineer will evaluate the Contractor's request. If the Engineer agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Engineer will make an adjustment (excluding profit) and modify the Contract in writing accordingly. The Contractor will be notified of the Engineer's determination whether or not an adjustment of the Contract is warranted.
3. No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed.

4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

IV. SIGNIFICANT CHANGES IN THE CHARACTER OF WORK

1. The Engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the Contract nor release the surety, and the Contractor agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the Contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the Contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the Contractor in such amount as the Engineer may determine to be fair and equitable.
3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the Contract, the altered work will be paid for as provided elsewhere in the Contract.
4. The term "significant change" shall be construed to apply only to the following circumstances:
 - A. When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
 - B. When a major item of work, as defined elsewhere in the Contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

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.

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
USE OF DOMESTIC MATERIAL

December 19, 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 Form C-76 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 underiably 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
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.

DRUG-FREE WORKPLACE– The Contractor shall:

- Provide a Drug-Free Workplace for the Contractor's employees.
- 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.
- State in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a Drug-Free Workplace.
- 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 provision, "Drug-Free Workplace" means a site for the performance of work done in connection with the Contract. The Contractor's employees, and those of his Subcontractors, shall be prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of the Work.

7-3-19 (SPCN)

CONTRACTOR SEXUAL HARASSMENT POLICY – If the contractor employs more than five employees, the contractor shall (i) provide annual training on the contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the contractor owns or leases for business purposes and (b) the contractor's employee handbook.

The contractor shall include the above paragraph in every subcontract or purchase order over \$10,000, so that this requirement shall be binding upon each subcontractor or vendor.

6-5-20 (SPCN)

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
**ELECTRONIC SUBMISSION OF PAYROLLS AND
DBE SUBCONTRACTOR PAYMENT FOR FEDERALLY FUNDED PROJECTS**

January 21, 2020

I. GENERAL REQUIREMENTS

The Contractor and all Subcontractors shall submit all certified payrolls and subcontractor payments, including those made to Disadvantaged Business Enterprises (DBEs), using the AASHTOWare Project Civil Rights and Labor (CRL) system in accordance with this specification. The term "subcontractor" shall include all vendors subject to FHWA-1273.

The electronic payroll submission and subcontractor payments through the CRL system replaces the paper submission of the C-57 and C-63 forms otherwise required by Sections 107.14(m) and 107.15 of the Specifications.

II. SYSTEM REQUIREMENTS

The CRL system is web based. The Contractor shall ensure compatibility with the CRL system as necessary to successfully execute the Work. The CRL system works with Internet Explorer 11 or Google Chrome and requires the ability to read, create, and edit spreadsheets in the .xlsx file format.

The Contractor and Subcontractors will be granted access after submitting forms ITD-35 and ITD-36 for each individual user who requires an account. Only those firms with a required contract in the system should submit the Request Access form. The software is configured so that each firm will only be able see their specific contract information. There will only be one single sign-on process for multiple application access within the Department.

VDOT will provide access and link and a log-in identification (ID) for the CRL system to designated employees of the Contractor and approved subcontractors entered into the system for the contract. The log-in ID and password are unique to the designated employee and must not be shared with other employees. There are no fees associated with accessing the system or to receive a login ID.

The low bidders on Contract awards will be contacted by the State Civil Rights Manager after letting to begin the process for accessing the CRL system for them and their subcontractors. The State Civil Rights Manager will provide all training for entry of certified payrolls and DBE subcontractor payments in CRL.

The CRL website is located at:

https://www.virginiadot.org/business/aashtoware_project_civil_rights_and_labor%E2%84%A2_crl_management_system.asp.

III. PROCEDURES

1. CERTIFIED PAYROLL & SUBCONTRACTOR DATA SUBMISSION FOR FEDERALLY FUNDED PROJECTS

The Contractor and all subcontractors shall use the CRL system to provide VDOT electronic certified payrolls. The Contractor shall ensure that all subcontractors submit their certified payrolls into the system electronically.

Electronic submittal of certified payrolls can be submitted using the following methods:

- Manually add, copy, or modify data into CRL;
- Import payroll data with the CRL payroll spreadsheet XML converter tool available at <https://xml.cloverleaf.net/spreadsheet/>;
- Convert payroll system program data to Payroll XML and import it into the CRL system. Information on how to convert to payroll program data to an XML file can be located at <https://xml.cloverleaf.net/resourcekit/>;
- The Contractor may send, on behalf of a subcontractor, payroll payment information based on a signed, certified paper payroll through the Electronica Proxy Payroll Process. Import payroll data with the CRL payroll spreadsheet XML converter tool available at <https://xml.cloverleaf.net/spreadsheet/>.

The District Civil Rights Manager or Engineer may require at any time, in writing, certified paper copies of the payrolls conforming to FHWA 1273 from any or all contractors working on the project.

2. DBE PAYMENT SUBMISSION REQUIREMENTS FOR FEDERALLY FUNDED PROJECTS

The Contractor shall post payment to DBE firms listed on their C-111 towards meeting their contract DBE goal per Federal DBE regulations. The Contractor shall submit, and shall require each Subcontractor to provide, payment amounts relative to all DBE involvement on the project during the life of the Contract in which participation occurs, and verification is available. The Contractor shall post payments to DBEs in CRL within 7 days after receipt of payment from the Department. Subcontractors shall post payments to DBEs in CRL within 7 days after receipt of payment from the Contractor.

The District Civil Rights Manager may require at any time, in writing, proof of payments from any or all subcontractors working on the project related to contractor DBE payments. The Contractor shall enter all payments made to all subcontractors into the Payment area of CRL for each estimate.

DBE Payments shall be entered only for those business entities that are being utilized in conjunction with performing a Commercial Useful Function (CUF).

More information about the CRL system can be located at <https://www.aashtowareproject.org/index.php>.

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
DBE REQUIREMENTS

August 18, 2017

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

Section 107.15 – Use of Small, Women-Owned, and Minority-Owned Business 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.

		Value of Trans. Serv.
<u>Firm X</u>		(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
<hr/>		
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 its 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 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.

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.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
SUBCONTRACTOR/SUPPLIER SOLICITATION AND UTILIZATION FORM
(ALL BIDDERS)**

PROJECT NO. _____ **CONTRACT I.D. NO.** _____

FHWA NO. _____ **DATE SUBMITTED** _____

All bidders, including DBEs bidding as Prime Contractors, shall complete and submit the following information as requested in this form within ten (10) [business](#) days after the opening of bids.

The bidder certifies this form accurately represents its solicitation and utilization or non-utilization, as indicated, of the firms listed below for performance of work on this contract. The bidder also certifies he/she has had direct contact with the named firms regarding participation on this project.

BIDDER _____ **SIGNATURE** _____

TITLE _____

SUBCONTRACTOR/SUPPLIER SOLICITATION AND UTILIZATION (ALL)

VENDOR NUMBER	NAME OF SUBCONTRACTOR/SUPPLIER	TELEPHONE NUMBER	DBE OR NON-DBE	UTILIZED (Y/N)

NOTE: ATTACH ADDITIONAL PAGES, IF NECESSARY.

BIDDER MUST SIGN EACH ADDITIONAL SHEET TO CERTIFY ITS CONTENT AND COMPLETION OF FORM.

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 _____

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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.

NOTE: ATTACH ADDITIONAL PAGES, IF NECESSARY

U.S. DEPARTMENT OF
LABOR
Wage and Hour and Public
Contracts Division

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
STATEMENT OF COMPLIANCE**

Form Approved
Budget Bureau No. 44-R1093

Date _____

I, _____ do hereby state:
(Name of signatory party) (Title)

(I) That I pay or supervise the payment of the persons employed by _____ on
(Contractor or subcontractor)

the _____ ; that during the payroll period commencing on the _____ day of _____
(Building or work)

20 _____ and ending the _____ day of _____, 20 _____, all persons employed on said project have been paid the full weekly
wages earned, that no rebates have been or will be made directly or indirectly to or on behalf of said _____
_____ from the full weekly wages earned by any person and that no deductions have been made
(Contractor or Subcontractor)

either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations,
Part 3 (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act as amended (48 Stat. 948.63 Stat. 108, 72
Stat.967; 76 Stat. 357; 40 USC. 276c), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete: that the
wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage
determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the
work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with
a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if
no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States
Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll,
payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the
benefit of such employees, except as noted in Section 4(c) below.

or

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

Each Laborer or mechanic listed in the above referenced payroll has been paid as indicated on the payroll, an
amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits
as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
Remarks	

Name and Title	Signature
The willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution. See Section 1001 of Title 18 and Section 231 of Title 31 of the United States code.	

INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment to the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes.

The contractor should show on the face of his payroll all monies paid to the employees whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he is paying to others fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions follow:

Contractors who pay all required fringe benefits:

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor shall continue to show on the face of his payroll the basic cash hourly rate and overtime rate paid to his employees, just as he has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate that he is also paying to approved plans, funds, or programs not less than the amount pre-determined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

Contractors who pay no fringe benefits:

A contractor who pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of his payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall not be less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate plus the required cash in lieu of fringes at the straighttime rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$3.25/.40. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as cash in lieu of fringes, and the hourly amount paid to plans, funds or programs as fringes.

**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:

FHWA:

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 33.2-1106 of the Code of Virginia. (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

FHWA NO. _____

THIS FORM CAN BE USED BY THE CONTRACTOR TO SUBMIT THE NAMES OF DBE FIRMS TO BE UTILIZED ON THE PROJECT. THE CONTRACTOR SHALL INDICATE THE DESCRIPTION OF THE CATEGORY (S, M, SP or H) AND THE TYPE OF WORK THAT EACH DBE WILL PERFORM AND THE ALLOWABLE CREDIT PER ITEM(S). ADDITIONAL SHEETS TO SHOW THE ALLOWABLE CREDIT PER ITEM MAY BE ATTACHED IF NECESSARY. **PLEASE NOTE:** THE AMOUNT OF ALLOWABLE CREDIT FOR A DBE SUPPLIER IS 60% OF THE TOTAL COST OF THE MATERIALS OR SUPPLIES OBTAINED AND 100% FOR A DBE MANUFACTURER OF THE MATERIALS AND SUPPLIES OBTAINED. A CONTRACTOR MAY COUNT 100% OF THE FEES PAID TO A DBE HAULER FOR THE DELIVERY OF MATERIALS AND SUPPLIES TO THE PROJECT SITE, BUT NOT FOR THE COST OF THE MATERIALS AND SUPPLIES THEMSELVES.

PERCENT ATTAINED BY BIDDER %

TOTAL CONTRACT VALUE \$ x REQUIRED DBE % = \$

BIDDER	BY	SIGNATURE
TITLE	BY	DATE

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

Project No.:

Federal Project No.:

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

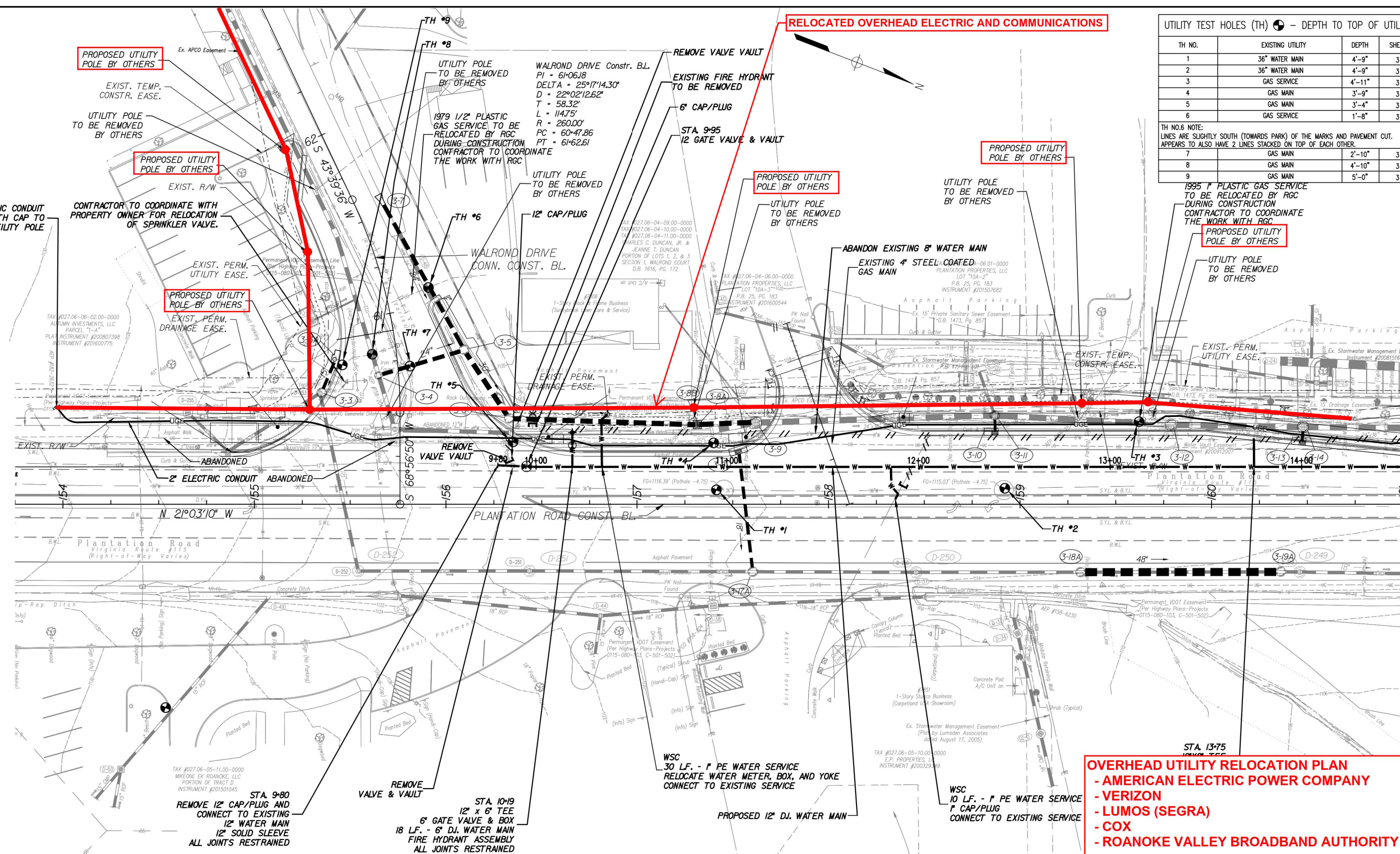
By: _____
Signature Title

Date: _____

APPENDIX B

Utility Relocation Plans

- **Overhead Utility Relocation Plan**
 - **American Electric Power Company**
 - **Verizon Virginia, Inc.**
 - **Lumos (Segra)**
 - **COX**
 - **Roanoke Valley Broadband Authority**
- **Roanoke Gas Company**



UTILITY TEST HOLES (TH) - DEPTH TO TOP OF UTILITY			
TH NO.	EXISTING UTILITY	DEPTH	SHEET
1	36" WATER MAIN	4'-9"	3
2	36" WATER MAIN	4'-9"	3
3	GAS SERVICE	4'-11"	3
4	GAS MAIN	3'-9"	3
5	GAS MAIN	3'-4"	3
6	GAS SERVICE	1'-8"	3
TH NO.6 NOTE: LINES ARE SLIGHTLY SOUTH (TOWARDS PARK) OF THE MARKS AND PAVEMENT CUT. APPEARS TO ALSO HAVE 2 LINES STACKED ON TOP OF EACH OTHER.			
7	GAS MAIN	2'-10"	3
8	GAS MAIN	4'-10"	3
9	GAS MAIN	5'-0"	3

OVERHEAD UTILITY RELOCATION PLAN
- AMERICAN ELECTRIC POWER COMPANY
- VERIZON
- LUMOS (SEGRA)
- COX
- ROANOKE VALLEY BROADBAND AUTHORITY

PAGE 1 OF 1



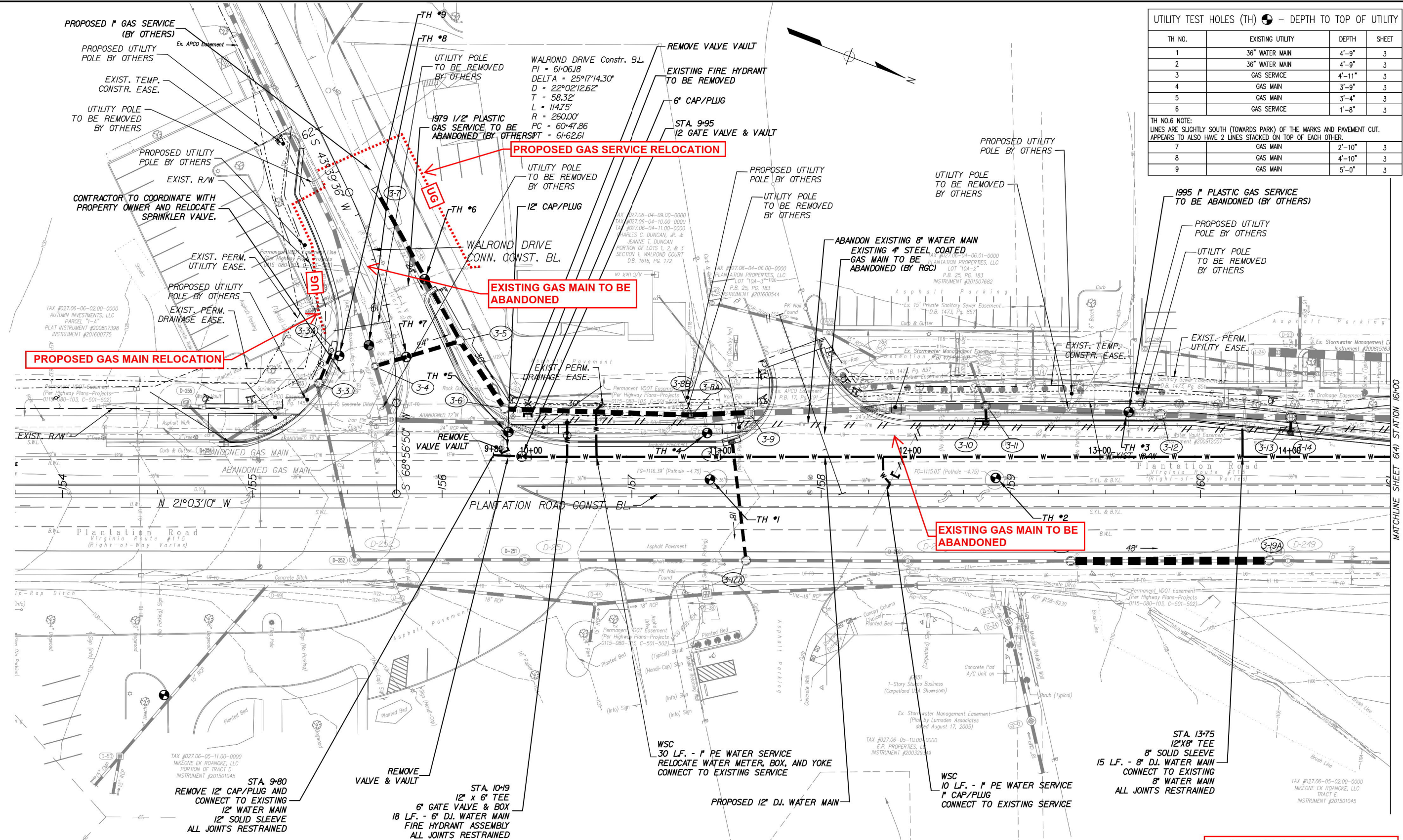
NOTE:
1. WATER MAIN STA. 10+00 = PLANTATION ROAD CONSTR. BL STA. 156+47, 19' LT.

