



Augusta County, Virginia

Notice of Invitation for Bids – Fixed Completion Date

Issued Date: March 9, 2017

IFB # 81010-17-01

Project Title: VDOT Project #EN14-007-103, C501 (UPC #106053)
Federal Project #TAP 5136(138)
Route 636, Lifecore Drive
AND
VDOT Project #0608-007-R39, C501 (UPC #105904)
Federal Project #STP 5136(139)
Route 608, Tinkling Spring Road

Work Site: Route 636 – Lifecore Drive, From Village Creek Drive To 0.19 mile West
Tinkling Spring Road (Route 285) – approximately 3,431 feet
AND
Route 608 – Tinkling Spring Road, From Ramsey Road (Route 635) To Expo
Road (Route 935) – approximately 2,940 feet

Sealed Bids for this project will be received at the location stated below subject to the Conditions cited herein until 2:00 p.m. local time **Tuesday, April 4, 2017** for a Class A Contractor to furnish all labor, and equipment necessary to complete the projects known as Route 636, Lifecore Drive, and Route 608, Tinkling Spring Road, in Augusta County pursuant to the scope of work and specifications as specified.

Mandatory Pre-Bid Conference Date: **March 22, 2017 at 10:00 AM**

Completion for Route 636 portion of the work: All work on Route 636, Lifecore Drive, shall be completed within 90 calendar days after beginning any work on the Route 636, Lifecore Drive, project. This requirement does not change the Mandatory Contract Completion Date below for the entire contract.

Mandatory Contract Completion Date: **October 27, 2017**

The completed and signed bid form shall be returned in an envelope or package, sealed and addressed as follows:

**Augusta County Government Center
ATTN: Corey Richie, Senior Purchasing Assistant
Lifecore Drive/Tinkling Spring Road Projects
Finance Department
P.O. Box 590
Verona, VA 24482**

Additional copies of this Notice may be obtained along with the complete Invitation to Bid, including plans/drawings, may be obtained by contacting the Bid Officer:

Corey Richie, Senior Purchasing Assistant
Finance Department
Phone: (540) 245-5741 ext. 1
Email: criche@co.augusta.va.us

A nonrefundable fee of \$125.00 (check only made payable to Augusta County Treasurer) is required for each complete set (a set includes both projects - HARDCOPY) of plans/drawings (only complete sets will be issued). If delivery via UPC Ground is desired, an additional \$15.00 (for a total of \$140.00 Pre-paid by check only) will be required. Please allow one (1) business day for pickup and two (2) business days for UPS delivery.

AND/OR

A nonrefundable fee of \$50.00 (Pre-paid by check only made payable to Augusta County Treasurer) is required for each electronic copy (includes both projects) of plans/drawings (only complete sets will be issued). Delivery will be made via Priority Mail. Please allow one (1) business day for pickup and two (2) to three (3) business days for Priority Mail delivery.

All requests for additional information should be provided in writing by means of a Pre-Bid Question Form available from the Bid Officer. The Pre-Bid Question Form must be directed to the Bid Officer.

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

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(*Required in Bid submission package)

**Submit per Special Provision Section 107.15)

Augusta County, Virginia

Proposed Schedule of Events Checklist

Schedule of Events:

- | | |
|--|------------------------------|
| 1. Advertise and mail solicitations: | March 9, 2017 |
| 2. Mandatory Pre-Bid Conference: | March 22, 2017 at 10:00 a.m. |
| 3. Last Date to Submit Written Questions | March 28, 2017 at 4:00 p.m. |
| 4. Bid Due Date/Opening: | April 4, 2017 at 2:00 p.m. |
| 5. Review Initial Lowest Bid: | April 4, 2017 |
| 6. Submit Lowest Bid for Board Approval | April 12, 2017 |
| 7. Notice of Decision to Award | April 13, 2017 |
| 8. Awarding of Bid and Contract Signing: | April 27, 2017 |
| 9. Notice to Proceed | May 1, 2017 |
| 10. Mandatory Completion Date: | |
| Final Completion | October 27, 2017 |

NOTE: All work on Route 636, Lifecore Drive, shall be completed within 90 calendar days after beginning any work on the Route 636, Lifecore Drive, project. This requirement does not change the Mandatory Contract Completion Date for the entire contract.

Augusta County, Virginia

Instruction to Bidders

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

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

2. EXPLANATIONS TO BIDDERS: No oral explanation in regard to the meaning of drawings and specifications will be made and no oral instructions will be given before the award of the contract. Discrepancies, omissions or doubts as to the meaning of any IFB document, drawings or specifications shall be communicated in writing to the designated Bid Officer for interpretation. Bidders should use the "Pre-Bid Question Form" provided in the bid documents. Bidders must so act to assure that questions reach the Bid Officer at least six (6) business days prior to the time set for the receipt of bids to allow a sufficient time for an addendum to reach them before the submission of their bids. If, however, there are two (2) weeks or less between the first bid advertisement and the time set for receipt of bids, then bidders must submit questions so that they reach the Bid Officer no later than three (3) business days prior to the time set for receipt of bids. Any interpretation made will be in the form of an addendum to the IFB which will be forwarded to all Bidders, and its receipt shall be acknowledged by the Bidder on the Bid Form.

3. TIME FOR COMPLETION:

(a) The Contract Completion Date will be designated by the County in the Notice to Proceed in one of the following manners:

(1) If the County specified a mandatory Contract Completion Date in the Invitation for Bids, the date designated in the Notice to Proceed will be no later than that date, or

(2) If a mandatory Contract Completion Date was absent from the Invitation for Bids, the Contract Completion Date designated in the Notice to Proceed will be determined through the bidding process taking into account the Contractor's proposed Time for Completion.

(b) Section 3 (b) OMITTED.

(c) The Contractor, in preparing and submitting his bid, is required to take into consideration normal weather conditions. Normal weather does not mean statistically average weather, but rather means a range of weather conditions which might be anticipated (*i.e.*, conditions which are not extremely unusual). Normal weather conditions shall be determined from the public historical records available for the Augusta County area, including the U.S. Department of Commerce, Local Climatological Data Sheets, Oceanic and Atmospheric Administration/Environmental Data

and Information Service, National Climatic Center and the National Weather Service. No additional compensation will be paid to the Contractor because of adverse weather conditions; however, an extension of time for abnormal weather will be considered by the County as indicated in the General Conditions.