COUNTY OF ROANOKE
5204 BERNARD DRIVE
ROANOKE, VA 24018

VDOT PROJECT NUMBER:
#SMART18 - PLANTATION RD BIKE/PEDESTRIAN/STREETSCAPE PHASE II
STATE PROJECT NO: 0115-080-911, P101, R201, C501
VDOT UPC NUMBER: 111366

PLANTATION ROAD, BICYCLE, PEDESTRIAN, AND
STREETSCAPE IMPROVEMENTS PHASE 2 PROJECT

SCALE		Rev		Date		Description	
0	25'						
Drawing				Sheet			
OVERHEAD UTILITY				APPENDIX B-1			
RELOCATION PLAN				SEE 6(3)			



UTILITY TEST HOLES (TH) - DEPTH TO TOP OF UTILITY			
TH NO.	EXISTING UTILITY	DEPTH	SHEET
1	36" WATER MAIN	4'-9"	3
2	36" WATER MAIN	4'-9"	3
3	GAS SERVICE	4'-11"	3
4	GAS MAIN	3'-9"	3
5	GAS MAIN	3'-4"	3
6	GAS SERVICE	1'-8"	3
TH NO.6 NOTE: LINES ARE SLIGHTLY SOUTH (TOWARDS PARK) OF THE MARKS AND PAVEMENT CUT. APPEARS TO ALSO HAVE 2 LINES STACKED ON TOP OF EACH OTHER.			
7	GAS MAIN	2'-10"	3
8	GAS MAIN	4'-10"	3
9	GAS MAIN	5'-0"	3

Whitman Requardt & Associates
Blacksburg, Virginia
UTILITY ENGINEER

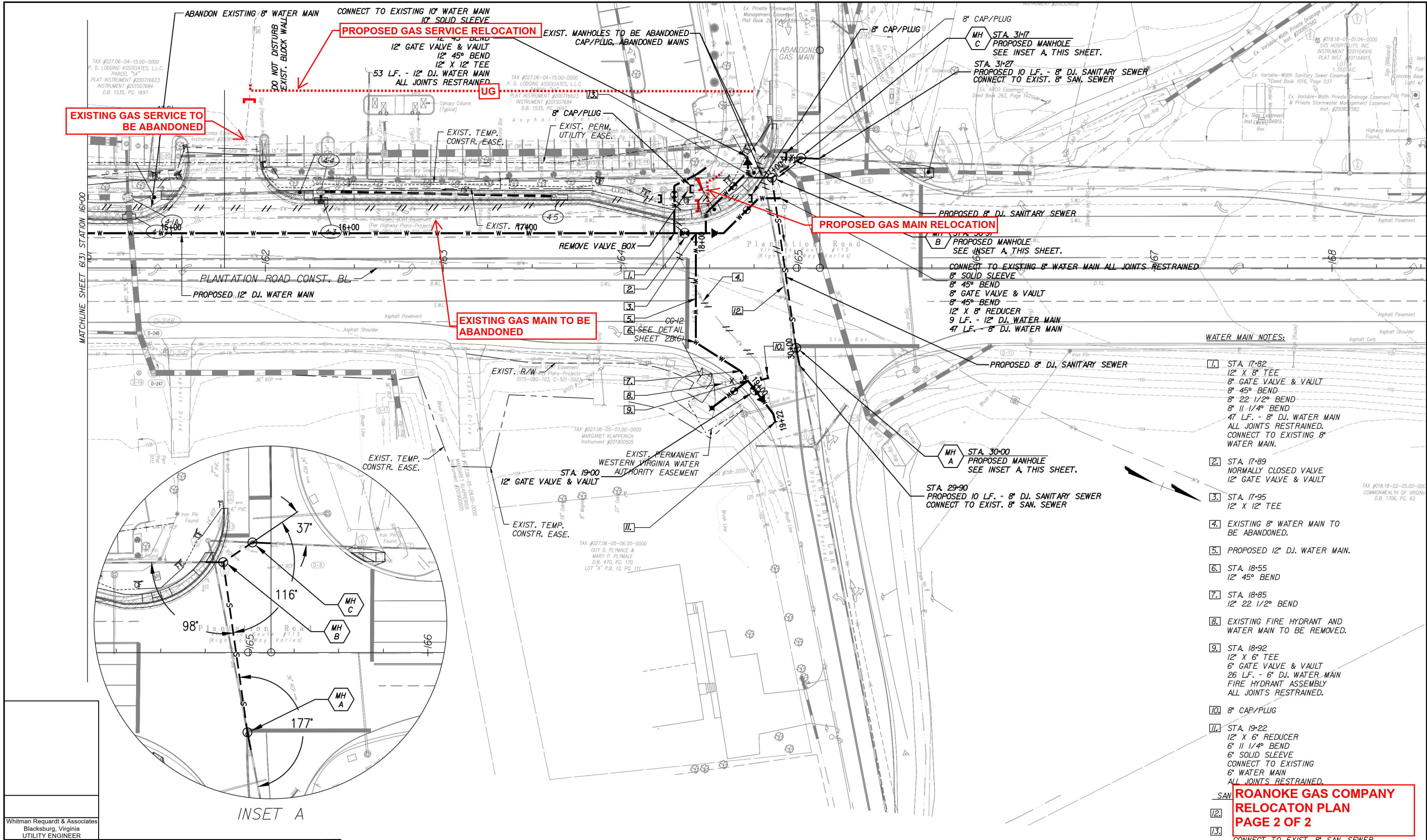


Whitman, Requardt & Associates, LLP
1700 Kraft Drive, Suite 1200, Blacksburg, Virginia 24060

NOTE:
1. WATER MAIN STA. 10+00 = PLANTATION ROAD CONSTR. BL STA. 156+47, 19' LT.

COUNTY OF ROANOKE 5204 BERNARD DRIVE ROANOKE, VA 24018	VDOT PROJECT NUMBER: #SMART18 - PLANTATION RD BIKE/PED/STREETSCAPE PHASE II STATE PROJECT NO: 0115-080-911, P101, R201, C501	PLANTATION ROAD, BICYCLE, PEDESTRIAN, AND STREETSCAPE IMPROVEMENTS PHASE 2 PROJECT	Drawing ROANOKE GAS COMPANY RELOCATION PLAN	Sheet APPENDIX B-2 SEE 6(3)
	VDOT UPC NUMBER: 111366			

SCALE	Rev	Date	Description
0 25' 50'			



APPENDIX C

Environmental Documentation and Certifications

	<u>Page</u>
• Programmatic Categorical Exclusion Form (Completed under UPC 103607; supporting documentation available upon request)	281
• Cultural Resources Review (supporting documentation available upon request)	282
• EQ-121 – Hazardous Materials Due Diligence Certification (supporting documentation available upon request)	285
• EQ-555 – Water Quality Permits and Natural Resources Due Diligence Certification (supporting documentation available upon request)	287
• EQ-103 – Environmental Certification.....	290
• EQ-200 – PS&E Re-evaluation	293

TO: FILE
 FROM: Paul Johnson
 DATE: May 25, 2016

PROGRAMMATIC CATEGORICAL EXCLUSION

Route Number: 115
 Project Number: 0115-080-R95, P101, C501 & EN12-080-823, P101, C501
 Federal Project Number:
 From: .10 Mi south of I-81 on Plantation Road (Rte. 115)
 To: Intersection Rte. 115 with Williamson Road (Rte. 11)
 County/City: Roanoke County
 UPC Number: 98220 & 103607

The subject project meets the criteria for a Programmatic Categorical Exclusion in accordance with:

- ☐ 23 CFR 771.117
☒ Agreement approved by the Federal Highway Administration on September 17, 2010
 VA-02 (Select from list in Attachment A of Agreement).



9-17-10 PCE
 Agreement Revised.pdf

Description of PCE Category: Construction of bicycle and pedestrian lanes, paths, and facilities and improvements for pedestrian or bicyclist safety or for the safety of persons with disabilities. Project Description: The project is comprised of streetscape and corridor improvements along approximately 4,500 feet of Plantation Road including new sidewalks, intersection improvements, tree and shrub plantings, and a new storm drain system with curb and gutter.

The action does not involve:

	YES	NO
Significant environmental impacts as described in 23 CFR 771.117(a)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Unusual circumstances as described in 23 CFR 771.117(b)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Significant impacts to planned growth or land use	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The relocation of significant numbers of people	<input type="checkbox"/>	<input checked="" type="checkbox"/>
More than minor amounts of temporary or permanent right of way acquisition	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Significant air, noise, or water quality impacts	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A determination of adverse effect on historic properties	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A determination that the action is likely to adversely affect any federally listed endangered species or their designated critical habitat	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Significant impacts on travel patterns	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Changes in Interstate access control requiring FHWA approval	<input type="checkbox"/>	<input checked="" type="checkbox"/>
A use of properties protected by Section 4(f), (with exception of <i>de minimis</i> impact finding)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Individual or cumulative significant environmental impacts	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Hazardous material sites or potential for hazardous materials within existing right of way.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Encroachment on regulatory floodway of water courses or water bodies	<input type="checkbox"/>	<input checked="" type="checkbox"/>
USCG construction permit, USACE Individual Section 404 permit	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Parks, Caleb

From: Lavernia, Laura <laura.lavernia@dhr.virginia.gov>
Sent: Friday, September 6, 2019 10:12 AM
To: Kwasniewski, David
Subject: Fwd: Plantation Road Bicycle, Pedestrian and Streetscape – Phase II
Attachments: UPC111366(2014-3204)_Plantation_Road_DHRReviewRequest 8.27.2019.pdf

Dear Mr. Kwasniewski

Thank you for requesting comments from the Department of Historic Resources on the referenced project. Based upon the documentation provided, it is our opinion that no historic properties will be affected by the proposed undertaking (DHR File #2014-3204 - Plantation Road Bicycle, Pedestrian Improvements Project)

Implementation of the undertaking in accordance with the finding of No Historic Properties Affected as documented fulfills the Federal agency's responsibilities under Section 106 of the National Historic Preservation Act. If for any reason the undertaking is not or cannot be conducted as proposed in the finding, consultation under Section 106 must be reopened.

If you have any questions or if we may provide any further assistance at this time, please do not hesitate to contact me.

Sincerely,

Laura Lavernia - Architectural Historian
Review and Compliance Division
Department of Historic Resources (DHR)
2801 Kensington Avenue
Richmond, VA 23221

Phone: 804.482.8097
Fax: 804.482.6091
Laura.Lavernia@dhr.virginia.gov
www.dhr.virginia.gov

[Subscribe to DHR's Quarterly Newsletter](#)

----- Forwarded message -----

From: Holma, Marc <marc.holma@dhr.virginia.gov>
Date: Tue, Aug 27, 2019 at 9:49 AM
Subject: Fwd: Plantation Road Bicycle, Pedestrian and Streetscape – Phase II
To: Laura Lavernia <laura.lavernia@dhr.virginia.gov>

This is an Enhancement project last reviewed by Annie. I created a new review cycle and attached the letter sent in the email in NOTES and assigned it to you.

Marc

----- Forwarded message -----

From: Kwasniewski, David <dkwasniewski@wrallp.com>
Date: Tue, Aug 27, 2019 at 9:38 AM

Subject: Plantation Road Bicycle, Pedestrian and Streetscape – Phase II
To: Holma, Marc (DHR) (Marc.Holma@dhr.virginia.gov) <Marc.Holma@dhr.virginia.gov>
Cc: Parks, Caleb <cparks@wrallp.com>

Good Morning Mr. Holma

On behalf of Roanoke County, Whitman, Requardt and Associates, LLP (WRA) respectfully requests your review and comment for Phase II of the Plantation Road Bicycle, Pedestrian and Streetscape project. In March 2014, WRA submitted a project review package, on behalf of Roanoke County, to the Virginia Department of Historic Resources (DHR) requesting comment on the proposed improvements associated with the Plantation Road Bicycle, Pedestrian and Streetscape project (DHR File No. 2014-3204). On April 18, 2014, DHR responded stating that historic properties within the Area of Potential Effect (APE) will not be adversely affected by the proposed undertaking.

Phase II of the project will soon be going to construction. WRA conducted an updated query of V-CRIS, to determine if new resources not previously included in the 2014 project review could be affected by Phase II of the project (See attached). WRA, on behalf of Roanoke County, is respectfully requesting that DHR affirm their previously issued no adverse effect finding based on the information provided above and the accompanying enclosures. Should you need any additional information, please do not hesitate to contact me at 804-272-8700 or dkwasniewski@wrallp.com.

David Kwasniewski PWD| *Environmental Scientist*

Whitman, Requardt & Associates, LLP

9030 Stony Point Parkway, Suite 220

Richmond, VA 23235

(Direct) 804.327.5228

(Main) 804.272.8700

(Main Fax) 804.272.8897

dkwasniewski@wrallp.com

www.wrallp.com

--

Marc Holma
Architectural Historian
Division of Review and Compliance
(804) 482-6090
marc.holma@dhr.virginia.gov

VIRGINIA DEPARTMENT OF TRANSPORTATION HAZARDOUS MATERIALS DUE DILIGENCE CERTIFICATION FOR LOCALLY ADMINISTERED PROJECTS (EQ-121)	FORM EQ-121 (Revised 2/27/09) UPC: <u>111366</u> Project: <u>Plantation Road Bicycle, Pedestrian and Streetscape – Phase II</u>
---	--

I. APPLICABILITY:

 This form must be completed by the LPA and submitted to the VDOT District Environmental Manager who will use this as documentation to support the Environmental Certification (Form EQ-103) and/or PS&E Re-evaluation (Form EQ-200) for any construction project. No project will receive certification to advance to construction until the form is received.

II. CONDITIONS:

 The LPA shall complete this form when all hazardous materials-related issues have been identified and addressed for the project. It is not necessary that all hazardous materials issued be resolved prior to submission of this form, however, a plan must be in place to ensure resolution. This form must be submitted prior to acquiring project Right-of-Way. All existing right of way, or properties to be acquired for use as right of way, must receive an appropriate level of study. This includes existing VDOT right of way, locality-owned, proffered, or donated properties.

III. CERTIFICATION:
 I hereby certify that:

(1) County of Roanoke, Virginia has performed studies, analyses, reviews and/or investigations of hazardous materials-related issues for all properties that it has acquired or intends to acquire for the project. Such studies, investigations, etc. constitute an appropriate level of inquiry to identify the likely presence of any hazardous substances or petroleum products or conditions that indicate an existing release, a past release, or the material threat of a release of hazardous substances into the soil, groundwater or surface water of the property or adjacent properties, or the presence of such impairments associated with buildings or structures. The following lists the consultants and reports that were utilized in the conduct of the due diligence studies:

Consultant	Title of Consultant Report	Report Date
Whitman, Requardt & Associates LLP	WRA Hazardous Materials DEQ Database Search	August 30, 2019, verified September 10, 2020

(2) (Choose one of the following):
☒ No potential or actual contaminated environmental media or other environmental impairments that would affect construction were identified within the project right-of-way.
☐ Actual or potential environmental impairments have been noted on the following properties and as indicated, a cost estimate(s) of potential remediation/closure activities to meet state and/or federal regulations is provided as well as an indicator of any coordination made with the Virginia Department of Environmental Quality and/or the U.S. Environmental Protection Agency:

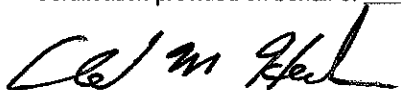
Property	Parcel Number	Agency Coordination?	Closure/Remediation Estimate
		<input type="checkbox"/> Yes <input type="checkbox"/> No	\$
		<input type="checkbox"/> Yes <input type="checkbox"/> No	\$
		<input type="checkbox"/> Yes <input type="checkbox"/> No	\$

		<input type="checkbox"/> Yes	<input type="checkbox"/> No	\$
		<input type="checkbox"/> Yes	<input type="checkbox"/> No	\$
		<input type="checkbox"/> Yes	<input type="checkbox"/> No	\$
		<input type="checkbox"/> Yes	<input type="checkbox"/> No	\$

Attach additional pages as necessary.

- (3) Where actual or potential environmental impairments have been identified, appropriate actions have been taken (or will be taken) to address these issues in terms of avoidance, containment, management, minimization or remediation. Where such actions are required to be taken during construction, appropriate contract provisions have been/will be developed to incorporate those costs as pay items in the contract.
- (4) Estimated costs for regulatory closure/remediation have been/will be taken into consideration in determining fair market value for properties to be acquired.
- (5) All structures will be inspected for the presence of asbestos-containing materials (ACM) and any regulated ACM will be removed in accordance with state and federal requirements.
- (6) The construction contractor will be made aware of any environmental issues that may be encountered during construction and will be provided access to any study results to assist the Contractor in developing and implementing appropriate Employee Health and Safety measures.

Certification provided on behalf of County of Roanoke, Virginia by:


Local Official

Date: 9/11/20

COUNTY ENGINEER
Title

VIRGINIA DEPARTMENT OF TRANSPORTATION WATER QUALITY PERMITS AND NATURAL RESOURCE DUE DILIGENCE CERTIFICATION/CHECKLIST FOR LOCALLY ADMINISTERED PROJECTS	FORM EQ-555 (Revised 02/24/15) UPC: 111366 Project: 0115-080-911, P101, R201, C501 #SMART18 Plantation Rd Bike/Ped/Streetscape Phase II
---	---

APPLICABILITY:

This checklist is designed to assist the LPA in compiling appropriate water quality/natural resource documentation for transportation projects. The LPA shall acquire all required water quality permits and natural resources clearances and reflect any commitments in the project construction documents. The supporting documentation must be submitted to VDOT prior to project certification for advertisement/construction.