4. PREPARATION AND SUBMISSION OF BIDS:

- (a) Bids shall be submitted on the forms furnished, or copies thereof, and shall be signed in ink. Erasures or other changes in a bid must be explained or noted over the signature of the bidder. Bids containing any conditions, omissions, unexplained erasures, alterations or items not called for in the proposal, or irregularities of any kind, may be rejected by the County as being incomplete or non-responsive.
- (b) Each bid must give the complete legal name and full business address of the Bidder and be signed by the Bidder, or the Bidder's authorized representative, with his usual signature. Bids by partnerships must be signed in the partnership name by one of the general partners of the partnership or an authorized representative, followed by the designation/title of the person signing, and a list of the partners. Bids by corporations must be signed with the legal name of the corporation followed by the name of the state in which it is incorporated and by the signature and title of the person authorized to bind it in this matter. The name of each person signing shall be typed or printed below the signature. A signature on a bid by a person who identified his title as "President," "Secretary," "Agent," or other designation without disclosing the principal firm, shall be held to be the bid of the individual signing. When requested by the County, satisfactory evidence of the authority of the officer signing on behalf of the corporation shall be furnished. Trade or fictitious names may be referenced by using "t/a _____," but bids shall be in the legal name of the person or entity submitting the bid.
- (c) Bids with the bid guarantee shall be enclosed in a sealed envelope which shall be marked and addressed as indicated by the advertisement. If a contract is for one hundred twenty thousand dollars (\$120,000) or more, or if the total value of all construction, removal, repair or improvements undertaken by the bidder within any twelve-month period is seven hundred fifty thousand dollars (\$750,000) or more, the bidder is required under Title 54.1, Chapter 11, Code of Virginia (1950), as amended, to be licensed in Virginia as a "Class A Contractor." If a contract is for seven thousand five hundred dollars (\$7,500) or more, but less than one hundred twenty thousand dollars (\$120,000), the bidder is required to be licensed in Virginia as a "Class B Contractor." Unless otherwise specified in the Notice of Invitation to Bid, a Class B contractor may bid on project.

The bidder shall be a licensed contractor in Virginia prior to beginning any work.

- (d) The Board for Contractors has interpreted its regulations to mean "a licensed Contractor can bid on a contract which contains work outside his license classification(s) as long as he subcontracts those items for which he is not qualified to perform to licensed contractors with the appropriate License Classification and the work of the second party is incidental to the contract." Therefore, the County may, as a part of determining whether the Bidder is "responsible," require the apparent low Bidder to submit a listing of his subcontractors along with the license number and classification or specialty of each.
- (e) All Bids must be signed with the firm name and by an officer having the authority to bind the company or firm by his signature. If the Bidder is a corporation and the individual signing the Bid is not the President or a Vice President of the Bidder, proof of the authority of the individual signing to bind the Bidder must be submitted with the Bid.

- (f) The bidder must also place its Employer Identification Number (SSN or EIN) in the space provided at the bottom of the Bid Form.
- (g) **Contractors offering bids shall be on the VDOT approved list and shall be a VDOT pre-qualified contractor.**

5. BID GUARANTEE:

- (a) All construction bids (including the Total Base Bid plus all Additive Bid items) shall be accompanied by a Bid Bond or Certified Check payable to the County as obligee in an amount equal to five percent (5%) of the amount of the bid. A Bid Bond must be issued by a surety company which is legally authorized by the Virginia State Corporation Commission to do fidelity and surety business in the Commonwealth of Virginia. Such Bid Bond shall guarantee that the bidder will not withdraw his bid during the period of thirty (30) days following the opening of bids; that if his bid is accepted, he will enter into a formal contract with the County in accordance with the Contract included as a part of the IFB Documents; that he will submit a properly executed and authorized Standard Performance Bond and Standard Labor and Material Payment Bond acceptable in form and content to the County; and that in the event of the withdrawal of said bid within said period, or failure to enter into said contract and give said bonds within ten (10) days after he has received notice of acceptance of his bid, the bidder shall be liable to the County for the difference between the amount specified in said bid and such larger amount of which the County may contract with another party to perform the work covered by said bid, up to the amount of the bid guarantee. This amount represents the damage to the County on account of the default of the bidder in any particular hereof. *See Virginia Code § 2.2-4336.*
- (b) *See Virginia Code § 2.2-4338* for provisions allowing alternative forms of bid security in lieu of a Bid Bond.
- (c) The Bid Bonds or other bid security will be returned to all except the three lowest bidders after the formal opening of bids. The remaining Bid Bonds or bid security will be returned to the Bidders after the County and the accepted Bidder have executed the Contract and the Performance Bond and the Payment Bond have been approved by the County.
- (d) If the required Contract and bonds have not been executed within thirty (30) days after the date of the opening of the bids, then the bond or other bid security of any Bidder will be returned upon his request, provided he has not been notified of the acceptance of his bid prior to the date of such request.

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

7. RECEIPT OF BIDS:

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

**Augusta County Government Center
ATTN: Corey Richie, Senior Purchasing Assistant
Lifecore Drive/Tinkling Spring Road Projects
Finance Department
P.O. Box 590
Verona, VA 24482**

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

8. OPENING OF BIDS:

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

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

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

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

The delivery of a Bidder's original work papers, documents, and other materials used in preparation of the bid must be submitted either in person or by registered mail. The County will treat the materials as trade secrets or proprietary information subject to the conditions of subsection F of Virginia Code § 2.2-4342.

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

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

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

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

11. DETERMINATION OF RESPONSIBILITY: Each bidder shall be prepared, if so requested by the County, to present evidence of his experience, qualifications and financial ability to carry out the terms of the Contract.

Prior to award of the Contract, an evaluation will be made to determine if the low Bidder has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance, and who has been pre-qualified, if required. Factors to be evaluated include, but are not limited to:

- (a) sufficient financial ability to perform the contract as evidenced by the bidder's ability to obtain payment and performance bonds from an acceptable surety;
- (b) appropriate experience to perform the Work described in the bid documents;
- (c) any judgments entered against the bidder, or any officers, directors, partners or owners for breach of a contract for construction;
- (d) any substantial noncompliance with the terms and conditions of prior construction contracts with a public body without good cause where the substantial noncompliance is documented;

- (e) a conviction of the bidder or any officer, director, partner, project manager, procurement manager, chief financial officer, or owner in the last five years of a crime relating to governmental or non-governmental construction or contracting; or
- (f) any current debarment of the contractor, any officer, director or owner, from bidding or contracting by any public body of any state, any state agency, or any agency of the federal government.