Water Quality Permits:
 The LPA is responsible for obtaining all necessary water quality permits for this project prior to advertisement.

Water Quality Permit(s) Requirements for the project are listed below:

Permitting Agency	Permit Required Yes/No	Permit Type	Permit Number	Issued Date	Expiration Date
Corps of Engineers	No	N/A	N/A	N/A	N/A
Department of Environmental Quality	No	N/A	N/A	N/A	N/A
Virginia Marine Resource Commission	No	N/A	N/A	N/A	N/A
Tennessee Valley Authority	No	N/A	N/A	N/A	N/A

Attach Copy of all Permits Acquired for the project.

Compensatory Mitigation
 The LPA is responsible for providing the water quality permit required compensatory mitigation for this project.

Is compensatory mitigation required for the unavoidable wetland and stream impacts? Yes ☐ No ☒

If Yes, Complete below chart and select appropriate compensatory mitigation type

Compensation Type	Cowardin Classification	Impact HUC	Impact Size	Compensation HUC	Compensation Required
Wetlands					
Streams					

☐ **Mitigation Bank:**

1. Insert Name of Locality and the applicable State and Federal agencies having jurisdiction over the use and disturbance of waters of the United States including areas known as wetlands and stream have agreed that compensatory mitigation requirements may be satisfied by the purchase from Insert Name of Bank of Insert Number Credits, as provided in this Agreement and in accordance with the Mitigation Banking Instrument, subject to case-by-case approval through the permitting process.
2. Insert Name of Mitigation bank consists of Insert Number wetlands acres and Insert Number linear feet of streams, more or less, located in Insert County, Virginia. The Bank's Mitigation Banking Instrument was approved by the U.S. Army Corps of Engineers ("Corps") on Insert Date. The Bank is authorized to sell mitigation credits to compensate for unavoidable impacts to waters of the United States caused by projects approved pursuant to permits or authorizations granted by the Corps ("Credits"). Operation, management and maintenance of the Bank is subject to the requirements of the Mitigation Banking Instrument, to the statutes, regulations and policies cited therein and to the requirements of all Federal and State permits as applicable.

☐ **Trust Fund Payment**

1. Name of Locality and the applicable State and Federal agencies having jurisdiction over the use and disturbance of waters of the United States including areas known as wetlands and stream have agreed that compensatory mitigation requirements may be satisfied by the payment of \$Insert Dollar amount to the Trust Fund for the disturbance of Insert Number acres of wetlands and Insert Number linear feet of streams.

☐ **Compensation Project:**

1. The LPA and the applicable State and Federal agencies having jurisdiction over the use and disturbance of waters of the United States including areas known as wetlands and stream have agreed that compensatory mitigation requirements may be satisfied by the implementation of a compensation project for the disturbance of Insert Number acres of wetlands and Insert Number linear feet of streams.
2. Compensation Project Types: (Check Appropriate)
 - ☐ **Establishment/Creation:** The manipulation of the physical, chemical, or biological characteristics present to develop a wetland on an upland or deepwater site, where a wetland did not previously exist. Establishment results in a gain in wetland acres.
 - ☐ **Restoration:** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland or stream.
 - ☐ **Enhancement:** The manipulation of the physical, chemical, or biological characteristics of a wetland and or stream (undisturbed or degraded) to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in wetland function(s) and can lead to a decline in other wetland functions, but do not result in a gain in wetland acres.
 - ☐ **Protection/Maintenance (Preservation):** The removal of a threat to, or preventing the decline of, wetland and/or stream conditions by an action in or near a wetland or stream. This term includes the purchase of land or easements, repairing water control structures or fences, or structural protection such as repairing a barrier island. This term also includes activities commonly associated with the term preservation. Preservation does not result in a gain of wetland acres and will be used only in exceptional circumstances.
3. Compensation Project consists of Insert Number wetlands acres and Insert Number linear feet of streams, located in Insert County, Virginia.
4. The LPA is responsible for accomplishing, maintaining, and monitoring the compensation project and for providing long-term management and financial assurances set aside for remedial measures to ensure mitigation success. This includes identifying the party that will provide for long-term management and protection of the compensation project.

Threatened and Endangered Species

The LPA is responsible for obtaining all necessary regulatory clearances for this project prior to advertisement.

This section must be completed to document threatened or endangered species review for all activities.

The LPA has reviewed the project and appropriate data sources and have made one of the following determinations with respect to this project: (Check Appropriate)

☐ Based upon a review of the DGIF data and DCR Natural Heritage Conservation Site Maps for the project area, no Threatened or Endangered species collections/records are within a 2-mile search distance for the project. A copy of this determination has been provided to VDOT.

☒ Based upon a review of the DGIF data and DCR Natural Heritage Conservation Site Maps for the project area, Threatened or Endangered species collections/records are within the required 2-mile search distance for the project. (Check Appropriate)

☒ Roanoke County has conducted a site evaluation within the area of effect for the project. A copy of the assessment has been provided to DGIF, DNH, and FWS on N/A. The agency comments (check appropriate) ☐ were received within 30 days or ☐ were not received within 30 days. Comments received from the agencies are addressed in the project plans and contract documents. This documentation has been provided to VDOT.

Indicate results of Site Evaluation:

☒ No Habitat identified (See comments below.)
☐ Habitat identified

☐ Habitat identified and a species survey was requested by Insert Agency, performed by insert name, and coordination conducted on Insert Date with DGIF, DNH, and FWS. The agency comments were received and addressed. This documentation has been provided to VDOT.

EQ-555 Certification Checklist

- ☐ Section 7 Consultation for a species in the project area was required by Insert Name of Federal Agency. The Biological Opinion prepared by Fish and Wildlife Service was received on Insert Date and the requirements of the Biological Opinion have been incorporated into the project design and contract construction documents. A copy of the Biological Opinion has been provided to VDOT.

T&E Species: Indiana bat (FESE), Northern long-eared bat (FTST)

An updated Fish, Plant and Wildlife Resources (FPWR) review dated September 11, 2020 listed Tinker Creek as a threatened and endangered (T&E) stream for the FESE Roanoke logperch as potentially occurring within the required search radius of the project. A letter from the locality's consultant on September 16, 2020 documented a no effect determination for all state and federally listed T&E species identified in the FPWR due to their being no habitat observed for these species within the project area. An updated Official Species List was obtained from the U.S. Fish and Wildlife Service's (USFWS) online Information for Planning and Consultation (IPaC) system on September 10, 2020. The Indiana bat and Northern long-eared bat were listed on the USFWS' Official Species List. The updated IPaC review process was completed on September 10, 2020, resulting in no effect determinations for these species. Also, the EQ-555 was received from the locality on September 17, 2020, documenting the results of their natural resource due diligence review.

I hereby certify that:

- (1) The information contained in this document is accurate and complete to the best of my knowledge.
- (2) Where actual or potential impacts to wetlands, streams, and/or endangered species have been identified, appropriate actions have been taken (or will be taken) by the LPA to address these issues in terms of avoidance, minimization or compensation. Where such actions are required to be taken during construction, appropriate contract provisions have been/will be developed to incorporate those costs as pay items in the contract.
- (3) Estimated costs for project construction inspections and post-construction monitoring and remediation for the compensatory mitigation have been/will be taken into consideration.
- (4) The project will be inspected in accordance with state and federal requirements.
- (5) The construction contractor will be made aware of any environmental issues that may be encountered during construction and will be provided access to any study results to assist the Contractor in developing and implementing the project in accordance with the regulatory permits and clearances.

Attach additional pages as necessary.

Certification provided on behalf of Roanoke County by:


County Administrator/City Manager/Zoning Administrator

Date: 9/17/2020

County Engineer
Title

Memorandum

To: Adam Czesnowski

Project Number: 0115-080-911, C501, P101, R201

UPC Number: 111366

iPM Project Description: #SMART18 - Plantation Rd Bike/Ped/Streetscape Phase II

Additional Project Description: This project involves constructing sidewalk, curb and gutter and drainage systems along the west side of Plantation Road (Route 115) between Walrond Drive and Gander Way in Roanoke County. Additional scope of work includes landscaping and signals/crosswalks at the Gander Way intersection. This project will be accomplished in two phases: Phase I (EN12-080-823, P101, R201, C501; UPC 103607) is associated with the preliminary engineering and right-of-way acquisition for the entire project length (from Williamson Road to Gander Way) and construction activities from Williamson Road to Walrond Drive. Phase I activities have been completed. Phase II (0115-080-911, P101, R201, C501; UPC 111366) is associated with the remaining preliminary engineering revisions and construction activities from Walrond Drive to Gander Way. A Programmatic Categorical Exclusion, dated May 25, 2016, was completed under UPC 103607 and encompassed the preliminary engineering limits and right-of-way acquisition of Phase I.

Date of Review: 09/28/2020

Reviewer: Deberry, Donald

ENVIRONMENTAL CERTIFICATION/COMMITMENTS CHECKLIST

1. SERP complete?

☐ Yes ☐ No ☐ Exempt ☒ Not Required

Data Source: Project Early Notification Form (EQ-429), dated 9/21/2020.

Comments: The State Environmental Review Process is not required for federally eligible projects for which a National Environmental Policy Act document is prepared.

2. NEPA complete?

☒ Yes ☐ No ☐ No Federal Action

Data Source: Programmatic Categorical Exclusion, dated 5/25/2016; and Document Reevaluation for PSE Authorization (EQ-200), dated 9/28/2020.

Comments: None.

Document Type: PCE

3. Water quality permits required?

☐ Yes ☒ No

Data Source: Water Quality Permits and Natural Resource Due Diligence Certification (EQ-555), updated 9/17/2020 and Permit Determination, dated 9/21/2020.

Comments: The project will have no impacts on waters of the U.S.

4. Cultural resources clear for advertisement?

☒ Yes ☐ No

Data Source: Cultural Resources Summary Report, dated 9/06/2019.

Comments: The project will have no effect on historic properties.

5. Hazardous materials clear for advertisement?

☒ Yes ☐ No

Data Source: Hazardous Materials Due Diligence Certification for Locally Administered Projects (EQ-121), dated 9/11/2020; and Hazardous Materials Summary Report, dated 9/14/2020.

Comments: No known or potential hazardous materials issues were identified.

6. Threatened and endangered species clear for advertisement?

☒ Yes ☐ No

Data Source: Water Quality Permits and Natural Resource Due Diligence Certification (EQ-555), updated 9/17/2020 and the Threatened and Endangered Clearance form, dated 9/21/2020.

Comments: The project will have no effect on threatened and endangered species.

LOCALITIES ARE RESPONSIBLE FOR TRACKING AND IMPLEMENTING ALL ENVIRONMENTAL COMMITMENTS ON A PROJECT. THERE ARE NO NEPA ENVIRONMENTAL COMMITMENTS ATTACHED THAT MUST BE ADHERED TO DURING CONSTRUCTION. THESE COMMITMENTS REPRESENT ANY CONDITION OF A LEGAL OR REGULATORY APPROVAL, OR ANY CONDITION THAT VDOT VOLUNTARILY ACCEPTS OR OFFERS SUCH AS THE CURRENT VDOT ROAD AND BRIDGE SPECIFICATIONS, TO OBTAIN LEGAL OR REGULATORY APPROVAL OR MEET A LEGAL OR REGULATORY REQUIREMENT.

Deberry, Donald

Environmental Manager

09/28/2020

Date

Copy To:

NEPA Program Manager

FHWA NEPA Contact (as appropriate)

FHWA Area Engineer (as appropriate)

Locality (as appropriate)

District L&D Engineer (as appropriate)

District Preliminary Engineering Manager (as appropriate)

District Construction Engineer (as appropriate)

District Bridge Engineer (as appropriate)

District Maintenance Engineer (as appropriate)

Residency Administrator (as appropriate)

District Civil Rights (as appropriate)

TO: Adam Czesnowski

Project Information			
Project Number:	0115-080-911, C501, P101, R201	UPC:	111366
Project Name:	#SMART18 - Plantation Rd Bike/Ped/Streetscape Phase II		
Route Number:	115		
Project Limit - From:	Walrond Drive	To:	Gander Way
District	City/County	Residency	
Salem	Roanoke	Salem	
IPM Project Description:	#SMART18 - Plantation Rd Bike/Ped/Streetscape Phase II		
Additional Project Description:	This project involves constructing sidewalk, curb and gutter and drainage systems along the west side of Plantation Road (Route 115) between Walrond Drive and Gander Way in Roanoke County. Additional scope of work includes landscaping and signals/crosswalks at the Gander Way intersection. This project will be accomplished in two phases: Phase I (EN12-080-823, P101, R201, C501; UPC 103607) is associated with the preliminary engineering for the entire length (from Williamson Road to Gander Way) and construction activities from Williamson Road to Walrond Drive. Phase I activities have been completed. Phase II (0115-080-911, P101, R201, C501; UPC 111366) is associated with the remaining preliminary engineering revisions and construction activities from Walrond Drive to Gander Way. A Programmatic Categorical Exclusion, dated May 25, 2016, was completed under UPC 103607 and encompassed the preliminary engineering limits of Phase I. All right-of-way was acquired under Phase I.		
Reevaluation Type / Reviewers			
NEPA Document Approval Date:	05/25/2016	FHWA Contact:	Jones, Kevin
NEPA Document Type:	PCE		
Project Manager:	Adam.Czesnowski	Environmental POC:	Barkley, Joyce
Reevaluation Questions			
1.) Document the change(s) that have triggered this reevaluation?			
Project advancing to PS&E Phase			
Comments:	The project is advancing to the PS&E phase and advertisement.		
2.) Is the current project design, right of way limits and/or scope within the study area evaluated in the most recently approved environmental document? Y			
Comments:	The Programmatic Categorical Exclusion (PCE) encompassed the Phase I preliminary engineering project limits from Williamson Road to Gander Way. The Phase II project limits, from Walrond Drive to Gander Way, are within the overall preliminary engineering limits previously evaluated in the PCE.		
3.) Has there been changes in the environmental impacts or mitigation (as applicable)? N			
Comments:	None.		
4.) Has the project design complied with all environmental commitments or conditions identified during project development? Y			
Comments:	No environmental commitments or conditions were identified during project development.		
5.) Project limits in environmental document:			

From:	Williamson Road (Route 11)	To:	Gander Way / Friendship Lane
Project limits proposed on current plan:			
From:	Walrond Drive	To:	Gander Way
Are the project limits consistent? N			
Comments:	See the response to Question 2.		
6.) Have any project design or scope changes outside the original project extent or limits been added or removed from the project? Y			
Description:	See the response to Question 2.		
7.) Was a noise analysis required for the environmental document?			
Noise Scoping Decision:			
Comments:	Based on the scope of work, the Central Office Noise Section has programmatically determined that this project is not defined as a "Type I" project.		
8.) Does the original NEPA decision remain valid? Y			
Comments:	The current project design, scope of work and termini are within the evaluated study limits and are consistent with those in the PCE; therefore, the original NEPA decision remains valid.		

The Virginia Department of Transportation has reevaluated the approved environmental document in conjunction with the proposed project limits and found the NEPA decision document remains valid. The intent of this reevaluation was to assess any changes to the scope of the project, rather than consider specific design elements. This reevaluation satisfies the requirements in 23 CFR 771.129.

<div>Deberry, Donald</div> <div>Environmental Manager</div>	<div>09/28/2020</div> <div>Date</div>
---	---------------------------------------

- cc: FHWA NEPA Contact
- VDOT Federal Programs Management
 - NEPA Programs Manager
 - District Project Manager
 - District Civil Rights Manager
 - District Location and Design Engineer
 - District Right of Way Manager
 - District Preliminary Engineering Manager
 - Residency Administrator (as appropriate)
 - District Designer

APPENDIX D

Plantation Road Geotechnical Report (January 2014)

Roanoke County Department of Community Development

Roanoke, VA



PLANTATION ROAD IMPROVEMENTS

GEOTECHNICAL ENGINEERING REPORT

January 2014

Prepared by:

Whitman, Requardt, and Associates
801 South Caroline Street
Baltimore, MD 21231





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2.2	Supplemental Soil Borings
2.3	Dynamic Cone Penetration Tests
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3.0	Stratigraphy and Groundwater
4.0	Geotechnical Recommendations
4.1	Soil Slope between STA 162+10 and STA 163+80 LT (by the Hampton In Hotel)
4.2	Retaining Wall from STA 137+10 to STA 137+40 RT (by the Daycare building)
4.3	Retaining Walls from STA 130+00 to STA 134+75
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1.0 Introduction and Site Description

The proposed improvements to Plantation Road begin just south of the Interstate 81 Exit 146 Interchange and extend approximately one mile to the intersection with Route 11 (Williamson Road). Road improvements include pedestrian and bicycle accommodations.

Plantation Road is classified by the Virginia Department of Transportation (VDOT) as an Urban Principal Arterial and has a 45 MPH posted speed. The area surrounding the proposed improvements consists mainly of commercial properties.

2.0 Subsurface Exploration and Laboratory Testing

2.1 Subsurface Exploration Program

On June 24, 2014 a subsurface exploration program consisting of three (3) SPT soil borings was performed by Froehling and Robertson (F&R) of Roanoke, Virginia under the full time observation of a WR&A Geotechnical Engineer. Soil borings RW-2 and RW-3 were drilled in the vicinity of the Hampton Inn hotel, where modifications to the existing slope, parallel to Plantation Rd, are proposed. Boring RW-5 was drilled on the BSC Property, where a proposed retaining wall, parallel to Walrond Drive, will be constructed. Soil borings RW-2 and RW-3 were drilled to a depth of 15 feet, while boring RW-5 was drilled to a depth of 20 feet.

All three borings were drilled using a CME-55 truck-mounted rig, equipped with an automatic hammer. SPT's were performed using a 2-inch O.D. split spoon sampler, driven by a 140-pound safety hammer falling freely for 30 inches. Blow counts were recorded for each 6-inch increment, for a total penetration of 24 inches, and samples were collected from the split spoon sampler. The 'N' value from the SPT is the sum of the blows required to advance the sampler through the second and third 6-inch increments. Five samples were obtained in the top ten feet of the borings and at 5-foot increments thereafter.

2.2 Supplemental Soil Borings

On November 13, 2014, five (5) additional soil borings, denoted B-1 through B-5, were drilled by F&R at the proposed location for a new retaining wall. The retaining wall extends from STA 130+00 to approximately STA 134+75. All five borings were drilled to auger refusal and two bulk samples were obtained from borings B-1 and B-3, respectively.



The Boring Location Plan is included in Appendix A and the boring logs are provided in Appendix B

2.3 Dynamic Cone Penetration Tests

Three (3) Dynamic Cone Penetration (DCP) tests were performed at the locations specified herein. DCP tests are used to assess the in-situ strength of the undisturbed soil. This is done by driving a cone tipped rod into the ground by lifting the sliding 10.1-lb hammer to the handle and releasing it. The total penetration for a given number of blows is measured and recorded in blows/in, which is then used to estimate in-situ California Bearing Ratio (CBR) values via empirical correlations. CBR values are then used to estimate the consistency of the soils. Table 1.0 summarizes the locations and depths of the DCP tests performed.

Table 1.0: Summary of DCP Tests		
Test	Location	Depth
DCP-1	STA 131+27, West of CL	4.6 feet
DCP-2	STA 132+77, West of CL	7.0 feet
DCP-3	STA 136+65, East of CL	3.5 feet
CL – Center Line		

At test DCP-1, the first foot of soil consisted of soft material, followed by medium stiff to stiff soils extending to a depth of 4.5 below ground surface (BGS), at which the soils increase substantially in consistency. The test was terminated at 4.6 ft BGS.

Soils at test DCP-2 consisted of 1.5 feet of medium stiff material, followed by soft soils extending to a depth of 7 feet BGS, approximately. Underlying the soft stratum, stiff soils were encountered until the bottom of the test. At DCP-3, all soils encountered had a stiff consistency.

DCP Tests readings and correlations are provided in Appendix C.

2.4 Laboratory Testing Program

Select split-spoon jar samples of soil were subjected to standard index testing for classification purposes. Standard index testing consists of determination of the sample's natural moisture content, grain size distribution and Atterberg limits. Based on the



index test results, samples were classified in accordance with the Unified Soil Classification System (USCS). Results of the soil index tests are summarized in Table 2.0:

Table 2.0: Summary of Laboratory Test Results						
Boring Number	Sample Number	Sample Depth (ft)	Atterberg Limits		Moisture Content (%)	USCS Classification
			LL	PI		
RW-2	S-2	3.5' – 5.0'	41	19	22.4	CL
RW-2	S-4	8.5' – 10.0'	57	26	23.5	MH
RW-3	S-1	1.0' – 2.5'	40	19	18.2	CL
RW-3	S-3	6.0' – 7.5'	42	11	20.6	ML
RW-3	S-5	13.5' – 15.0'	26	6	10.8	CL-ML
RW-5	S-1	1.0' – 2.5'	45	23	20.2	CH
RW-5	S-3	6.0' – 7.5'	28	8	16.4	CL
RW-5	S-5	13.5' – 15.0'	27	8	9.5	CL
B-1	S-1	1.0' – 2.5'	-	-	24.6	-
B-1	S-2	3.5' – 5.0'	-	-	6.8	-
B-3	S-3	6.0' – 7.5'	-	-	9.6	-
B-4	S-1	1.0' – 2.5'	-	-	21.5	-
B-5	S-2	3.5' – 5.0'	-	-	17.6	-

Table 2.1: Summary of Standard Proctor Test Results			
Boring Number	Sample Depth (ft)	Optimum Moisture Content (%)	Max. Dry Density (pcf)
B-1	0.0' – 10.0'	22.1	102.1
B-3*	0.0' – 10.0'	15.4	114.7
*Rock corrected test results			

The laboratory test data is also located in Appendix D of this report.

3.0 Stratigraphy and Groundwater

Based on review of the boring logs and laboratory test results, the borings were generally found to have encountered subsurface stratigraphy that is consistent with the site's geologic setting, as described in Section 3.0 of this report. The subsurface strata encountered are described, in descending order. The bracketed elevations indicate the approximate maximum and minimum elevation at which each respective stratum was encountered by the test borings.

Stratum F: Existing/Possible Fill

Stratum Depth: Ground Surf. to 5.0-8.5 ft below grade)



Stratum F is composed of fill materials consisting mainly of dry, orange, medium stiff to stiff, silty clay and clayey silt with some amounts of fine to coarse sand. Most samples subjected to index testing were determined to have USCS classifications of CL and ML. The natural moisture content was found to range between 18.2% and 22.4%. Uncorrected blow counts typically ranged from 7 to 14 blows per foot (bpf) with a typical representative blow count of 10 bpf. Existing/possible fill was encountered at borings RW-2, RW-3, B-2, B-3, and B-4.

Stratum R: Residual Soil

(Stratum Depth: Ground Surf. to 13.5 ft below grade)

Stratum R is composed of naturally occurring soil materials consisting mainly of dry to damp, very stiff to hard, brown, orange, and tan silty clay and silt with trace of fine to coarse sands. Most samples subjected to index testing were determined to have USCS classifications of MH, ML, CH, and CL. The natural moisture content was found to range between 16.4% and 23.5%. Uncorrected blow counts typically ranged from 11 to 84 blows per foot (bpf) with a typical representative blow count of 30 bpf. Stratum R was encountered in every test boring.

Stratum D: Decomposed Rock

(Stratum Depth: 13.5 ft below Ground Surf. to bottom of the boring)

Stratum D consists of naturally occurring soil-like materials, derived through the in-place decomposition of parent bedrock and having recorded SPT resistances of greater than 60 bpf. Decomposed rock material typically retains the relict structure of the parent bedrock and this structure is often visible in SPT samples. SPT samples of Stratum D materials were described as dry, mottled brown, silty clay with a trace of fine sand and weathered rock fragments and quartz fragments. Most samples subjected to index testing were determined to have USCS classifications of CL and CL-ML. Uncorrected blow counts typically ranged from 61 bpf to 50 blows per 2 inches.

4.0 Geotechnical Recommendations

4.1 Soil Slope between STA 162+10 and STA 163+80 LT (by the Hampton In Hotel)

Construction of the roadway improvements will require cutting into the existing slope to achieve the needed grade conditions for the proposed sidewalk. The maximum height expected for the cut slope is 3 feet. This cut will go through medium stiff to stiff fill material, therefore, a 1H:1V slope is expected to be stable under the surcharge conditions atop the slope where the Hampton Inn's parking lot is located. Erosion



control matting should be placed on the cut slope to prevent material from washing down the slope.

4.2 Retaining Wall from STA 137+10 to STA 137+40 RT (by the Daycare building)

A concrete gravity retaining wall, approximately 2.5 feet tall and 30 feet long, is proposed parallel to Plantation Road, by the existing cul-de-sac servicing the childcare facility. The gravity wall design should be in accordance with VDOT's Road and Bridge Standard Detail RW-3.

The allowable bearing capacity is 2.0 ksf. This allowable bearing capacity is based on a design height of 5 ft which includes an embedment depth of 30 inches and a minimum wall base width 3 ft. It is anticipated that the allowable bearing capacity will be provided by Stratum R at an embedment depth equal to 30 inches.

4.3 Retaining Walls from STA 130+00 to STA 134+75.

Road improvements along this segment will require regrading sections of the existing 2H:1V slopes, on the western side of the drainage ditch, and the construction of retaining walls, on the eastern side of the drainage ditch, in order to support the proposed sidewalk.

Concrete gravity retaining walls, varying in height are proposed parallel to Plantation Road and the drainage ditch. Walls are needed to limit impacts to the opposing side of the existing drainage ditch and retain the fill for the proposed sidewalk. The base of the wall will be founded below the ditch bottom. The supplemental soil borings denoted B-1 through B-5, drilled in November 2014, were performed in order to provide the following recommendations.

All gravity wall designs shall be in accordance with VDOT's Road and Bridge Standard Detail RW-3. We recommend that subgrade for the retaining wall's footings be inspected and approved by an engineer, prior to the pouring of the walls. The subgrade shall be free of any organics, vegetation, debris, and other deleterious material.

4.3.1 Retaining Wall from STA 130+00 to STA 130+99

This concrete gravity wall is approximately 99 feet long. The required allowable bearing capacity is 1.5 ksf. This required allowable bearing capacity is based on a design height of 6 ft which includes an embedment depth of 12 inches and a minimum wall base width 3.5 ft. Analysis of the subsurface investigation



indicates that the required allowable bearing capacity can be provided by Stratum D at EL 1056 ft. The allowable bearing capacity at this elevation is estimated to be 5.0 ksf.

4.3.2 Retaining Wall from STA 131+00 to STA 132+20

The concrete gravity wall for this segment of the alignment is approximately 120 feet long. The required allowable bearing capacity is 1.7 ksf. This required allowable bearing capacity is based on a design height of 7 ft which includes an embedment depth of 12 inches and a minimum wall base width 4.2 ft. Analysis of the subsurface investigation indicates that the required allowable bearing capacity can be provided by Stratum D at EL 1058 ft. The allowable bearing capacity at this elevation is estimated to be 6.0 ksf.

4.3.3 Retaining Wall from STA 132+21 to STA 132+99

This wall segment is approximately 78 feet long. The allowable bearing capacity is 2 ksf. This required allowable bearing capacity is based on a design height of 7 ft which includes an embedment depth of 24 inches and a minimum wall base width 4.2 ft. Analysis of the subsurface investigation indicates that the required allowable bearing capacity can be provided by Stratum D at EL 1061 ft. The allowable bearing capacity at this elevation is estimated to be 3.5 ksf.

4.3.4 Retaining Wall from STA 133+00 to STA 133+49

For this 49 ft long wall segment, the required allowable bearing capacity is 2 ksf. This required allowable bearing capacity is based on a design height of 7 ft which includes an embedment depth of 24 inches and a minimum wall base width 4.2 ft. Analysis of the subsurface investigation indicates that the required allowable bearing capacity can be provided by Stratum D at EL 1064 ft. The allowable bearing capacity at this elevation is estimated to be 7.0 ksf.

4.3.5 Retaining Wall from STA 133+50 to STA 134+10

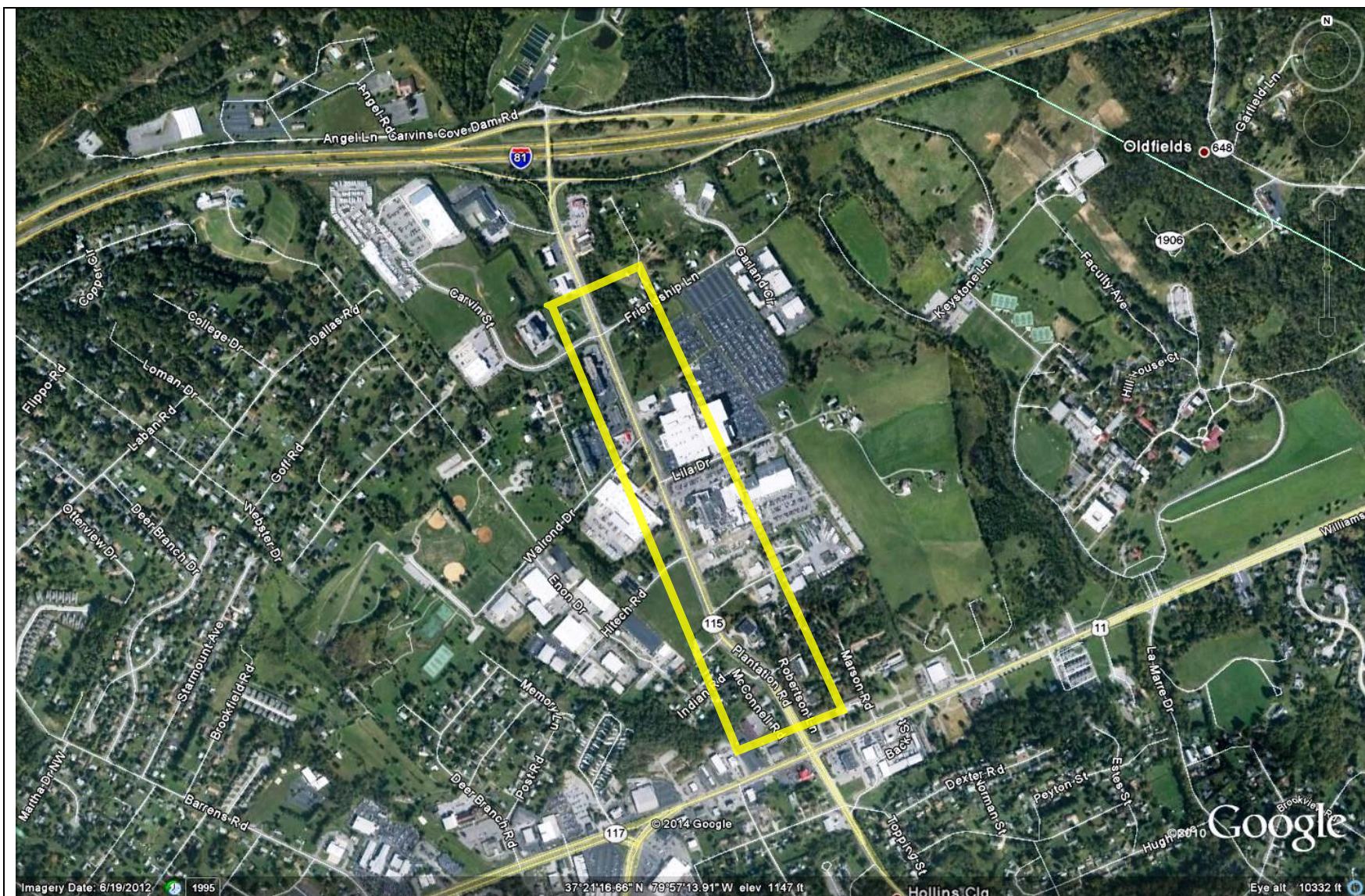
The required allowable bearing capacity, for this 60 ft long wall segment, is 2 ksf. This required allowable bearing capacity is based on a design height of 7 ft which includes an embedment depth of 30 inches and a minimum wall base width 4.2 ft. Analysis of the subsurface investigation indicates that the required allowable bearing capacity will be provided by Stratum D at EL 1066.5 ft. The allowable bearing capacity at this elevation is estimated to be 8.5 ksf.

4.3.6 Retaining Wall from STA 134+10 to STA 134+55



This retaining wall is approximately 45 feet long. The required allowable bearing capacity is 1.7 ksf. This required allowable bearing capacity is based on a design height of 6 ft which includes an embedment depth of 24 inches and a minimum wall base width 3.5 ft. Analysis of the subsurface investigation indicates that the required allowable bearing capacity can be provided by Stratum D at EL 1070 ft. The allowable bearing capacity at this elevation is estimated to be 3.0 ksf.

The specified elevations for the bottom of the wall for the various station ranges places the foundation on or slightly above Stratum D, decomposed rock. For the applied bearing pressures and fill heights this stratum is considered incompressible therefore settlement of the wall will be negligible. The presence of this decomposed rock layer also provides ample resistance against global failures.



SOURCE: Google Earth

SITE VICINITY MAP

NOT TO SCALE



ington

Cobb Technologies

Hiteh Road (Route 1925)

Carvin Street (Route 1805)

T-3

T-2

Country Inn & Suites

Future Sidewalk
Separate Phase

Walrond Drive (Route 1804)

El Rodeo

RW-5
N = 3655929.4773
E = 11059889.5424

BSC
Double Envelope

RW-5
Proposed Retaining Wall

Hampton Inn

Proposed Retaining Wall

RW-3

RW-2

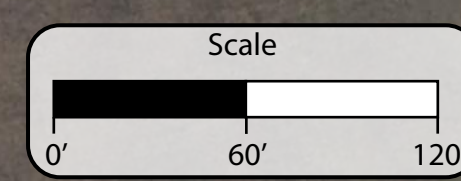
Carpetland

Wells Fargo

Exelis

Lila Drive

Friendship Lane



TEST BORING LOG

Boring No. RW-2

Page 1 of 1

WHITMAN, REQUARDT & ASSOCIATES, LLP 801 South Caroline Street, Baltimore, Maryland 21231						WO#: 45808-000 NORT: EAST: ELEVATION: 1119.0 START DATE: 6/24/2014 END DATE: 6/24/2014 DRILLER: B. Maxson LOGGED BY: L. Garcia			
PROJECT: Plantation Road Improvements LOCATION: Roanoke, VA DRILLING BY: F&R RIG: CME-55									
GROUNDWATER DATA (ft)					EQUIPMENT	CASING	SAMPLER	CORE	
Date	Time	Water	Casing	Cave-In	TYPE		SPT		
					SIZE, OD (in)	3.25	1.5		
					HAMMER WT. (lb)		140	-	
					HAMMER FALL (in)		30	-	

DEPTH (FT)	SAMPLE NUMBER	SAMPLE TYPE	SAMPLE RECOVERY (in)	BLOWS/6" (% RQD)	ELEV. DEPTH	GRAPHIC	DESCRIPTION AND CLASSIFICATION (moisture, density, color, proportions, etc.)	NOTES:
	S-1	X	6	5	EL 1119		Asphalt and Base	Groundwater not encountered during drilling.
				5	0.0		Mottled, dry, medium stiff, SILT, some fine Sand (ML) (FILL)	
				2	EL 1118		Mottled, dry, stiff, Silty CLAY and GRAVEL, trace fine Sand (CL) (FILL)	
5	S-2	X	18	2	EL 1117			
				8	2.0			
	S-3	X	18	3	EL 1114		Orange, dry, very stiff, Silty CLAY, trace fine Sand (CL) (Possible Fill)	
				8	5.0			
10	S-4	X	16	6	EL 1111		Orange and tan, dry, very stiff to hard, SILT, trace Clay, trace fine Sand (MH)	
				8	8.5			
15	S-5	X	18	8				
				17				
				23				
							Bottom of Boring @ 15 FT	

SAMPLE IDENTIFICATION	DRILLING METHOD	BLOWS/FT	DENSITY	BLOWS/FT	CONSISTENCY
<div style="display: flex; flex-direction: column; gap: 5px;"> <div> - S - SPLIT SPOON</div> <div> - ST - SHELBY TUBE</div> <div> - RC - ROCK CORE</div> <div> - DS - DENNISON</div> </div>	HSA - HOLLOW STEM AUGERS SSA - SOLID STEM AUGERS DC - DRIVING CASING MD - MUD DRILLING HA - HAND AUGER	0-4 5-10 11-30 31-50 50-80 OVER 80	VERY LOOSE LOOSE MEDIUM DENSE DENSE VERY DENSE EXTREMELY DENSE	0-2 3-4 5-8 9-15 16-30 OVER 30	VERY SOFT SOFT MEDIUM STIFF STIFF VERY STIFF HARD