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

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

12. AWARD OF CONTRACT:

- (a) **Basis for Contract Award:** The Contract, if awarded, will be awarded to the lowest responsive and responsible Bidder, if any, provided his bid is reasonable and it is in the best interest of the County to accept it and subject to the County's right to reject any and all bids and to waive informality in the bids and in the bidding. The Bid Form may contain a multi-part Base Bid and may contain Additive Bid Items. Determination of the lowest responsive Bidder, if any, will be based on the Total Base Bid Amount **entered on the Bid Form** including any properly submitted bid modifications plus as many Additive Bid Items taken in sequence as the County in its discretion chooses to award. **Where the sum of the values entered in the multiple parts do not agree with the Total Base Bid amount, the Total Base Bid amount entered on the bid form, including any properly submitted bid modifications, shall take precedence. Also, where there is a discrepancy between the total base bid in its written format and the total base bid in its numeric format, the written format shall prevail.**
- (b) Section 12. (b) OMITTED.
- (c) **Informalities:** The County reserves the right to waive any informality in the bids when such waiver is in the interest of the County.
- (d) Section 12. (d) OMITTED.
- (e) **Notice of Award:** The Notice of Award, the Notice of Intent to Award, or the Notice of Decision to Award will be posted at the County's standard location for posting notices. In addition the County may also post such notice on the County's website.

13. ETHICS IN PUBLIC CONTRACTING: The provisions, requirements and prohibitions as contained in § 2.2-4367 *et seq.* Code of Virginia (1950), as amended, pertaining to bidders, offerers, contractors, and subcontractors are applicable to this project.

14. COMPLETION FOR ROUTE 636 PROTION OF THE WORK: All work on Route 636, Lifecore Drive, shall be completed within 90 calendar days after beginning any work on the Route 636, Lifecore Drive, project. This requirement does not change the Mandatory Contract Completion Date for the entire contract.

15. MANDATORY PRE-BID CONFERENCE: A Mandatory Pre-Bid Conference will be conducted at 10:00 a.m. on March 22, 2017, Augusta County Government Center (Smith Room East Conference Room) at 18 Government Center Lane, Verona, VA 24482. Attendance is mandatory.

Augusta County, Virginia

Pre-Bid Question Form

Project Title: Route 636, Lifecore Drive (UPC #: 106053) and
Route 608, Tinkling Spring Road (UPC #: 105904)

IFB# 81010-17-01

The undersigned potential Bidder would like to request a written clarification, interpretation, or explanation to the following question or question(s):

Please note that all questions should be directed to the Bid Officer designated on the Notice of Invitation to Bid and should be received at least six (6) business days prior to the time set for the receipt of bids to allow for sufficient time for an addendum to reach all Bidders. If there are two (2) weeks or less between the issuance of the Invitation to Bid and the time set for receipt of bids, then Bidders may continue to submit questions up until three (3) business days prior to the time set for receipt of bids.

The County will endeavor to respond to all inquiries in the most timely manner possible. However, if in their discretion they determine the inquiry to be inappropriate for any reason, the County may refuse to respond. Multiple inquiries of substantially the same question may be answered in one addendum.

Firm Name and Address:

_____	Telephone (____) _____
_____	Fax (____) _____
_____	Email _____

Signature: _____

Date: _____

Title: _____

Augusta County, Virginia Bid Form

**Project Title: Route 636, Lifecore Drive (UPC #: 106053) and
Route 608, Tinkling Spring Road (UPC #: 105904)**

IFB# 81010-17-01

Qualification of Bidders:

Under Virginia law, all bidders must prove their eligibility to perform and / or satisfy the requirements of this contract before bidding. To this end, all bidders must be properly licensed in Virginia prior to beginning work or certified and have not been debarred.

Bidders must also have the capability in all respects to fully satisfy all of the contractual requirements.

Years in Business:

Indicate the length of time your firm has been in business providing this type of construction:
_____ years _____ months.

References:

Indicate below a listing of at least three (3) **recent** references for whom you have provided construction of **similar scope and time frame**. Include the date service was furnished and the name and address of the person bid officer has your permission to contact.

Date	Client	Telephone Number / Contact
		() _____

		() _____

		() _____

Bidder’s Proposal:

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with the County in the form included in the Invitation to Bid to perform all work as specified or indicated for the prices and within the time indicated in this Bid and in accordance with the terms and conditions of the Invitation to Bid.

Bidder accepts all of the terms and conditions of the Invitation to Bid including the Instructions to Bidders. Specifically, the Bidder accepts without limitation those terms and conditions dealing with the disposition of Bid Security. The Bid will remain subject to acceptance for 180 (one hundred eighty) days after the Bid opening, or for such longer period of time that the Bidder may agree to in writing upon request of the County.

Bidder’s representations:

In submitting this Bid, Bidder represents, as set forth in the Invitation for Bids, that:

- A. Bidder has examined and carefully studied all documents contained in the Invitation to Bid and the following addenda, receipt of which is hereby acknowledged.

- B. Bidder has visited the site 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. Bidder is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the work.
- D. Bidder has carefully studied all applicable explorations and tests including, but not limited to, subsurface and / or hazardous environmental conditions.
- E. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the work at the price bid.
- F. Bidder is aware of the general nature of work to be performed by the County and others at the site that relates to the work.
- G. Bidder has given the County written notice of all conflicts, errors, ambiguities, or discrepancies that the Bidder has discovered in the Invitation to Bid and subsequent addendum, and the written resolution thereof by the County is acceptable.
- H. The Invitation for Bids and subsequent addendum are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the work for which this Bid is submitted.

Bidder further represents that 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 agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over the County.

Bidder will complete the Work in accordance with the Contract Documents for the following, in accordance with the attached Bid Schedule:

Project #0608-007-R39,C501 (UPC #:105904) – Tinkling Spring Road

PROJECT BID: (MUST BE IN NUMERIC AND WRITTEN FORMAT) \$ _____ (NUMERIC)

_____dollars (WRITTEN)

This blank is your lump sum bid for the Route 608 project only. This figure is for VDOT programming purposes only. The written entry will take precedence over the numeric entry.

Project #EN14-007-103,C501 (UPC #:106053) – Lifecore Drive

PROJECT BID: (MUST BE IN NUMERIC AND WRITTEN FORMAT) \$ _____ (NUMERIC)

_____dollars (WRITTEN)

This blank is your lump sum bid for the Route 608 project only. This figure is for VDOT programming purposes only. The written entry will take precedence over the numeric entry.

The above two bids should equal the TOTAL BASE BID below.

TOTAL BASE BID: (MUST BE IN NUMERIC AND WRITTEN FORMAT) \$ _____
(NUMERIC)

_____dollars (WRITTEN)

This blank is your definite bid. Failure to correctly complete this blank will not be considered an informality under any circumstances. The written entry will take precedence over the numeric entry.

TIME FOR COMPLETION (FIXED COMPLETION DATE: October 27, 2017)

EARLIEST POSSIBLE START DATE: May 1, 2017

COMPLETION FOR ROUTE 636 PROTION OF THE WORK: All work on Route 636, Lifecore Drive, shall be completed within 90 calendar days after beginning any work on the Route 636, Lifecore Drive, project. This requirement does not change the Mandatory Contract Completion Date for the entire contract.

BID SCHEDULE/ADDITIVE PRICING:

In the event of additions or deductions to the work required by the Contract Documents, the Contractor will be paid extra or shall credit the Owner, as the case may be, on the basis of the unit prices quoted herein. Prices shall include all overhead, profit, labor, materials, equipment and incidental work and shall be the sum total compensation payable or creditable for such items of work in place. These unit prices shall be good for the duration of the contract.

The quantities shown below are for informational purposes only. The contractor shall make his own determination as to the accuracy of these quantities and shall use these quantities at his own risk.

Bids will be considered irregular and may be rejected if the unit prices contained in the bid are obviously unbalanced so that they are substantially in excess of the cost analysis values as determined by the Augusta County Engineer's Office. Augusta County reserves the right to reject an individual unit price included herein.

ROUTE 608 (TINKLING SPRING ROAD) RECONSTRUCTION						
ROUTE 636 (LIFECORE DRIVE) SHARED USE PATH						
UNIT PRICE - BID SCHEDULE						
Item Code	Spec. No.	Description	Estimated Quantities	Unit	Unit Price	Total (\$)
N/A	513	Mobilization	1	LS		
N/A	517	Construction Survey	1	LS		
00110	301	Clearing and Grubbing	8	AC		
10628	515	Flexible Pavement Planing (0"- 2" & var)	8200	SY		
10629	515	Flexible Pavement Planing (0"- 3" & var)	5300	SY		
24430	508	Demolition of Pavement (Flexible)	7050	SY		
51910	315	Saw Cut Existing Pavement	7000	LF		
N/A	508	Remove Existing Median	500	SY		
N/A	LOCAL	Remove Existing Storm Sewer Pipe	40	LF		
N/A	LOCAL	Adjust Existing Meter/Valve/ Pedestal	26	EA		
54105	512	Eradication of Existing Pavement Marking	1000	LF		
00529	302	Flowable Backfill	102	CY		
00120	303	Regular Excavation	8500	CY		
00124	303	Rock Excavation	1365	CY		
00140	303	Borrow Excavation	8000	CY		
N/A	303	Unsuitable Excavation (Undercut)	1800	CY		

10128	208,309	Aggr Base Matl TY. 1, No. 21B (Undercut)	850	SY		
00355	245, 305	Geotextile Fabric (Subgrade Stabilization)	9000	SY		
01156	302	15" Reinforced Concrete Pipe	2604	LF		
06151	302	15" Concrete End Section	2	EA		
01186	302	18" Reinforced Concrete Pipe	1250	LF		
06748	302	Drop Inlet DI-2B, L=6'	1	EA		
06815	302	Drop Inlet DI-3A	1	EA		
06818	302	Drop Inlet DI-3B, L=6'	15	EA		
06819	302	Drop Inlet DI-3B, L=8'	3	EA		
06820	302	Drop Inlet DI-3B, L=10'	1	EA		
06837	302	Drop Inlet DI-3C, L=10'	1	EA		
06827	302	Drop Inlet DI-3BB, L=6'	5	EA		
06843	302	Drop Inlet DI-3CC, L=6'	1	EA		
07506	302	Drop Inlet DI-5	5	EA		
69627	204,245, 303,414	Dry Rip-Rap Class I	22	TON		
N/A	245, 414	Geotextile Drainage Fabric (for Rip Rap Bedding Matl)	20	SY		
09150	414	Erosion Control Stone Class I, EC-1	10	TON		
09057	302	Manhole Frame and Cover MH-1	2	EA		
09056	302	Manhole MH-1 or 2	13	LF		
00585	501	Underdrain UD-2	1200	LF		
00587	501	Underdrain UD-3	350	LF		
00588	501	Underdrain UD-4	6950	LF		
00596	302	Endwall EW-12	3	EA		
10607	211,315	Asphalt Concrete Type SM-12.5D	3550	TON		
10607	211,315	Asphalt Concrete Type SM-12.5A	1085	TON		
10611	211,315	Asphalt Concrete Type IM-19.0D	1390	TON		

10643	211,315	Asphalt Concrete Type BM-25.0A	2660	TON		
10128	208,309	Aggregate Base Material Type 1, No. 21B	7825	TON		
00525	217	Concrete Class A3 Miscellaneous (Handicap Ramps)	36	CY		
12600	105, 502	Standard Combination Curb and Gutter CG-6	4600	LF		
12610	105, 502	Radial Combination Curb and Gutter CG-6	560	LF		
12700	105, 502	Standard Combination Curb and Gutter CG-7	860	LF		
12610	105, 502	Radial Combination Curb and Gutter CG-7	250	LF		
13108	105, 502	CG-12 Detectable Warning Surface	38	SY		
13212	219, 503	R/W Monument RM-2	16	EA		
	502	Median Strip MS-1 or MS-1A	620	SY		
21215	502	Median Strip MS-2	1500	LF		
54032	246	Type B Class I Pavement Line Marking 4"	13700	LF		
54042	246	Type B Class I Pavement Line Marking 24"	250	LF		
54300	246	Pavement Message Marking Elongated Arrow Single	25	EA		
51951	105	Replace/Relocate Existing Signs	24	EA		
50108	701	Sign Panel	390	SF		
50430	700	Sign Post STP-1, 2"	190	LF		
50490	700	Concrete Foundation STP-1	24	EA		
N/A	N/A	Special Sign Relocation	1	EA		
25004	105,238	Handrail HR-1, Type III	524	LF		
24278	512	Group II Channelizing Devices	35100	DAY		
24160	512	Construction Signs	500	SF		
24281	512	Electronic Arrow	215	HR		
24282	512	Flagger Service	160	HR		
24272	512	Truck-mounted Attenuator	335	HR		
24279	512	Portable Changeable Message Sign	375	HR		