Boring No. RW-2

Page 1 of 1



LOGGED BY: L. Garcia

Boring No. RW-3

TEST BORING LOG

Boring No. RW-5

Page 1 of 1

WHITMAN, REQUARDT & ASSOCIATES, LLP 801 South Caroline Street, Baltimore, Maryland 21231						WO#: 45808-000 NORT: EAST: ELEVATION: 1125.0 START DATE: 6/24/2014 END DATE: 6/24/2014 DRILLER: B. Maxson LOGGED BY: L. Garcia			
PROJECT: Plantation Road Improvements LOCATION: Roanoke, VA DRILLING BY: F&R RIG: CME-55									
GROUNDWATER DATA (ft)					EQUIPMENT	CASING	SAMPLER	CORE	
Date	Time	Water	Casing	Cave-In	TYPE		SPT		
					SIZE, OD (in)	3.25	1.5		
					HAMMER WT. (lb)		140	-	
					HAMMER FALL (in)		30	-	

DEPTH (FT)	SAMPLE NUMBER	SAMPLE TYPE	SAMPLE RECOVERY (in)	BLOWS/6" (% RQD)	ELEV. DEPTH	GRAPHIC	DESCRIPTION AND CLASSIFICATION (moisture, density, color, proportions, etc.)	NOTES:
	S-1	X	16	10 7 9	EL 1125 0.0		Orange and brown, dry, very stiff, Silty CLAY, trace roots (CH)	Groundwater not encountered during drilling.
	S-2	X	16	3 5 6	EL 1123 2.0		Brown, dry, stiff, CLAY, trace Silt (CL)	
5	S-3	X	9	12 50/3				
	S-4	X	14	10 10 10	EL 1119 6.5		Brown, dry, very stiff, Silty CLAY, trace fine Sand, trace rock fragments (CL)	
10	S-5	X	14	14 26 35	EL 1112 13.5		Brown, dry, hard, Silty CLAY, trace fine Sand, trace rock and quartz fragments (CL) (Decomposed Rock)	
15	S-6	X	14	36 41				
20				50/2			Bottom of Boring @ 20 FT	

SAMPLE IDENTIFICATION	DRILLING METHOD	BLOWS/FT	DENSITY	BLOWS/FT	CONSISTENCY
<div style="display: flex; flex-direction: column; gap: 5px;"> <div> - S - SPLIT SPOON</div> <div> - ST - SHELBY TUBE</div> <div> - RC - ROCK CORE</div> <div> - DS - DENNISON</div> </div>	HSA - HOLLOW STEM AUGERS SSA - SOLID STEM AUGERS DC - DRIVING CASING MD - MUD DRILLING HA - HAND AUGER	0-4 5-10 11-30 31-50 50-80 OVER 80	VERY LOOSE LOOSE MEDIUM DENSE DENSE VERY DENSE EXTREMELY DENSE	0-2 3-4 5-8 9-15 16-30 OVER 30	VERY SOFT SOFT MEDIUM STIFF STIFF VERY STIFF HARD

Boring No. RW-5

TEST BORING LOG

Boring No. B-1
Page 1 of 1

WHITMAN, REQUARDT & ASSOCIATES, LLP <small>801 South Caroline Street, Baltimore, Maryland 21231</small>						WO#: 45808-000 NORT: EAST: ELEVATION: 1061.0 START DATE: 11/13/2014 END DATE: 11/13/2014 DRILLER: S. Douglas LOGGED BY: R. Clement			
PROJECT: Plantation Road Improvements LOCATION: Roanoke , VA DRILLING BY: F&R RIG:									
GROUNDWATER DATA (ft)					EQUIPMENT	CASING	SAMPLER	CORE	
Date	Time	Water	Casing	Cave-In	TYPE		SPT		
					SIZE, OD (in)				
					HAMMER WT. (lb)			-	
					HAMMER FALL (in)		30	-	

DEPTH (FT)	SAMPLE NUMBER	SAMPLE TYPE	SAMPLE RECOVERY (in)	BLOWS/6" (% RQD)	ELEV. DEPTH	GRAPHIC	DESCRIPTION AND CLASSIFICATION (moisture, density, color, proportions, etc.)	NOTES:
	S-1	X	14	2 3 5	EL 1061 0.0 EL 1061 0.3	[Hatched Box]	3" Topsoil Gray and brown, moist, medium stiff, Silty CLAY, trace fine Sand	Groundwater not encountered during drilling. Bulk Sample obtained at this location. Augers grinding, badly skewing on rock. Auger Refusal at 5.0'.
	S-2	X	6	4 50/2"	EL 1057 4.5	[Dotted Box]	Gray, dry, very dense, Weathered Rock Bottom of Boring @ 5 FT	
5								

SAMPLE IDENTIFICATION	DRILLING METHOD	BLOWS/FT	DENSITY	BLOWS/FT	CONSISTENCY
<div style="display: flex; flex-direction: column; gap: 5px;"> <div> - S - SPLIT SPOON</div> <div> - ST - SHELBY TUBE</div> <div> - RC - ROCK CORE</div> <div> - DS - DENNISON</div> </div>	HSA - HOLLOW STEM AUGERS SSA - SOLID STEM AUGERS DC - DRIVING CASING MD - MUD DRILLING HA - HAND AUGER	0-4 5-10 11-30 31-50 50-80 OVER 80	VERY LOOSE LOOSE MEDIUM DENSE DENSE VERY DENSE EXTREMELY DENSE	0-2 3-4 5-8 9-15 16-30 OVER 30	VERY SOFT SOFT MEDIUM STIFF STIFF VERY STIFF HARD

Boring No. B-1

TEST BORING LOG

Boring No. B-2

Page 1 of 1

WHITMAN, REQUARDT & ASSOCIATES, LLP <small>801 South Caroline Street, Baltimore, Maryland 21231</small>										WO#: 45808-000 NORT: EAST: ELEVATION: 1064.0 START DATE: 11/13/2004 END DATE: 11/13/2014 DRILLER: S. Douglas LOGGED BY: R. Clement	
PROJECT: Plantation Road Improvements LOCATION: Roanoke, VA DRILLING BY: F&R RIG:											
GROUNDWATER DATA (ft)					EQUIPMENT	CASING	SAMPLER	CORE			
Date	Time	Water	Casing	Cave-In	TYPE		SPT				
					SIZE, OD (in)						
					HAMMER WT. (lb)			-			
					HAMMER FALL (in)		30	-			

DEPTH (FT)	SAMPLE NUMBER	SAMPLE TYPE	SAMPLE RECOVERY (in)	BLOWS/6" (% RQD)	ELEV. DEPTH	GRAPHIC	DESCRIPTION AND CLASSIFICATION (moisture, density, color, proportions, etc.)	NOTES:
5	S-1		14	4 3 4	EL 1064 0.0		5" Topsoil	Groundwater not encountered during drilling.
					EL 1064 0.4		Mottled, moist, medium stiff, Silty CLAY	
	S-2		16	2 21 29	EL 1063 1.5		Dark gray, dry, very dense, Weathered Rock	
					EL 1060 4.1		Bottom of Boring @ 5.5 FT	

SAMPLE IDENTIFICATION	DRILLING METHOD	BLOWS/FT	DENSITY	BLOWS/FT	CONSISTENCY
- S - SPLIT SPOON - ST - SHELBY TUBE - RC - ROCK CORE - DS - DENNISON	HSA - HOLLOW STEM AUGERS SSA - SOLID STEM AUGERS DC - DRIVING CASING MD - MUD DRILLING HA - HAND AUGER	0-4 5-10 11-30 31-50 50-80 OVER 80	VERY LOOSE LOOSE MEDIUM DENSE DENSE VERY DENSE EXTREMELY DENSE	0-2 3-4 5-8 9-15 16-30 OVER 30	VERY SOFT SOFT MEDIUM STIFF STIFF VERY STIFF HARD

Boring No. B-2

TEST BORING LOG

Boring No. B-3

Page 1 of 1

WHITMAN, REQUARDT & ASSOCIATES, LLP 801 South Caroline Street, Baltimore, Maryland 21231						WO#: 45808-000 NORT: EAST: ELEVATION: 1068.0 START DATE: 11/13/2014 END DATE: 11/13/2014 DRILLER: S. Douglas LOGGED BY: R. Clement			
PROJECT: Plantation Road Improvements LOCATION: Roanoke, VA DRILLING BY: F&R RIG:									
GROUNDWATER DATA (ft)					EQUIPMENT	CASING	SAMPLER	CORE	
Date	Time	Water	Casing	Cave-In	TYPE		SPT		
					SIZE, OD (in)				
					HAMMER WT. (lb)			-	
					HAMMER FALL (in)		30	-	

DEPTH (FT)	SAMPLE NUMBER	SAMPLE TYPE	SAMPLE RECOVERY (in)	BLOWS/6" (% RQD)	ELEV. DEPTH	GRAPHIC	DESCRIPTION AND CLASSIFICATION (moisture, density, color, proportions, etc.)	NOTES:
	S-1	X	14	2 3 1	EL 1068 0.0 EL 1068		6" Topsoil Brown and gray, moist, soft, Silty CLAY with trace fine Sand, some Gravel	Bulk sample obtained at this location. Groundwater at 4 ft at completion.
5	S-2	X	16	3 1 2	0.5 EL 1065 3.0		Brown and gray, moist to wet, soft, Silty CLAY with fine to medium Sand, trace Gravel	
	S-3	X	15	25 17 11	EL 1062 6.3		Gray, dry to moist, very dense, Decomposed Rock with rock fragments	
10	S-4		1	51/2"				
							Bottom of Boring @ 11 FT	Auger Refusal at 11 ft.

SAMPLE IDENTIFICATION	DRILLING METHOD	BLOWS/FT	DENSITY	BLOWS/FT	CONSISTENCY
- S - SPLIT SPOON - ST - SHELBY TUBE - RC - ROCK CORE - DS - DENNISON	HSA - HOLLOW STEM AUGERS SSA - SOLID STEM AUGERS DC - DRIVING CASING MD - MUD DRILLING HA - HAND AUGER	0-4 5-10 11-30 31-50 50-80 OVER 80	VERY LOOSE LOOSE MEDIUM DENSE DENSE VERY DENSE EXTREMELY DENSE	0-2 3-4 5-8 9-15 16-30 OVER 30	VERY SOFT SOFT MEDIUM STIFF STIFF VERY STIFF HARD

Boring No. B-3

TEST BORING LOG

Boring No. B-4

Page 1 of 1

WHITMAN, REQUARDT & ASSOCIATES, LLP 801 South Caroline Street, Baltimore, Maryland 21231										WO#: 45808-000 NORT: EAST: ELEVATION: 1072.0 START DATE: 11/13/2014 END DATE: 11/13/2014 DRILLER: S. Douglas LOGGED BY: R. Clement	
PROJECT: Plantation Road Improvements LOCATION: Roanoke, VA DRILLING BY: F&R RIG:											
GROUNDWATER DATA (ft)					EQUIPMENT	CASING	SAMPLER	CORE			
Date	Time	Water	Casing	Cave-In	TYPE		SPT				
					SIZE, OD (in)						
					HAMMER WT. (lb)			-			
					HAMMER FALL (in)		30	-			

DEPTH (FT)	SAMPLE NUMBER	SAMPLE TYPE	SAMPLE RECOVERY (in)	BLOWS/6" (% RQD)	ELEV. DEPTH	GRAPHIC	DESCRIPTION AND CLASSIFICATION (moisture, density, color, proportions, etc.)	NOTES:
5	S-1		8	6 6 4	EL 1072 0.0 EL 1072 0.5		6" Topsoil Brown and black, dry, stiff, Sandy SILT, trace Gravel (FILL)	Auger refusal at 5.5'. Pavement section next to the hole exposed: 2" Asphalt, 9" Granular Base.
	S-2		12	2 27 32	EL 1069 3.5 EL		Gray and brown, moist, very stiff, CLAY	
					1068 4.5		Gray, dry, very dense, Weathered Rock	
							Bottom of Boring @ 5.5 FT	

SAMPLE IDENTIFICATION	DRILLING METHOD	BLOWS/FT	DENSITY	BLOWS/FT	CONSISTENCY
- S - SPLIT SPOON - ST - SHELBY TUBE - RC - ROCK CORE - DS - DENNISON	HSA - HOLLOW STEM AUGERS SSA - SOLID STEM AUGERS DC - DRIVING CASING MD - MUD DRILLING HA - HAND AUGER	0-4 5-10 11-30 31-50 50-80 OVER 80	VERY LOOSE LOOSE MEDIUM DENSE DENSE VERY DENSE EXTREMELY DENSE	0-2 3-4 5-8 9-15 16-30 OVER 30	VERY SOFT SOFT MEDIUM STIFF STIFF VERY STIFF HARD

Boring No. B-4

TEST BORING LOG

Boring No. B-5

Page 1 of 1

WHITMAN, REQUARDT & ASSOCIATES, LLP 801 South Caroline Street, Baltimore, Maryland 21231										WO#: 45808-000 NORT: EAST: ELEVATION: 1076.0 START DATE: 11/13/2014 END DATE: 11/13/2014 DRILLER: S. Douglas LOGGED BY: R. Clement	
PROJECT: Plantation Road Improvements LOCATION: Roanoke, VA DRILLING BY: F&R RIG:											
GROUNDWATER DATA (ft)					EQUIPMENT	CASING	SAMPLER	CORE			
Date	Time	Water	Casing	Cave-In	TYPE		SPT				
					SIZE, OD (in)						
					HAMMER WT. (lb)			-			
					HAMMER FALL (in)		30	-			

DEPTH (FT)	SAMPLE NUMBER	SAMPLE TYPE	SAMPLE RECOVERY (in)	BLOWS/6" (% RQD)	ELEV. DEPTH	GRAPHIC	DESCRIPTION AND CLASSIFICATION (moisture, density, color, proportions, etc.)	NOTES:
	S-1	X	12	3 2 3	EL 1076 0.0 EL 1076 0.3		4" Topsoil Gray and brown, moist, SILT, trace to some fine to medium Sand	
	S-2	X	15	2 3 9				
5	S-3	X	5	12 7 19	EL 1072 4.5		Gray, moist to dry, Decomposed Rock with some Silt and Sand, some rock fragments	Grinding between 5' and 6'. Augers grinding, badly skewing on rock. Auger Refusal at 7.5'.
							Bottom of Boring @ 7.5 FT	

SAMPLE IDENTIFICATION	DRILLING METHOD	BLOWS/FT	DENSITY	BLOWS/FT	CONSISTENCY
<div style="display: flex; flex-direction: column; gap: 5px;"> <div> - S - SPLIT SPOON</div> <div> - ST - SHELBY TUBE</div> <div> - RC - ROCK CORE</div> <div> - DS - DENNISON</div> </div>	HSA - HOLLOW STEM AUGERS SSA - SOLID STEM AUGERS DC - DRIVING CASING MD - MUD DRILLING HA - HAND AUGER	0-4 5-10 11-30 31-50 50-80 OVER 80	VERY LOOSE LOOSE MEDIUM DENSE DENSE VERY DENSE EXTREMELY DENSE	0-2 3-4 5-8 9-15 16-30 OVER 30	VERY SOFT SOFT MEDIUM STIFF STIFF VERY STIFF HARD

Boring No. B-5

DCP-1

2 * for 10.1 lb Hammer

Penetration (in)	(mm)	increment (mm)	Blows	mm/blow	DCP Index	CBR	Bearing psf
	0.0						
6.0	152.4	152.4	12.0	12.7	25.4	2.3	1029
12.0	304.8	152.4	14.0	10.9	21.8	2.7	1145
18.0	457.2	152.4	21.0	7.3	14.5	14.6	3501
24.0	609.6	152.4	20.0	7.6	15.2	13.8	3384
30.0	762.0	152.4	17.0	9.0	17.9	11.5	3017
36.0	914.4	152.4	20.0	7.6	15.2	13.8	3384
42.0	1066.8	152.4	19.0	8.0	16.0	13.0	3264
48.0	1219.2	152.4	27.0	5.6	11.3	19.3	4163
54.0	1371.6	152.4	40.0	3.8	7.6	30.0	5420
55.0	1397.0	25.4	27.0	0.9	0.9	312.7	19898
						average	5242

negletct top 6"

DCP-2

Penetration (in)	(mm)	increment (mm)	Blows	mm/blow	DCP Index	CBR	Bearing psf
	0.0						
6.0	152.4	152.4	13.0	11.7	23.4	8.5	2489
12.0	304.8	152.4	25.0	6.1	12.2	17.7	3949
18.0	457.2	152.4	10.0	15.2	30.5	6.4	2053
24.0	609.6	152.4	6.0	25.4	50.8	3.6	1395
30.0	762.0	152.4	9.0	16.9	33.9	5.6	1898
36.0	914.4	152.4	6.0	25.4	50.8	3.6	1395
42.0	1066.8	152.4	8.0	19.1	38.1	5.0	1737
48.0	1219.2	152.4	9.0	16.9	33.9	5.6	1898
54.0	1371.6	152.4	10.0	15.2	30.5	6.4	2053
60.0	1524.0	152.4	14.0	10.9	21.8	9.3	2626
66.0	1676.4	152.4	23.0	6.6	13.3	16.2	3729
72.0	1828.8	152.4	30.0	5.1	10.2	21.8	4472
78.0	1981.2	152.4	36.0	4.2	8.5	26.7	5054
82.0	2082.8	101.6	24.0	4.2	8.5	26.7	5054
						average	2870

negletct top 6"

DCP-3

Penetration (in)	(mm)	increment (mm)	Blows	mm/blow	DCP Index	CBR	Bearing psf
	0.0						
6.0	152.4	152.4	2.0	76.2	152.4	0.4	330
12.0	304.8	152.4	16.0	9.5	19.1	10.8	2890
18.0	457.2	152.4	42.0	3.6	7.3	31.7	5597
24.0	609.6	152.4	37.0	4.1	8.2	27.5	5147
30.0	762.0	152.4	40.0	3.8	7.6	30.0	5420
36.0	914.4	152.4	59.0	2.6	5.2	46.4	6983
38.0	965.2	50.8	20.0	2.5	5.1	47.3	7059
						average	5516

negletct top 6"

Site Average	4543
--------------	------

For CL soils with CBR< 10:
IF(F20<=20.3,292/(F20^1.12), (1/(0.01707019*F20)))

Testing preformed usinnng Dual Mass Dynamic Cone Penetrometer developed by the Army Corp of Engineers. 10.1 lb mass used during testing.
Correlations based on NAVFAC MO 330, AFJMAN 32-1221 Material Testing 1994 and Design of Concrete Pavements Portland Cement Association Page 8, 1955



FROEHLING & ROBERTSON, INC.

Engineering Stability Since 1881

1734 Seibel Drive, NE
Roanoke, Virginia 24012-5624 | USA
T 540.344.7939 | F 540.344.3657

F&R Project No. 62S0166

Whitman, Requardt & Associates, LLP
801 South Caroline Street
Baltimore, MD 21231

14 July 2014

Attention: Ms. Laura C. Garcia

Reference: Plantation Road Improvements
Roanoke, Virginia

Dear Ms. Garcia:

Froehling & Robertson, Inc. is pleased to submit this report of laboratory testing services for the above referenced project. These services were provided as outlined in our Proposal No. 1562-00071 and as authorized by Whitman, Requardt & Associates, LLP (WRA) on 26 June 2014. This report has been developed on the basis of information provided by Ms. Laura C. Garcia of WRA as well as our previous experience with similar projects.

LABORATORY TESTING PROGRAM

As designated by WRA, selected split-spoon samples from the test borings were tested in general accordance with applicable ASTM International (ASTM) standards for natural moisture content (ASTM D 2216) and Atterberg Limits (ASTM D 4318). The results of the laboratory tests are summarized in the table below.

Boring ID	Sample No.	Sample Depth (feet)	Natural Moisture Content (%)	Atterberg Limits		
				L.L.	P.L.	P.I.
RW-2	S-2	3.5 - 5	22.4	41	22	19
RW-2	S-4	8.5 - 10	23.5	57	31	26
RW-3	S-1	1.0 - 2.5	18.2	40	21	19
RW-3	S-3	6.0 - 7.5	20.6	42	31	11
RW-3	S-5	13.5 - 15	10.8	26	20	6
RW-5	S-1	1.0 - 2.5	20.2	45	22	23
RW-5	S-3	6.0 - 7.5	16.4	28	20	8
RW-5	S-5	13.5 - 15	9.5	27	19	8



LIMITATIONS

The laboratory testing results in this letter have been prepared for the exclusive use of Whitman, Requardt & Associates, LLP or their agent for specific application to the Plantation Road Improvements project in Roanoke, Virginia. The provided laboratory testing results were developed as a record of our testing services. No other warranty, express or implied, is made. Froehling & Robertson, Inc. claims no responsibility for the conclusions, opinions, and/or recommendations made by others based on these data.

CLOSING

We appreciate the opportunity to provide the requested laboratory testing services for you on this project. If you have additional questions, please do not hesitate to call.

Sincerely,
FROEHLING & ROBERTSON, INC.

Erin K. Phillips, E.I.T.
Engineering Staff

Andrew R. Frank, P.E.
Senior Geotechnical Engineer

Distribution: Addressee (1 original/1 digital copy via e-mail: lgarcia@wrallp.com)



FROEHLING & ROBERTSON, INC.

Engineering Stability Since 1881

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Roanoke, Virginia 24012-5624 | USA
T 540.344.7939 | F 540.344.3657

F&R Project No. 62S0166

Whitman, Requardt & Associates, LLP
801 South Caroline Street
Baltimore, MD 21231

19 December 2014

Attention: Ms. Laura C. Garcia

Reference: Plantation Road Improvements – Supplemental Drilling
Roanoke, Virginia

Dear Ms. Garcia:

Froehling & Robertson, Inc. is pleased to submit this report of laboratory testing services for the above referenced project. These services were provided as an extension of the previously contracted scope of work outlined in our Proposal No. 1562-00071 and as previously reported on 14 July 2014. The current supplemental work was performed in general accordance with our email quote dated 8 September 2014 and as authorized by Whitman, Requardt & Associates, LLP (WRA) on 29 October 2014. This report has been developed on the basis of information provided by Ms. Laura C. Garcia of WRA as well as our previous experience with similar projects.

LABORATORY TESTING PROGRAM

As designated by WRA, selected samples from the test borings were tested in general accordance with applicable ASTM International (ASTM) standards for natural moisture content (ASTM D 2216) and standard Proctor moisture-density relationship (ASTM D 698). The results of the laboratory tests are summarized in the following tables and specific results of the standard Proctor tests are provided as attachments to this letter.

Standard Proctor Test Summary

Boring No.	Sample Depth (ft)	Optimum Moisture Content (%)	Maximum Dry Density (pcf)
B-1	0 - 10	22.1	102.1
B-3*	0 - 10	15.4	114.7

*Rock Corrected test results



Natural Moisture Content Summary

Boring No.	Sample Depth (ft)	Natural Moisture Content (%)
B-1	1 – 2.5	24.6
B-1	3.5 – 5	6.8
B-3	6 – 7.5	9.6
B-4	1 – 2.5	21.5
B-5	3.5 – 5	17.6

LIMITATIONS

The laboratory testing results in this letter have been prepared for the exclusive use of Whitman, Requardt & Associates, LLP or their agent for specific application to the Plantation Road Improvements project in Roanoke, Virginia. The provided laboratory testing results were developed as a record of our testing services. No other warranty, express or implied, is made. Froehling & Robertson, Inc. claims no responsibility for the conclusions, opinions, and/or recommendations made by others based on these data.

CLOSING

We appreciate the opportunity to provide the requested laboratory testing services for you on this project. If you have additional questions, please do not hesitate to call.

Sincerely,
FROEHLING & ROBERTSON, INC.

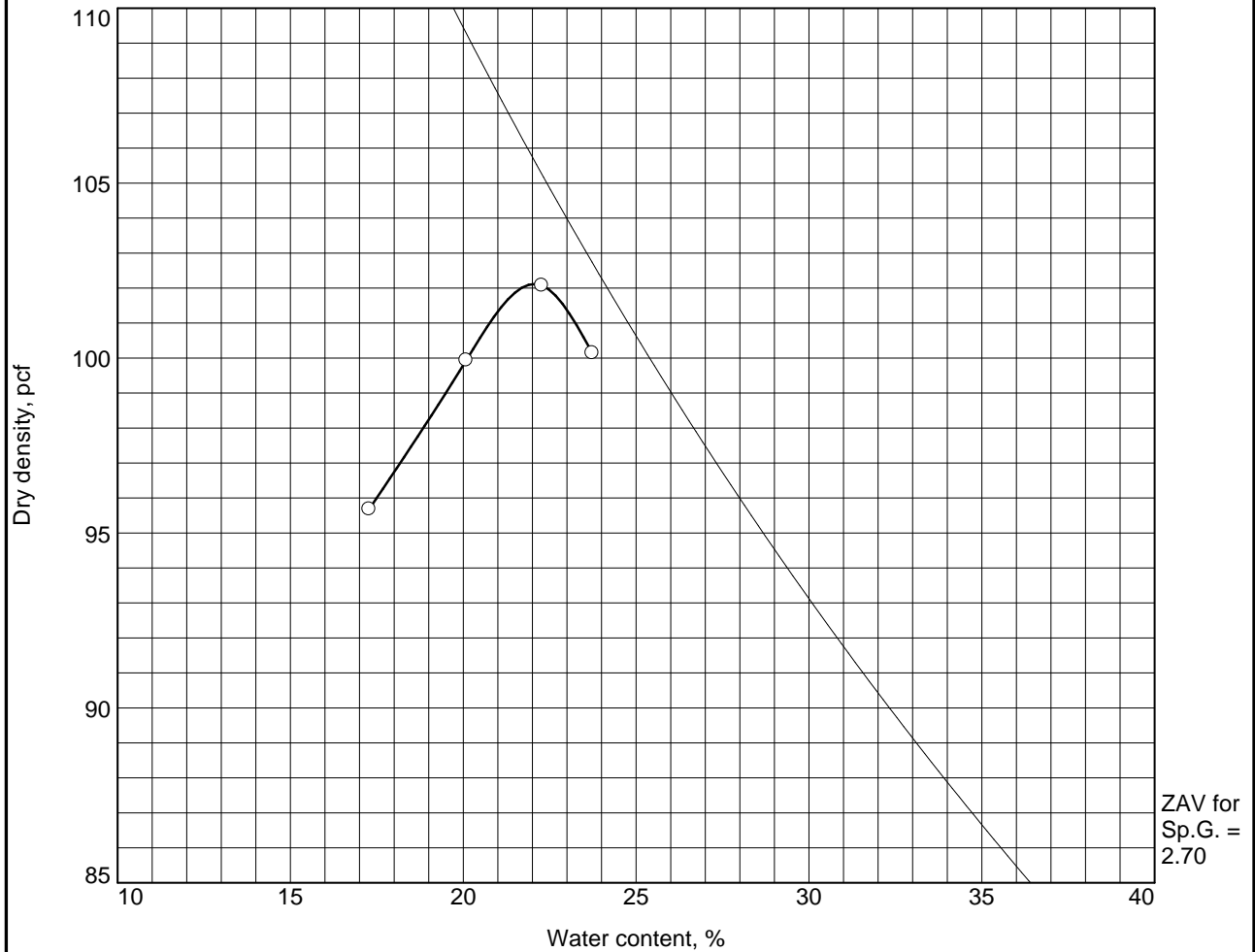
Erin K. Phillips, E.I.T.
Engineering Staff

Andrew R. Frank, P.E.
Senior Geotechnical Engineer

Distribution: Addressee (1 original/1 digital copy via e-mail: lgarcia@wrallp.com)

Attachments: Standard Proctor Moisture-Density Relationship Test Results (2)

MOISTURE DENSITY RELATIONSHIP



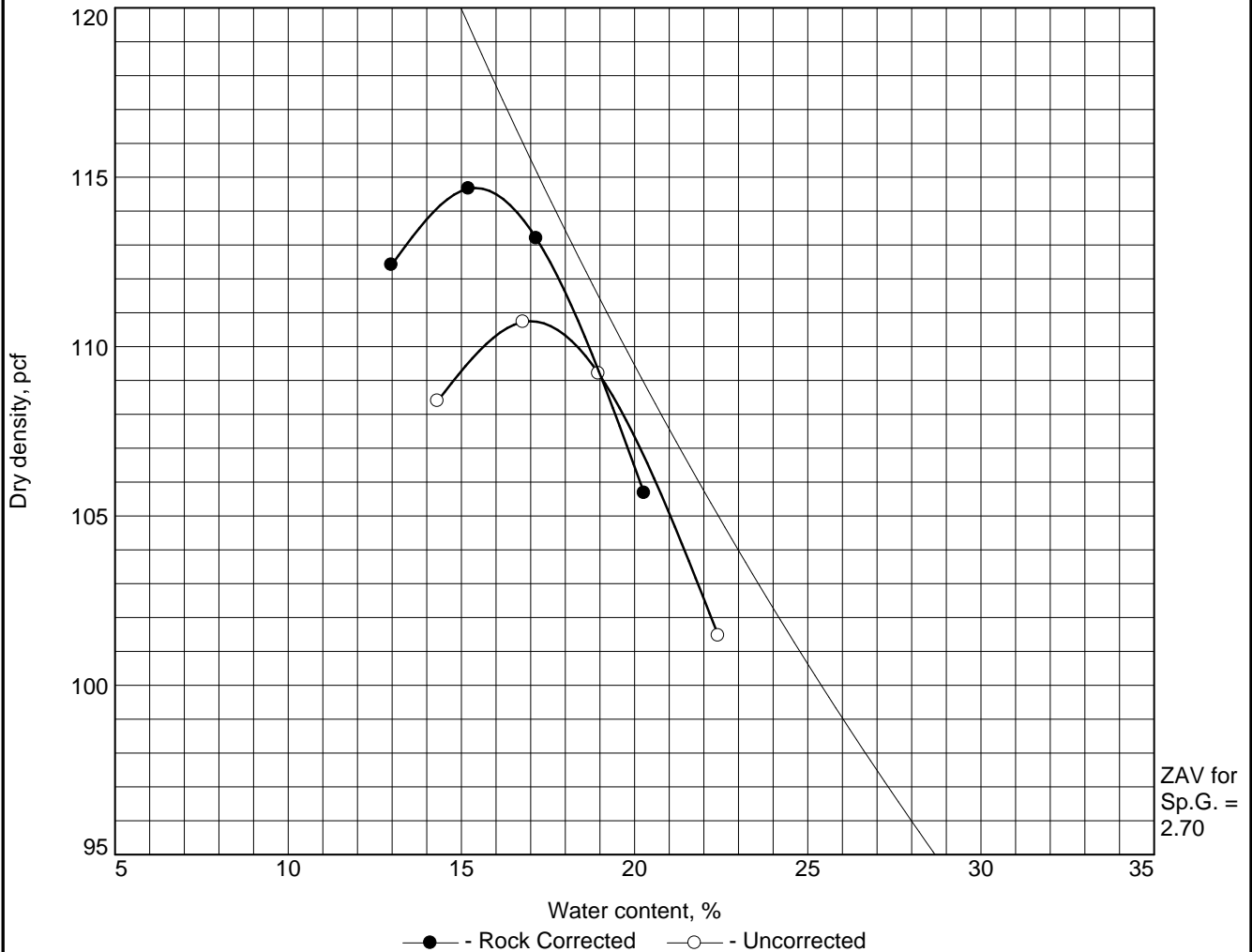
Test specification: ASTM D 698-12 Method A Standard

Elev/ Depth	Classification		Nat. Moist.	Sp.G.	LL	PI	% > #4	% < No.200
	USCS	AASHTO						
0-5'	--	--	--	--	--	--	1	--

Sp. gr. for ZAV is an assumed value.

TEST RESULTS		MATERIAL DESCRIPTION
Maximum dry density = 102.1 pcf Optimum moisture = 22.1 %		Brown clay with sand
Project No. 62S-0166 Client: WRA Project: Plantation Road Improvements- Supplemental Drilling Source of Sample: Boring B-1 Sample Number: 119430		Remarks: December 17, 2014
FROEHLING & ROBERTSON, INC.		

MOISTURE/DENSITY RELATIONSHIP



Test specification: ASTM D 698-12 Method A Standard
ASTM D 4718-87 Oversize Corr. Applied to Each Test Point

Elev/ Depth	Classification		Nat. Moist.	Sp.G.	LL	PI	% > #4	% < No.200
	USCS	AASHTO						
0-10'	--	--	--	--	--	--	10	--

ROCK CORRECTED TEST RESULTS		UNCORRECTED	MATERIAL DESCRIPTION
Maximum dry density = 114.7 pcf		110.7 pcf	Dark gray brown silty clay with sand
Optimum moisture = 15.4 %		17.0 %	
Project No. 62S-0166 Client: WRA Project: Plantation Road Improvements- Supplemental Drilling Source of Sample: Boring B-3 Sample Number: 119431			Remarks: December 17, 2014
FROEHLING & ROBERTSON, INC.			

Sp. gr. for ZAV is an assumed value.

APPENDIX E

DRAFT Quality Assurance Plan

Quality Assurance Plan (QAP)

For

**Roanoke County – Plantation Road Bike/Pedestrian/Streetscape
Phase II**

VDOT Project No.: 0115-080-911, C501; UPC # 111366

Federal Project No.: NHPP-5128(440)

County Project No.: 2020-082

QAP Cover Page Information

Locality Name and Physical Address:

Roanoke County Department of Development Services
5204 Bernard Drive, Second Floor
Roanoke, VA 24018

Responsible Charge Person:

Printed Name of Responsible Charge Person: David Henderson

Signature of Responsible Charge Person:_____

Contact Information: Phone: 540-632-9164
Email: dhenderson@roanokecountyva.gov

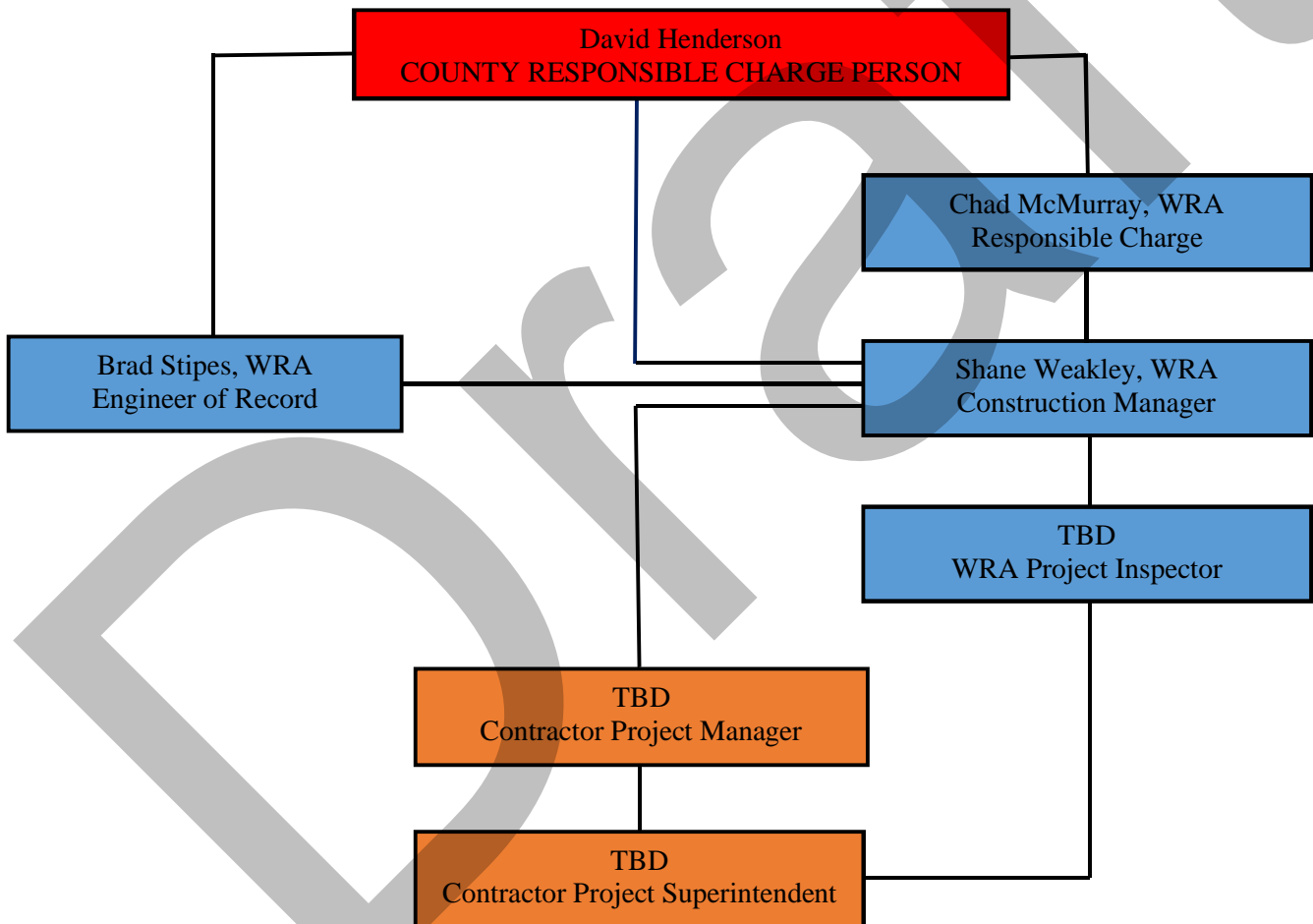
Contact Person for the QAP:

Printed Name of QAP Contact Person: David Henderson

Signature of QAP Contact Person:_____

Contact Information: Phone: 540-632-9164
Email: dhenderson@roanokecountyva.gov

The Roanoke County has established an Organizational Chart for this project which shows the flow of communication:



Major Components of the QAP

I. Project Mission Statement

In delivering the Plantation Road Bike/Pedestrian/Streetscape Phase II Project, the Project Team's mission is to provide the citizens of the Commonwealth of Virginia with a high quality project, meeting or exceeding all applicable, state and local quality standards on the LAP project. Roanoke County has adopted this formal written Quality Assurance Plan (QAP) for use on the Plantation Road Bike/Pedestrian/Streetscape Phase II Project. It has been further enhanced using core concepts from long established best practices in the heavy highway and civil construction industry.