24152	512	Type III Barricade (8')	8	EA		
N/A	PLANS	Misc. MOT	1	LS		
54240	512	Temporary Raised Pavement Marker	20	EA		
N/A	246	Constr. Pavement Marking (Type A or B) Elong. Arrow	6	EA		
N/A	246	Constr. Pavement Marking (Type A or B) 4"	7900	LF		
N/A	246	Constr. Pavement Marking (Type A or B) 24"	175	LF		
27012	602,603	Topsoil Class A 2" /Acre	3	AC		
N/A	602,603	Topsoil, Permanent Seed, Mulch, Fertilizer & Lime	1.5	AC		
27102	603	Regular Seed	675	LB		
27103	603	Overseeding	725	LB		
N/A	603	Temporary Seeding	2	AC		
27215	603	Fertilizer (15-30-15)	1	TON		
27250	603	Lime	12	TON		
N/A	107,303	Construction Entrance	4	EA		
27505	107, 242, 245,303	Temporary Silt Fence	11500	LF		
27505	107, 242, 245,303	Temporary Silt Fence, Type A	4260	LF		
N/A	N/A	Temporary Silt Fence, Type B	840	LF		
23560	242,507, VAESCH	Safety Fence	1850	LF		
27451	107,242, 303	Inlet Protection (TY. A)	9	EA		
27461	107,242, 303	Inlet Protection (TY. B)	45	EA		
N/A	107,242, 303	Inlet Protection (Type C - Culverts)	3	EA		
27321	244,606	Protective Cover EC-2	3400	SY		
27410	107,303	Check Dam (Rock) Type II	22	EA		
27340	303	Siltation Control Excavation	2874	CY		
N/A	LOCAL	Furnish and Install Fire Hydrant and Valve	4	EA		

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 IFB# 81010-17-01

PROJECT NUMBER EN14-007-103, C501 (UPC # 106053) and
PROJECT NUMBER 0608-007-R39, C501 (UPC # 105904)

FHWA NUMBER TAP 5136(138) and STP 5136(139)

DISTRICT: STAUNTON

DATE BID SUBMITTED _____

BIDDER'S NAME _____

SIGNATURE _____

TITLE _____

VENDOR NUMBER _____

DBE GOAL FROM BID PROPOSAL 7 %

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. IFB# 81010-17-01 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. IFB# 81010-17-01 DATE SUBMITTED _____

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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. IFB# 81010-17-01 DATE SUBMITTED _____

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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. IFB# 81010-17-01 DATE SUBMITTED _____

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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. IFB# 81010-17-01 DATE SUBMITTED _____

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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. IFB# 81010-17-01 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. IFB# 81010-17-01 DATE SUBMITTED _____

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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. IFB# 81010-17-01 DATE SUBMITTED _____

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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.

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. IFB# 81010-17-01 DATE SUBMITTED _____

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

BIDDER _____ SIGNATURE _____

TITLE _____

ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS

ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS

NOTE: ATTACH ADDITIONAL PAGES, IF NECESSARY

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION**

PROJECT: EN14-007-103, C501
PROJECT: 0608-007-R39, C501

CONTRACT I.D. NUMBER: IFB# 81010-17-01

FHWA: TAP 5136(138)
FHWA: SPT 5136(139)

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: _____ (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

**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: _____ (Signature) _____ Title (print)

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
AFFIDAVIT**

PROJECT: EN14-007-103, C501 (UPC #106053)
PROJECT: 0608-007-R39, C501 (UPC #105904)

CONTRACT ID NUMBER: IFB #81010-17-01

FHWA: TAP 5136(138)

FHWA: STP 5136(139)

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.

- 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
_____	_____
_____	_____
_____	_____

- 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)

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

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

STATE of _____ COUNTY (CITY) of _____

To-wit: _____

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

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

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

My Commission expires _____

Notary Public

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
MINIMUM DBE REQUIREMENTS**

PROJECT NO. EN14-007-103, C501 (UPC #106053)
PROJECT NO. 0608-007-R39, C501 (UPC #105904)

CONTRACT I.D. #: IFB# 81010-17-01

FHWA NO. TAP 5136(138)
FHWA NO. STP 5136(139)

***** INSTRUCTIONS *****

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.

DBE REQUIREMENT 7 %
PERCENT ATTAINED BY BIDDER _____ %

NAMES(S) AND CERTIFICATION NO. OF DBE(S) TO BE USED	USED AS	TYPE OF WORK AND ITEM NO(S)	\$ AMOUNT OF ALLOWABLE CREDIT PER ITEM
	SUBCONTR. (S) MFG. (M) SUPPLIER (SP) HAULER (H)		
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL			\$ _____

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

I/WE CERTIFY THAT THE PROPOSED DBE(S) SUBMITTED WILL BE USED ON THIS CONTRACT AS STATED HEREON AND ASSURE THAT DURING THE LIFE OF THE CONTRACT. I/WE WILL MEET OR EXCEED THE PARTICIPATION ESTABLISHED HEREON BY THE DEPARTMENT.

BIDDER

BY

SIGNATURE

TITLE

BY

DATE

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TRANSPORTATION
CERTIFICATION OF BINDING AGREEMENT
WITH

DISADVANTAGED BUSINESS ENTERPRISE FIRMS

Project No.: EN14-007-103, C501 (UPC #106053)
Project No.: 0608-007-R39, C501 (UPC #105904)

CONTRACT I.D. NUMBER: IFB# 81010-17-01

Federal Project No.: TAP 5136(138)
Federal Project No.: STP 5136(139)

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: _____

[ADDITIONAL SIGNATURES BELOW]

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: _____

**AUGUSTA COUNTY, VIRGINIA
CONSTRUCTION CONTRACT
WITH GENERAL CONDITIONS**

**Project Title: Route 636, Lifecore Drive (UPC #: 106053) and
Route 608, Tinkling Spring Road (UPC #: 105904)**

IFB# 81010-17-01

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between **THE COUNTY OF AUGUSTA, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, hereinafter referred to as "County" or "Owner," and _____, hereinafter referred to as "Contractor."

W I T N E S S E T H:

For and in consideration of the mutual covenants contained herein, the parties agree as follows:

1. Contract documents. The Contract between County and Contractor shall consist of this document signed by the County and Contractor and the following documents which are expressly incorporated herein:

- A. The Invitation for Bids and the Bid submitted.
- B. General Conditions.
- C. Special Conditions.
- D. The Plans and Specifications.
- E. All modifications, including addenda and subsequent change orders.
- F. Any other documents expressly incorporated herein, or in any other

construction document.