This QAP under the direction of Roanoke County is intended to outline procedures and practices essential to the successful delivery of project features compliant with all LAP requirements, and to provide a clear vision of the roles and responsibilities of assigned team members at each level of management down to the field staff working on the project. With the clear and concise position of total commitment to quality from the top down through all levels is essential to the dynamic success on this important project.

All project materials shall be approved sampled, and/or tested in conformance with the contract specifications. Any changes or modification of this QAP will be submitted to the County for review and approval prior to implementation.

II. Personnel Certifications

Personnel Certifications and State Licenses as required by the contract documents are kept on file. All personnel performing materials testing shall have the required VDOT and/or approved industry certification, experience and expertise to perform such testing as established by the contract documents and the LAP guidelines. Work on this project will not be performed without the appropriate inspection staff on hand to ensure strict conformance to VDOT Materials testing process and regulations.

III. Laboratory Accreditation

- All testing will be performed by accredited laboratories in the applicable AASHTO procedures by the AASHTO accreditation Program (AAP); or
- Complies with the requirements of AASHTO R18 (18th Edition) for those tests performed and complies with R18 for those tests not covered by AASHTO Material Reference Laboratory (AMRL); Hurt & Proffitt, Lynchburg, Virginia will be performing QA Laboratory testing for this project.

IV. Communications

Clear consistent communications will be a critical aspect of this project's overall success. There are several important stakeholders involved either directly or indirectly with this project and will therefore need to have the appropriate level of communications maintained during the construction process. The primary recipients of information during this project will require the continuity of clear, concise and timely communications and will include but not be limited to:

- Property Owners through which access will be needed during the construction phase
- Roanoke County Government Staff and Consultants
- Western Virginia Water Authority

The Project Manager will be the primary point of contact in the direction of and/or dissemination of project related information in the communication process. While acting as the hub, the Project Manager will be able to ensure all stakeholders receive quality information germane to their specific impacts from the project. Therefore, except where the responsibility is specifically delegated to another party at the discretion and direction of the Project Manager, all project related communications will be controlled through that position.

There will be general daily communication by all required parties within the project participants which will be completed through the use of cell phones and email, but all submitted written project forms, field and laboratory test results and any contractual documentation will be tracked via the project PlanGrid site that will be established and maintained by Roanoke County Construction Engineering and Inspection Consultant, Whitman Requardt and Associates, LLP (WRA). This information site will provide automatic communications when documents are uploaded for transfer and/or submission to all required parties.

Once construction starts, the project Quality Manager/Consultant Construction Manager (CM) Shane Weakley and his staff will interface on a daily basis with the Contractor's Construction Manager. The CM's primary point of contact on site will be the Contractor's Construction Manager or his designated representative. The QA staff, to include the QA Inspector(s), Technician(s) and Laboratory, will submit all of the QA documentation to the CM for review and acceptance within two days of testing. Any unacceptable field documentation/reports containing errors or omissions will be returned to the field QA staff by the CM for correction and resubmission. Based on the contractor's anticipated upcoming schedule which is generally provided to the CM on a weekly basis, the CM will ensure upcoming work items are properly inspected and tested in accordance with the inspection and testing frequencies identified herein. The CM and the Project Superintendent will hold informal inspection preparatory meetings to proactively address quality issues related to upcoming work and to convey lessons learned from passed activities.

V. Resolution Procedures

Should a situation arise that is inconsistent between the plans, specifications or reference standards, the more stringent requirement in the hierarchy of standards will prevail. If any conflicts or general ambiguities between the plans, specifications and bid documents arise, resolution is at the discretion of

Roanoke County. In the event of a conflict, the project's Quality Assurance team or CM shall propose a remediation plan and submit to the County's Project Manager for final resolution on the matter.

Throughout the bid contract documents, drawings and reference standards, whenever the term "Engineer", "Department" or the "Commonwealth" is referenced in the text as the project authority, it is to be construed to mean the County's designated Owner Representative. The project's Project Manager shall be the primary point of contact for any initiation of the situation requiring resolution.

VI. Progress Reporting Procedures

WRA maintains a web-based inspections/invoicing system which tracks daily production, conditions, resources and progress and feeds that data into a periodic invoicing que which is electronically distributed for approvals. The system stores all project records and is maintained for the requisite time after project closeout State and Federal code requirements. These project records are currently available electronically upon request.

VII. Material Acceptance & Test Data Records

Material Acceptance:

The key to material acceptance and testing will lie in the quality of the inspection process. 'Buy America' applies to this project. Materials Sources will be submitted to the County through VDOT Form C-25 Source of Materials (submitted by the Contractor in a working Excel or Word document), for review and assignment of acceptance criteria no less than two weeks prior to the use of said material. The County has requested that VDOT complete source inspection acceptance testing of manufactured and/or prefabricated materials at locations other than the job site. C-25's will be submitted directly to the CM via the contractor. The CM will coordinate the required inspection requests through the VDOT Local Assistance Division's Project Coordinator to ensure proper flow and timeliness.

Material Testing Technicians shall be qualified in accordance with Chapter 13.2.4 of the LAP Manual and will perform onsite material testing including, but not limited to; soil density, soil moisture content, asphalt density, air content of concrete, slump, and other required materials field testing. All Quality Assurance inspection, field testing and laboratory testing will be a separate unaffiliated party from the Contractor's production forces. WRA will perform all acceptance testing in the field. WRA has contracted with Hurt & Proffitt for all laboratory testing.

Material received will be maintained in a Materials Notebook that will track all materials received on the project in accordance with the requirements of the Contract. Materials will be accepted as identified on Form C-25 (submitted by the Contractor in a working Excel or Word document); most materials are accepted by acceptance testing or through VDOT's approved materials/products list.

In order to track and verify materials/products that are not accepted according to an acceptance test or are on an approved materials/products list, the LPA will establish a Locality Tracking (LT) number for each

material/product accepted in this manner. Under this process, the County will follow “List of Products Requiring Locality Tracking Numbers” under Appendix 13.2 – D in the LAP Manual. The nomenclature for this tracking system shall be as follows: The current year, the UPC number and the LT numbers in a sequential order.

Test Data Records:

A materials notebook will be established for use prior to construction on the PlanGrid site and will be used for future auditing and reconciliation process. This will contain information such as estimated quantities with specification designation for the material test report of any material placed onsite. The notebook will contain a full description of and pertinent information for all materials whether covered by test report, inspection report, certification, mill report, catalog cuts, quality assurance program, approved list, or visual inspection. The “Source of Materials Letter” (C-25) is the acceptance method of materials. This notebook will ensure that all materials used on the project have been placed and tested in reasonable accordance with contract specifications.

VIII. Testing

Roanoke County has opted to hire WRA to perform it’s QA and Acceptance testing; the Contractor will not be responsible for the QC testing. Therefore, in accordance with the February 2018 LAP Manual, since this project is a Locally Administered Project using the Design-Bid-Build model where the locality is hiring an engineering consultant firm for inspection and testing (that is independent from the contractor performing the construction work), sampling and testing shall use the Acceptance/IA frequency tables included in Appendix 13.2-G of the LAP Manual, with the modifications shown in the attached document. If a testing method or frequencies is not cited in the Appendix, the Materials Manual of Instruction test method and frequencies shall be used. Also, since the locality or its consultant is performing Acceptance testing, Verification testing shall not be required. IA testing will also be performed on behalf of Roanoke County by the consultant; and shall be conducted by different personnel and different equipment than used for the QC/acceptance sampling and testing.

IX. Non-Compliance Reporting and Recovery Plan

Any non-conforming materials discovered through testing will either be rejected or replaced. If non-conforming materials are deemed non-critical within the specifications and/or contract documents, they may be accepted by the discretion of the County's Project Manager.

Quality Assurance Auditing and Non-Conformance Recovery

The following Assurance Auditing and Non-Conformance Recovery Plan (AR Plan) is established to maintain uniform reporting, controlling, correction and disposition and resolution of non-conformance (including disputed non-conforming items) issues that may arise on the Project. The AR Plan establishes a process for review and disposition of non-conforming workmanship, material, equipment or other construction elements of the Work.

AR Plan

Throughout the course of a project, items will be identified that do not meet specifications. Most of these items are identified as they happen and consequently, are corrected immediately.

The PM will be notified of non-conforming work by the QA staff by means of an Internal Non-Conformance Statement (INCS). An INCS will be issued to the contractor's superintendent/foreman by the QA inspection staff for work that deviates from the contract requirements. These deviations will be communicated to the superintendent by the inspector as soon as they are found. Conversely, problems encountered by the construction crews will be communicated by the superintendent to the inspector, recorded by the inspector, and forwarded to the CM for resolution.

Written INCS reports will be tracked on the Inspector's Daily Report (IDR) until work is brought into compliance with the Specifications. If the INCS is not brought into compliance to the Specifications within one week (7 days), the INCS will be changed into a Non-Conformance Report (NCR) and placed onto the NCR Log for further tracking until remedied.

An NCR Log will be maintained by the CM to include the date the INCS was issued; a brief description of the non-conformance issue; date when INCS become NCR; disposition of the proposed remedial action for the INCS; and final outcome (removal, re-work, substitution, etc.).

If an INCS is of an emergency, safety, or serious environmental nature, an NCR will be issued immediately and verbal communication will be made to the Contractor Project Manager. The NCR Log will be reviewed during scheduled audits to determine causes of NCRs and provide preventive actions for the future.

Non-conforming product will be identified by paint markings, tagged and/or destroyed and removed from the project. If material is found damaged during delivery or is otherwise non-compliant before installation,

the material will not be un-loaded, marked as damaged and returned to the supplier. Returns will be documented on the shipping lists and the IDR.

If materials or finished products are not found to be in strict conformity with the Contract requirements, the QA team, with the concurrence of the County, will make a final determination as to whether the work can be accepted. In the event that it is accepted, the CM will document the basis of acceptance and make recommendations regarding any appropriate price adjustments or warranty modifications.

Correction of Non-Conforming Work

Any deficient condition, whether the result of poor workmanship, use of materials containing defects, damage through carelessness or any other cause, found by, or disclosed to, the CM and the County shall be removed and replaced by work and materials which conform to the Construction and Contract Documents or shall be remedied unless otherwise agreed upon by the County. Upon failure on the part of the contractor to comply promptly with any order to remedy, remove or replace work which is non-conforming or contains defects, the CM will notify the County and adjust the invoice being certified so that payment shall be withheld not only for that portion of the Work in non-conformance, but for that portion of the QA/QC directly related to the issue unless QA and/or QC fully complied with their duties in relation to the deficient condition as defined by the QA/QC Plan.

In the event the CM and/or the County finds, as a result of monitoring the quality assurance and quality control activities, that any materials, equipment or the finished product in which materials, equipment or finished product are used are not in conformity with the Construction Documents and Contract requirements, the County may elect in its sole discretion to accept otherwise unacceptable Work at a reduced price. If the County determines that the Work should be accepted, the contractor may initiate a deductive Work Order request which will provide for an appropriate adjustment in the Contract Price.

The County has assembled this QA Plan specifically for the Plantation Road Bike\Pedestrian\Streetscape Phase II Project and envisions a dynamic process of reviewing, updating and modifying the QAP as the project progresses.

Appendix 13.2– G Modified

Materials Testing Methods and Frequencies

Locally Administered Projects using:

1. Design-Bid-Build model where the locality is providing:
 - a. The inspection and testing staff
 - b. Requesting VDOT to provide inspection and testing
 - c. Hiring an Engineering consultant firm for inspection and testing*

*The consultant must be independent from the contractor performing the construction work.

Shall use the Acceptance/VST/IA Frequency tables included in this appendix for acceptance and Independent Assurance (IA) testing. If a testing method or frequencies is not cited, the Materials Manual of Instruction test method and frequencies shall be used. Some Quality Assurance programs depend on project samples to be tested for verification. These are denoted as verification samples and tests (VST) in the tables.

Locally Administered Projects using:

1. Design-Build model
2. Public-Private Partnership delivery model
3. Contractor performs testing (QC testing)

Shall use the Tables of [Minimum Requirements for Quality Assurance and Quality Control on Design-Build and P3 Projects](#) published in the latest Minimum Requirements for Quality Assurance and Quality Control on Design Build and Public-Private Transportation Act Projects.

Acceptance/VST/IA Frequency - Soil & Aggregate

Material Type	Spec Section	Test Reference	Acceptance Testing	VST	IA
Backfill	Contract Special Provisions				
Moisture Density Relations- Standard Proctor, Atterberg Limits & Grain Size Analysis (All Backfill Types)		VTM 1, VTM 7, & VTM 25	Done during project development	NA	Non required if performed in VDOT or AMRL accredited laboratory
One Point Proctor Check Compare to Nuclear Gauge		VTM 012	As needed.	NA	Run split sample when needed. 1 test per project to check procedure and equipment.
In Place Density Tests:					
Box Culverts, Pipes & other Drainage Structures	302,303	VTM-10	A minimum of one (1) test shall be performed per lift on alternating sides of the structure for each 300 linear ft. or portion thereof in structure length. This test pattern shall begin after the first 4-in. compacted layer above the structure's bedding and shall continue to one (1) foot above the top of the structure.	NA	One IA shall be conducted on each compaction technician once per project regardless of the structure or material type (box culvert, pipe, Abutment, retaining wall or embankment). IA shall consist of a split density test in situ, observing technician technique, checking equipment calibrations and calculations.

Abutments, Retaining Walls and MSE Walls	Sections 303,401	VTM-10	<p>A minimum of two (2) tests every other lift up to 100 linear ft. shall be performed. Testing shall be performed behind these structures at a distance from the heel no farther than a length equal to the height of the structure plus 10 ft.</p> <p>For MSE Walls, Less than 100 linear ft. a minimum of one (1) test every other lift shall be performed. The testing shall be performed a minimum distance of 8 ft. away from the face of the wall, to within three feet of the back edge of the zone of the reinforced fill area. Test sites shall be staggered throughout the length of the wall to obtain uniform coverage. Testing shall begin after the first two (2) lifts of reinforced fill have been placed and compacted. Walls more than 100 linear ft., a minimum of two (2) tests every other lift not to exceed 200 linear ft. shall be performed.</p>	NA	One IA shall be conducted on each compaction technician once per project regardless of the structure or material type (box culvert, pipe, Abutment, retaining wall or embankment). IA shall consist of a split density test in situ, observing technician technique, checking equipment calibrations and calculations.
SOILS/ EMBANKMENT					

Moisture Density Relations- Standard Proctor, Atterberg Limits & Grain Size Analysis (Soils/Embankment)		VTM-1, VTM-7, & VTM-25	Done during project development	NA	1 test per year during production; minimally perform one (1) in first five (5) tests taken for QA
One Point Proctor Check Compare to Nuclear Gauge (Soils/Embankment)		VTM 012	As needed.	NA	1 test per year during production; minimally perform one (1) in first five (5) tests taken for QA
Embankment in Place Density (Soils/Embankment)	Sect. 303	VTM-10	The minimum number of field density tests required shall be one for each 2500 yd ³ or less of fill material placed, with the following additional requirements: (a) For fill areas less than 500 ft. in length, a minimum of one (1) field density test for every other 6-in. compacted layer from the bottom to the top of fill starting with the second lift. (b) For fills 500 to 2000 ft. in length, a minimum of two (2) field density tests for each 6-in. compacted layer within the top five (5) ft. of fill. (c) For fills greater than 2000 ft. in length, break into equal sections not to exceed 2000 ft. and test each section in accordance with (b) above.	NA	One IA shall be conducted on each compaction technician once per project regardless of the structure or material type (box culvert, pipe, Abutment, retaining wall or embankment). IA shall consist of a split density test in situ, observing technician technique, checking equipment calibrations and calculations
Subgrade	Sec. 305	VTM-10	In the finished subgrade in both cut and fill sections, a minimum of one (1) test represented by the average of five nuclear density	NA	One IA shall be conducted on each compaction technician once per project regardless of the structure or material type (box culvert, pipe, Abutment,

			readings shall be performed for each 2000 linear ft. of subgrade for each roadway (full width).		retaining wall or embankment). IA shall consist of a split density test in situ, observing technician technique, checking equipment calibrations and calculations
Aggregate Base and Subbase Material	VDOT Sections 306, 307, & 309				
Depth Checks		VTM-38	<p>For Method VTM-38A, one (1) depth test shall be conducted for each one-half (1/2) mile of stabilization per paver (mixer) application width. In other words, each separately applied width of stabilization, regardless of roadway width, shall require a series of tests.</p> <p>For method VTM-38B, the project shall be divided into lots, with each lot stratified, and the location of each test within the stratified section determined randomly. A lot of material is defined as the quantity being tested for</p>	NA	Minimum of one per project, unless quantity of individual material(Base, sub-base, etc.) is less than 500 tons per project, in which case no IA test required for that material