2. Contractor's obligations. the contractor shall (A) furnish all of the materials and perform all of the work in the construction of _____

_____, hereinafter called the "Work," as more specifically defined in the attached General Conditions, in accordance with the attached Plans and Specifications on the land owned by the County designated as Route 608, Tinkling Spring Road, and Route 636, Lifecore Drive, in Augusta County, Virginia; and (B) perform and observe all its other obligations under the Contract Documents.

3. County's obligations. The County shall (A) pay the Contractor the Contract Price for its performance, in accordance with and subject to the applicable provisions in the attached Special Conditions; (B) obtain any needed construction financing; and (C) perform and observe all its other obligations under the Contract Documents.

4. Contract price. The contract price shall be the total base bid plus or minus any modifications, including addenda and subsequent change orders. The total base bid is \$_____.

WITNESS the following signatures and seals:

COUNTY OF AUGUSTA, VIRGINIA

By: _____

(SEAL)

ATTEST: _____

Contractor

By: _____

(SEAL)

ATTEST: _____

**AUGUSTA COUNTY, VIRGINIA
CONSTRUCTION CONTRACT
GENERAL CONDITIONS**

1. DEFINITIONS

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

Beneficial Occupancy: The condition after Substantial Completion but prior to Final Completion of the Project at which time the Project, or portion thereof, is sufficiently complete and systems operational such that the County could, after obtaining necessary approvals and certificates, occupy and utilize the space for its intended use. Guarantees and warranties applicable to that portion of the Work begin on the date the County accepts the Project, or a portion thereof, for such Beneficial Occupancy, unless otherwise specified in the Supplemental Conditions or by separate agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

If the County and the Contractor agree in writing that Notices transmitted by Facsimile (Fax) or Email are acceptable for the Project, such Notice shall be transmitted to the Fax number or Email address listed in the agreement and, in the case of Fax, shall have a designated space for the Fax Notice recipient to acknowledge his receipt by authorized signature and date. The Fax Notice with authorized signature acknowledging receipt shall be Faxed back to the sender. The Faxed Notice shall be effective on the date it is acknowledged by authorized signature. Emailed notices shall be acknowledged by Reply Email upon receipt. All Faxed and Emailed Notices shall also be sent by hard copy, which shall be effective upon delivery, as provided herein. Notice shall be effective upon the date of acknowledgment of the Faxed or the Emailed Notice or the date of delivery, whichever occurs first.

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

Owner: Augusta County, Virginia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. CONTRACT DOCUMENTS

(a) Original copies. The Contract between County and Contractor shall be signed by the County and the Contractor in as many original counterparts as may be mutually agreed upon, each of which shall be considered an original.

(b) Time of the essence. All time limits stated in the Contract Documents, including but not limited to the Time for Completion of the Work, are of the essence of the Contract.

(c) Severability clause. If any provision of this Contract shall be held invalid by any court of competent jurisdiction, such holding shall not invalidate any other provision.

(d) Conflicting clauses. In the event there is a conflict between the provisions of the General Conditions and Supplemental Conditions, the provisions of the Supplemental Conditions shall apply. A specific provision in any

other Contract Document shall take precedence over a provision of the General Conditions unless such precedence would result in a violation of law.

3. LAWS AND REGULATIONS

(a) The Contractor shall comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work and shall give all notices required thereby.

(b) The Contractor shall assure that all Subcontractors and tradesmen who perform Work on the project are properly licensed by the Department of Professional and Occupational Regulation as required by the Code of Virginia and applicable regulations.

(c) If the Contractor violates laws or regulations that govern the Project, the Contractor shall indemnify and hold the County harmless against any fines and/or penalties that result from such violation. To the extent that such violation is the result of negligence or other actionable conduct of the Contractor, the Contractor shall indemnify and hold the County harmless against any third party claims, suits, awards, actions, causes of action or judgments, including but not limited to attorney's fees and costs incurred thereunder, that result from such violation.

4. NONDISCRIMINATION

(a) During the performance of this Contract, the Contractor agrees as follows:

i. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

ii. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

iv. The Contractor will include the provisions of the foregoing paragraphs in every subcontract or purchase order of over ten thousand dollars (\$10,000), so that the provisions will be binding upon each Subcontractor or vendor.

(b) Where applicable, laws protecting the rights of the disabled, including the Virginians with Disabilities Act and the federal Americans with Disabilities Act, shall apply to the Contractor and all Subcontractors.

(c) It is the policy of the County of Augusta that the County and its employees undertake every effort to increase the opportunity for utilization of minority-owned and woman-owned businesses in all aspects of procurement to the maximum extent feasible. Accordingly, the Contractor agrees:

i. In connection with the performance of this contract, the Contractor agrees to use his or her best effort to carry out this policy and to insure that minority-owned and woman-owned businesses shall have the maximum practicable opportunity to compete for subcontract work under this contract consistent with the efficient performance of this contract.

ii. As used in this contract the term "minority-owned business" means a business or other entity that is at least fifty-one (51) percent owned and controlled by one or more socially and economically disadvantaged person(s). For purposes of this definition, the term "control" shall mean exercising the power to make policy decisions and being actively involved in day-to-day management. Such disadvantage may arise from cultural, racial, chronic economic circumstance or background or other similar cause. Such persons include, but are not limited to, Black Americans, Hispanic Americans, Asian Americans, Eskimos, and Aleuts.

iii. As used in this contract the term “woman-owned business” means a business or other entity that is at least fifty-one (51) percent owned and controlled by one or more women. For purposes of this definition, the term “control” shall mean exercising the power to make policy decisions and being actively involved in day-to-day management.

iv. Prior to final payment, the Contractor must provide documentation regarding the actual good faith minority-owned business participation efforts undertaken in connection with the contract. In connection with the performance of this contract, “good faith efforts” shall mean those measures which were utilized to allow equitable participation of minority employees and subcontractors.

v. Contractors may rely on oral or written representations by subcontractors regarding their status as minority-owned or woman-owned business enterprises in lieu of independent investigation.

vi. Where Federal grants or monies are involved it is the policy of Augusta County, through its agents and employees, to comply with the requirements set forth in the U.S. Office of Management and Budget Circular No. A-102, uniform administrative requirements for Grants and Cooperative Agreements with State and Local Governments, as they pertain to small and minority business utilization.