			<p>acceptance, except the maximum lot size shall be two (2) miles for each paver application width. The randomization procedure used shall be at the direction of the Engineer. (See VTM-38 for example.) Samples shall be taken from the lot at the following rate:</p> <p>Lot Size No. of Samples Required</p> <p>0 - 1 Mile 2</p> <p>1 - 1 1/2 Miles 3</p> <p>1 1/2 - 2 Miles 4</p>		
In Place Density		VTM-10	<p>When the subgrade, consisting of material-in-place or imported material other than aggregate base, subbase, or select material, is stabilized with cement or lime, one density test (average of 5 readings) shall be conducted for each one-half (1/2) mile of stabilization per paver (mixer) application width. In other words, each separately applied width of stabilization, regardless of roadway width, shall require a separate series of tests.</p>	NA	<p>One test per project, consisting of the average of 5 readings. Minimum of 5 readings per project, unless total quantity of individual material(Base, sub-base, etc.) is less than 500 tons per project, in which case no IA test</p>

Treated Subgrade/Subbase, Aggregate Base Material, and Cement Treated Aggregate Base Material	VDOT Sections 306, 307, & 309				
Depth Checks		VTM-38	<p>For Method VTM-38A, one (1) depth test shall be conducted for each one-half (1/2) mile of stabilization per paver (mixer) application width. In other words, each separately applied width of stabilization, regardless of roadway width, shall require a series of tests.</p> <p>For method VTM-38B, the project shall be divided into lots, with each lot stratified, and the location of each test within the stratified section determined randomly. A lot of material is defined as the quantity being tested for acceptance, except the maximum lot size shall be two (2) miles for each paver application width. The randomization procedure used shall be at the direction of the Engineer.</p>	NA	Minimum of one per project, unless quantity of individual material(Base, sub-base, etc.) is less than 500 tons per project, in which case no IA test required for that material

			(See VTM-38 for example.) Samples shall be taken from the lot at the following rate: Lot Size No. of Samples Required 0 - 1 Mile 2 1 - 1 1/2 Miles 3 1 1/2 - 2 Miles 4		
In Place Density		VTM-10	When the subgrade, consisting of material-in-place or imported material other than aggregate base, subbase, or select material, is stabilized with cement or lime, one density test (average of 5 readings) shall be conducted for each one-half (1/2) mile of stabilization per paver (mixer) application width. In other words, each separately applied width of stabilization, regardless of roadway width, shall require a separate series of tests.	NA	One test per project, consisting of the average of 5 readings. Minimum of 5 readings per project, unless total quantity of individual material(Base, sub-base, etc.) is less than 500 tons per project, in which case no IA test
Clearing and Grubbing	VDOT Section 301				
Ensure activities are confined to limits and seeded within 30 days of disturbance		N/A	Daily		Weekly

Erosion and Siltation Control	VDOT Section 303.03 & Current Virginia DCR Specifications				
Monitor for correct installation and Maintenance		N/A	Daily		After rain event
Undercut	VDOT Section 303.04				
Review area to determine need for undercut		N/A	Prior to start of work at each location	All reports reviewed by Locality Project Manager to verify qualified inspector and correct equipment	One (1) report reviewed per month during production to verify qualified inspector and qualified personnel
Measure undercut area		N/A	Prior to backfill at each location	All calculations/reports checked/reviewed by Locality Project Manager to verify qualified inspector and correct equipment	One (1) calculation/report checked/reviewed to verify qualified inspector and correct equipment
Overlay Sands					
Grade D Silica Sand	Special Provision		One bag per project tested in AMRL lab.	NA	NA

Acceptance/VST/IA Frequency - Hydraulic Cement Concrete

Material Type	Spec Section	Test Reference	Acceptance Testing	VST	IA
Cast-In-Place Structures and Bridge Concrete	VDOT Section 217				
Concrete Entrained Air Content (CIP Concrete)	217.08	ASTM C231 or C173	Test every load, except for bridge decks, in which case one test per truck-load for the first 3 trucks and then one test for every third truckload thereafter, provided results remain within 1.0% of median of design range. Test also required when making compressive specimens	NA	One test shall be made on the same batches of concrete from which cylinders are taken
Slump of Hydraulic Cement Concrete (CIP Concrete)	217.08	ASTM 143	Test every load and when making compressive specimens	NA	One test shall be made on the same batches of concrete from which cylinders are taken
Temperature of Concrete (CIP Concrete)	217.10	ASTM C1064	Test every load and when making compressive specimens	NA	One test shall be made on the same batches of concrete from which cylinders are taken

Compressive Strength of Concrete Cylinders (CIP Concrete)	217.08	ASTM C31 & C39	One set of three cylinders per every 100 CY and at least two sets of cylinders per structure per class of concrete.	NA	Minimum of one set per 1000 cubic yards of structural concrete. Not required for projects having less than 300 cubic yards. Cylinders should be from the same load as acceptance samples.
Chloride Permeability Concrete Cylinders (CIP Concrete)	Check Plan sheets	VTM-112	One set of two cylinders per every 100 CY and at least two sets of cylinders per structure per class of concrete.	NA	Non required if performed in VDOT or AMRL accredited laboratory
Concrete Reinforcing Steel (CIP Concrete) elongation, yield strength and ultimate strength	223	ASTM A615	Accepted based on certification provided by the fabricator. Verify manufacturer's certificates for every shipment for acceptance prior to placement.	One sample per project per manufacturer per most common size bar.	Non required if performed in VDOT or AMRL accredited laboratory
Pavement	VDOT Section 217				
Concrete Entrained Air Content (Pavement)	217.08	ASTM C231 or C173	One test per hour & when casting flexural specimens	NA	One test per four roadway miles or fraction thereof, with a minimum of one per project

Slump of Hydraulic Cement Concrete (Pavement)	217.08	ASTM 143	Two tests daily & when making flexural specimens	NA	One test shall be made on the same batches of concrete from which cylinders taken
Temperature of Concrete (Pavement)	217.10	ASTM C1064	One test per hour & when casting flexural specimens	NA	One test shall be made on the same batches of concrete from which cylinders taken.
Compressive Strength of Concrete Cylinders (Pavement)	217.08	ASTM C31 & C39	If pavement is accepted based on cylinder strength. One (1) set of three (3) cylinders cast for every 100 cy and at least one for each days concreting operation	NA	Minimum one set per 1000 cubic yards of structural concrete, except that IA will not be required for projects having less than 300 cubic yards.
Flexural Strength Beams	316.04	ASTM C293	If pavement is to be used as haul road or prior to 14 days then, At least one beam cast for each days concreting operation.	NA	NA
Concrete Reinforcing Steel (pavement) elongation, yield strength and ultimate strength	223	ASTM A615	Accepted based on certification provided by the fabricator. Verify manufacturer's certificates for every shipment for acceptance prior to placement.	One sample of two pieces 24 inches long from the most prevalent bar size per structure, with no two samples being the same size	Non required if performed in VDOT or AMRL accredited laboratory
Miscellaneous Concrete	VDOT Section 217			50 CY, Minimum of 1 Test per project	
Concrete Entrained Air Content (Miscellaneous Concrete)	217.08	ASTM C231 & C173	One test per day and when making compressive specimens	NA	NA

50 CY, Minimum of 1
Test per project

50 CY, Minimum of 1
Test per project

Slump of Hydraulic Cement Concrete (Miscellaneous Concrete)	217.08	ASTM C143	One test per day and when making compressive specimens	NA	
Temperature of Concrete (Miscellaneous Concrete)	217.10	ASTM C1064	One test per day and when making compressive specimens	NA	NA
Compressive Strength of Concrete Cylinders (Miscellaneous Concrete)	217.08	ASTM C31 & C 39	One (1) set of three (3) cylinders per every 250 CY and at least one set per day	NA	One (1) set of three (3) cylinders per every 25,000 CY (cumulative) minimum 1 per project.
Concrete Reinforcing Steel (Miscellaneous Concrete)	223	ASTM A615	Accepted based on certification provided by the fabricator. Verify manufacturer's certificates for every shipment for acceptance prior to placement.	One sample of two pieces 24 inches long from the most prevalent bar size per structure, with no two samples being the same size	Non required if performed in VDOT or AMRL accredited laboratory
Concrete Curing Materials	VDOT Section 220				
Burlap		AASHTO M182, class 3	Verification of LM # and lot numbers if from QA supplier Approved list 44, if not test one sample per lot number	NA	Non required if performed in VDOT or AMRL accredited laboratory
White liquid membrane Curing Compound		VTM - 2	Verification of LM # and batch numbers if from QA supplier Approved list 44, if not test one sample per batch number	NA	Non required if performed in VDOT or AMRL accredited laboratory
Fugitive Dye Liquid Membrane Curing Compound		VTM - 2	Verification of LM # and batch numbers if from QA supplier Approved list 44, if not test one sample per batch number	NA	Non required if performed in VDOT or AMRL accredited laboratory

Polyethylene Film		AASHTO M171	Verification of LM # and lot numbers if from QA supplier Approved list 44, if not test one sample per lot number	NA	Non required if performed in VDOT or AMRL accredited laboratory
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QC/VST/IA Frequency - Asphalt

Material Type	Spec Section	Test Reference	Contractor QC Testing	VST	IA
Asphalt Concrete Pavement	VDOT Section 315				
Pavement Density by Nuclear Method with In Place Pavement Density (Asphalt Pavement)		VTM-76, VTM-6	Establish Roller pattern, control strips and test sections, 10 stratified random density test sites per test section (5,000 ft.)	VST is performed on Twenty (20) percent of QC lots. Obtain two cores in one randomly selected QC lot out of five lots to verify in place density. Minimum one VST sample per project.	IA=10%*QC Readings Locality representative observe and witness QC testing to assure gauge is calibrated and accurate. Observe and verify test sites are random and match selected sites. Verify that QC tests are done using proper procedures. Observe one control strip per density technician and obtain all cores from control strip for reweighing in laboratory (randomly select a minimum 10% of cores) to confirm field density testing.

In Place Pavement Density (for all asphalt except Stone Matrix Asphalt (SMA))		VTM-006; VTM-32	Density - min. 1 core per location not long enough to establish roller pattern/control strip	Density - One (1) random core per 10 QC locations. Independent of contractor cores.	Obtain cores taken for density. Reweigh at least 10% of these cores in laboratory to confirm density. Observe one (1) density determination per ten (10) locations performed by QC technician. Minimum 1 per project.
Depth Checks		VTM-32	Depth checks of surface and intermediate material required only if specific plan depths are called for, not when plans specify rate of application. One (1) per 1/2 mile per lane width, minimum one (1) test per roadway, maximum lot size 2 mile (4 tests)	NA	Select one (1) QC core per five (5) lots and remeasure thickness. A minimum of one (1) per project.
In Place Pavement Density and Depth Checks by cores for Stone Matrix Asphalt (SMA)		VTM-006	Establish trial section and test sections. Minimum of one (1) sample per 1,000 feet with a maximum of 5 samples per day/night's production for density and depth for test sections. Three (3) cores for test strip.	Two (2) stratified random cores per one day/ night production obtained independently of contractor. Minimum two (2) per project.	Locality Representative Independently weigh and measure a minimum of one (1) QC core per day/night's production Locality representative will observe the taking of these cores and will maintain control of these cores once obtained
Permanent Pavement Marking	VDOT Section 512		Contractor QC Testing	VST	IA

Permanent Pavement Marking - Preformed Tape		VTM-94	Daily perform VTM 94 at start up with periodic checks every three hours of operation	Randomly select three (3) ten foot in place sections of markings per day and measure thickness and width. Skip lines and edge lines are considered separately. Inspect PM for correct placement, straightness and edges. Observe the bead embedment, color (night and day) and brightness/reflectivity. Inspect structure of tape to ensure patterned waffles have not been damaged by roller	Review all C-85 reports during production to verify that plan quantities match application quantities and that daily measurements are performed according to VTM 94.
Permanent Pavement Marking - Liquid Materials (Paint, thermoplastic and epoxy)		VTM-94	Daily perform VTM 94 at start up with periodic checks every three hours of operation	Randomly select three (3) ten-foot in place sections of markings per day and measure thickness and width. Skip lines and edge lines are considered separately. Inspect PM for correct placement, straightness and edges. Observe the bead embedment, color (night and day) and brightness/reflectivity. Review application rates to ensure proper thickness has been applied	Review start up calibrations. Ensure one plate sample is taken and tested for thickness, width, bead distribution and embedment. Retain sample for further testing if needed. Review all C-85 reports during production to verify that calculated quantities match application rates and that daily measurements are performed according to VTM 94.

QC/VST/IA Frequency - Misc Roadway and Structure

Material Type	Spec Section	Test Reference	QC Testing	VST	IA
Pre-cast Structures	VDOT Section 404				
Verify bedding material is installed properly and that pre-cast materials are not chipped or cracked		N/A	Daily and when shipment arrives on project	Inspect Precast structure before backfilling operations begin.	Inspect Pre-cast structures when received on job site. Inspect bedding before setting structure.
Load Bearing Piles	VDOT Section 403				
Monitor operation and document blow counts		N/A	Continuously	Review documentation weekly.	Daily
Perform Center of Gravity Calculations		N/A	For each Foundation	one out of every twenty (20) foundations	one out of every ten (10) foundations
Structural Steel	VDOT Section 407				
Receive Bolts, sample, verify the documentation is complete and perform laboratory Skidmore, tension and galvanized coating testing	VDOT 226.02(h)		Each nut-bolt-washer (NBW) assembly lot shall be sampled at a minimum rate of 2 assemblies per NBW lot.	Ea. NBW assembly lot shall be tested, one bolt in direct tension, one assembly for galvanized coating and one nut and bolt for rotational	The documentation shall be reviewed to insure all parts are present and that the required tests have been performed by the producers and that the markings match the

			The documentation shall be collected from the bolt supplier and the galvanizer for each lot and supplied along with the samples to the QAM. QC personnel shall monitor the storage and conditions of the bolts to insure they remain in good well lubricated condition.	capacity testing (Rot-Cap) as per section 226	suppliers. The results of the VST shall be reviewed to insure the material passed the tests.
Verify daily Skidmore testing is performed IAW (in accordance with) proper procedures for each lot Note: NBW assembly may be reused after Skidmore testing in a connection if no defects are noted in visual inspection and the nut runs freely up the bolt for the full thread length - Only new NBW assemblies may be tested each day	VDOT 407.06(c)		Ea. Day & Ea. NBW lot (3 bolts per lot) used shall be Rot-Cap tested in the Skidmore device IAW proper procedures	Minimum three (3) NBW assemblies for each lot being installed shall be observed by the IA inspector	Three NBW assemblies from each lot shall be Rot-Cap tested at the QAMs lab independently each week during erection
Verify the installation crews are using proper installation procedures IAW specs. to tension the bolts	VDOT 407.06		Monitor ea. Crew (2-3 workers) during erection to insure proper technique (TOTN – turn-of-the-nut or DTI – direct tension indicating washers) is followed	NA	Monitor ea. Crew (2-3 workers) for a half dozen NBW assemblies once at the beginning of each four hour work period
Verify the bolted connections have been tensioned properly using statistical sampling frequency and a calibrated torque wrench	VDOT 407.06(c)4	ASTM 325	For each connection, test 10% or a minimum of 2 NBW assemblies verifying the required torque. Complete testing before the deck is formed.	Test 2 NBW assemblies in 25% of the slip critical connections (minimum of 2 connections per transverse line of splices) and 2 NBW assemblies in 10% of	Monitor all the torque testing for each main member connection (slip-critical connections) and at the beginning of each period where secondary members are being checked.

				the secondary member connections	
Rebar Splicer (Tension Test)		ASTM A615	1 sample per manufacturer per most common size per structure (Contractor is to install pieces)	NA	Verify Machine Calibration annually
Protective Coating of Metal Structures	VDOT Section 411		Contractor QC testing	VST	IA
Monitor surface preparation		SSPC-PA	Three surface profile measurements per day of blasting.	Review all reports showing the preparation protocols	Two (2) surface profile measurements per week of blasting.
check coating thickness according to SSPC -PA		SSPC-PA	Five(5) spot measurements (15 Readings) per day as defined in PA-2 for coating thickness after each layer of paint at each location	Review all reports showing-painting application rates including the tests performed on profiles and thicknesses.	One spot measurement (3 readings) as defined in PA-2 for coating thickness after each layer of paint at each location
Underdrains	VDOT Section 501				
Inspect to ensure no deficiencies		VTM 108	All accessible outlet locations; Additionally a minimum of 10% of longitudinal sections	One (1) every twenty-five (25) outlet locations. A minimum of one per project independent of IA.	Observe 10% of outlet locations; Additionally a minimum of 1% of longitudinal sections
Guardrail	VDOT Section 505				

Verify that guardrail is installed per specifications and at proper height			Daily	Spot-check every 50 linear feet for proper height	Spot-check every 500 linear feet for proper height.
Fencing	VDOT Section 507				
Verify fencing type, height and location		N/A	Daily	Weekly	
Barbed Wire	VDOT Section 242	ASTM A121	One sample every 50 rolls or spools	NA	NA
Chainlink Fence	VDOT Section 242	AASHTO M181	One sample from 3 rolls for every 50 rolls.	NA	NA
ROW Monuments	VDOT Section 503				
Verify monument type and location		N/A	10% of ROW monuments	1% of ROW monuments	
Maintenance of Traffic	VDOT Section 512				
Monitor installation and maintenance and use Work Zone Safety Checklist		N/A	Daily (Locality Inspector)	Weekly (Locality Project Manager)	
Sound Wall Barriers	VDOT Section 519				
Verify location and installation with shop drawings		N/A	Daily	Weekly	

Topsoil and Seeding	VDOT Section 602/603				
Verify proper material is utilized at application rates from plans		N/A	Daily	Weekly	
Traffic Signs	VDOT Section 512				
Verify that signs meeting current standards are utilized in locations per plans		N/A	Daily	Weekly	
Traffic Signals	VDOT Section 703				
Monitor installation for conformance with plans and specifications		N/A	Daily	Weekly	
Water and Sewer Facilities	VDOT Section 520				
Monitor installation for conformance with plans and specifications		N/A	Daily	Weekly	
Electrical and Signal Components	VDOT Section 238				
Tether Wire		ASTM A475	One sample per project	NA	NA
Span Wire		ASTM A475	One sample per project	NA	NA

Masonry	VDOT Section 202				
Wall Units			one sample consisting of 10 units per 10,000 units	NA	NA

- Verification testing shall be required if contractor's workforce performs QC testing that is used for Acceptance testing. If Locality or its consultant performs Acceptance testing, Verification testing shall not be required.
- IA testing shall be conducted by different personnel and different equipment than used for the QC/acceptance testing, QC/acceptance sampling or Verification testing.