5. PROHIBITION OF ALCOHOL AND OTHER DRUGS

(a) During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

(b) The Contractor shall also establish, maintain and enforce policies which prohibit the following acts by all Contractor, Subcontractor and Supplier personnel at the Site: (1) the manufacture, distribution, dispensation, possession, or use of alcohol, marijuana or other drugs, except possession and medically prescribed use of prescription drugs; and (2) the impairment of judgment or physical abilities due to the use of alcohol, marijuana or other drugs, including impairment from prescription drugs.

6. CONTRACT COMPLETION DATE AND TIME FOR COMPLETION

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

(b) The Work must be substantially completed by the Contract Completion Date. Unless otherwise specified, the Contractor shall achieve Final Completion within thirty (30) days after the date of Substantial Completion.

(c) The Contractor, in submitting his Time for Completion, acknowledges that he has taken into consideration normal weather conditions. In addition, the Contractor recognizes that only adverse abnormal weather conditions will be considered as a basis for Change Orders. Normal weather does not mean statistically average weather, but rather means a range of weather patterns which might be anticipated based on weather data from the past ten (10) years. Abnormal weather conditions means only those extremely unusual weather patterns that radically deviate from the public historical records available and that reasonably impair the progress of work. No additional compensation will be paid to the Contractor because of abnormal weather conditions; however, a Change Order modifying the Contract Completion Date based upon abnormal weather will be considered by the County in

extraordinary circumstances. In order to request an extension of time due to weather, the Contractor must petition the County within seven (7) days of the completion of the calendar month during which the abnormal weather is claimed to have occurred.

(d) The Contractor represents and agrees that he has taken into account in his bid the requirements of the bid documents, local conditions, availability of materials, equipment, and labor, and any other factors which may affect the performance of the Work. The Contractor agrees and warrants that he will achieve Substantial Completion of the Work to allow the County to have Beneficial Occupancy not later than the Time for Completion or Contract Completion Date. The Contractor agrees and warrants that he will achieve Final Completion of the Work (the entire completion of all Work, including "punch list" items), not later than thirty (30) days after achieving Substantial Completion, unless otherwise agreed by the County.

(e) Early Completion of Project: Extensions of time, damages for delay, and all other matters between the County and the Contractor will be determined using the contractually required Substantial Completion date. However, the Contractor may attempt to achieve Substantial Completion on or before the Contract Completion Date. Such planned early completion shall be for the Contractor's convenience only and shall not create any additional rights of the Contractor or obligations of the County under this Contract, nor shall it change the Time for Completion or the Contract Completion Date. The Contractor shall not be required to pay damages to the County because of its failure to achieve Substantial Completion by its planned earlier date. Likewise, the County shall not pay the Contractor any additional compensation for achieving Substantial Completion early nor will the County owe the Contractor any compensation should the County, its officers, employees, or agents cause the Contractor not to achieve Substantial Completion earlier than the date required by the Contract Documents.

(f) Late Completion of Project: In the event the Contractor wishes to modify the Contract Completion Date, he must comply with Section 43: Damages for Delay; Extensions of Time.

1. CONDITIONS AT SITE

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

(b) If, in the performance of the Contract, subsurface or latent conditions at the Site are found which are materially different from those frequently present in the County or from those indicated in the Contract Documents, the Contractor must report such conditions to the County and to the A/E before the conditions are disturbed. Upon such notice, or upon his own observation of such conditions, the A/E shall promptly propose such changes in the Contract Documents as he finds necessary to conform to the different conditions.

(c) If the Contractor, during the course of the Work, observes the existence of any material which he knows, should know, or has reason to believe is hazardous to human health, the Contractor shall promptly notify the County. The County will provide the Contractor with instructions regarding the disposition of the material. The Contractor shall not perform any Work involving the material or any Work causing the material to be less accessible prior to receipt of special instructions from the County.

8. CONTRACT SECURITY

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

(b) Alternative forms of security for payment and/or performance may be accepted in the discretion of the County.

9. SUBCONTRACTS

(a) The Contractor shall, as soon as practicable after the signing of the Contract, notify the County in writing of the names of all Subcontractors proposed for the principal parts of the Work and of such other parts as the County's Representative may direct. Where the specifications establish qualifications or criteria for Subcontractors, manufacturers, or individuals performing Work on the Project, the Contractor shall be responsible for ascertaining that those proposed meet the criteria or qualifications. The Contractor shall not employ any Subcontractor that the County may, within a reasonable time, object to as unsuitable. The County shall not direct the Contractor to contract with any particular Subcontractor unless provided in the Supplemental Conditions.

(b) The County shall, on request, furnish to any Subcontractor, if practicable, the amounts of payments made to the Contractor and Requests for Payment submitted by the Contractor and any other documentation submitted by the Contractor which would tend to show what amounts are due and payable by the Contractor to the Subcontractor.

(c) The Contractor shall be fully responsible to the County for all acts and omissions of his agents and employees and all succeeding tiers of Subcontractors and Suppliers performing or furnishing any of the Work. Nothing in the Contract Documents shall create any contractual relationship between the County and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of the County to pay for or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization, except as may otherwise be required by law.

(d) The Contractor shall be fully responsible for his invitees at the Site and for those of his Subcontractors, Suppliers, and their employees, including any acts or omissions of such invitees.

(e) The Contractor agrees that he alone is responsible for all dealings with his Subcontractors and Suppliers, and their subcontractors, employees and invitees, including, but not limited to, the Subcontractors' or Suppliers' claims, demands, actions, disputes and similar matters unless specifically provided otherwise by the Contract or by statute.

[SECTION 10 OMITTED]

11. INDEMNIFICATION

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

12. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE

(a) The Contractor shall not commence Work under this Contract until he has obtained all the insurance required hereunder from an insurer authorized to do business in Virginia and such insurance has been approved by the County; nor shall the Contractor allow any Subcontractor to commence Work on his subcontract until the same types of insurance in an appropriate amount have been obtained by the Subcontractor and approved by the Contractor. Approval of insurance by the County shall not relieve or decrease the liability of the Contractor hereunder.

(b) The Contractor shall take out and shall maintain at all times during the performance of the Work Workers' Compensation and Employers' Liability Insurance for all of his employees engaged in the Work in an amount not less than the minimum required by §11-46.3 and §65.2-100 et seq. of the Code of Virginia, and, in case any of the Work is sublet, the Contractor shall require each Subcontractor similarly to provide Workers' Compensation and Employers' Liability Insurance for all of the latter's employees to be engaged in the Work. The Contractor shall submit on the form provided by the County a Certificate of Coverage verifying Workers' Compensation coverage prior to award of the Contract. The Contractor shall likewise obtain a Certificate of Coverage for Workers'

Compensation coverage from each subcontractor prior to awarding the subcontract and shall provide a copy to the County.

(c) During the performance of the Work under this Contract, the Contractor shall maintain commercial general liability insurance to include Premises / Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, County's and Contractor's Protective Liability, and Personal Injury Liability, which shall insure him against claims of personal injury, including death, as well as against claims for property damage, which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of general liability insurance shall be not less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined limit. The County of Augusta, its officers, employees and agents, shall be named as an additional insured with respect to the Work being procured. The Supplemental Conditions may require the Contractor to provide an Umbrella insurance policy in a specified amount for the Project.

(d) During the performance of the Work under this Contract, the Contractor shall maintain automobile liability insurance which shall insure him against claims of personal injury, including death, as well as against claims for property damage, which may arise from operations under this Contract, whether such operations be by himself or by any Subcontractor, or by anyone directly or indirectly employed by either of them. The amounts of automobile insurance shall be not less than \$1,000,000 combined limit for bodily injury and property damage per occurrence.

(e) Written evidence of all required insurance shall be delivered to the County's Representative prior to the Notice to Proceed and, in any event, no later than thirty (30) days following the award of the contract. The Contractor shall ensure that in the event of cancellation of any insurance, not less than thirty (30) days prior written notice will be sent by the Insurer to the County. A copy of any insurance policy shall be given to the County upon demand. Cancellation of any required insurance policy is a material breach of this contract.

(f) The Contractor is not required to have "all risk" builders risk insurance for this project. The County maintains insurance on the existing building (including fire, vandalism and extended coverage) which covers alterations and new construction as well as materials for the project stored on the site or immediately adjacent thereto. Upon written application from the Contractor prior to commencing the work, the County will have the Contractor named in the endorsement as his interest may appear. The Contractor, as an additional insured, shall be responsible for payment of any and all deductibles applicable to claims made while the Contractor is in control of or occupies the building for the performance of the Work under this Contract. Contractor's tools, equipment, etc., which are not materials to be incorporated in the construction are not covered by this insurance.

13. TAXES, FEES AND ASSESSMENTS

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

14. PATENTS

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

[SECTION 15 OMITTED]

16. INSPECTION

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

17. SUPERINTENDENCE BY CONTRACTOR

(a) The Contractor shall have a competent foreman or superintendent, satisfactory to the County, on the Site at all times during the progress of the Work. The superintendent or foreman shall be familiar with and be able to read and understand the plans and specifications, and be capable of communicating orally and in writing with the County's inspectors and the Contractor's workers. The Contractor shall be responsible for all construction means, methods, techniques, sequences and procedures, for coordinating all portions of the Work under the Contract except where otherwise specified in the Contract Documents, and for all safety and worker health programs and practices. The Contractor shall notify the County, in writing, of any proposed change in superintendent, including the reason therefore, prior to making such change.

(b) The Contractor shall, at all times, enforce strict discipline and good order among the workers on the Project, and shall not employ on the Work, or contract with, any unfit person, anyone not skilled in the Work assigned to him, or anyone who will not work in harmony with those employed by the Contractor, the Subcontractors, the County or the County's separate contractors and their subcontractors.

(c) The County may, in writing, require the Contractor to remove from the Site any employee or Subcontractor's employee the County deems to be incompetent, careless, not working in harmony with others on the Site, or otherwise objectionable, but the County shall have no obligation to do so.

18. CONSTRUCTION SUPERVISION, METHODS AND PROCEDURES

(a) The Contractor shall be solely responsible for supervising and directing the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract. The Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures of construction and for coordinating all portions of the Work under the Contract, except where otherwise specified in the Contract Documents. However, the Contractor shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Contract. The Contractor is solely responsible to the County that the finished Work complies with the Contract Documents.

(b) The Contractor shall be solely responsible for health and safety precautions and programs for workers and others in connection with the Work. No inspection by, knowledge on the part of, or acquiescence by the Project Inspector, the County's Representative or other County employees and agents, or any other entity whatever shall relieve the Contractor from its sole responsibility for compliance with the requirements of the Contract or its sole responsibility for health and safety programs and precautions.

(c) If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, the Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the County. The Contractor must submit in a timely manner its written request for the substitution to the County's Representative. Such request must include sufficient information to allow the County to determine that the substitute proposed is equivalent to that indicated or required by the Contract and be received by such a date to ensure the County has adequate time to review the request and respond without creating a need for an extension of the Contract Completion Date.

(d) The divisions and sections of the Specifications and the identification of any drawings shall not control the Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

19. SCHEDULE OF THE WORK

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

20. SCHEDULE OF PAYMENTS TO CONTRACTOR

(a) Contract price. The County shall pay the Contractor as just compensation for the performance of this contract, subject to any additions or deductions as may have been authorized by approved written change orders, the unit or lump sum price as contained in the bid documents.

(b) Acceptance and payment. Upon receipt of written notice from the Contractor that the work is ready for final inspection and acceptance, the County shall within one week make such inspection. When the County finds the work complete under the contract and the contract fully performed the County will promptly issue a final certificate stating that the work required by this contract has been completed and is accepted by the County under the terms and conditions of the contract. The entire balance found to be due to the Contractor shall be paid to the Contractor by the County within thirty (30) days after the date of the final certificate and receipt of all required Submittals.

21. ACCESS TO WORK

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

22. SURVEYS AND LAYOUT

(a) When applicable, the County shall furnish the Contractor all necessary documents showing property lines and the location of existing buildings and improvements. The Contractor shall provide competent surveying and engineering services to execute the Work in accordance with the Contract and shall be responsible for the accuracy of these surveying and engineering services.

(b) Such general reference points and benchmarks on the Site as will enable the Contractor to proceed with the Work will be established in the plans and specifications. If the Contractor finds that any previously established reference points have been lost or destroyed, he shall promptly notify the County's Representative.

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

23. PLANS AND SPECIFICATIONS

(a) The general character and scope of the Work are illustrated by the plans and the specifications. If the Contractor deems additional detail or information to be needed, he may request the same by Field Order in writing from the County's Representative. The request shall precisely state the detail or information needed and shall explain why it is needed. The Contractor shall also indicate a date when the requested information is required.

(b) If the Contractor finds a conflict, error, or other discrepancy in the plans or specifications, he shall notify the County's Representative in writing as soon as possible, but before proceeding with the affected Work.

(c) Measurements or dimensions shown on the drawings for Site features, utilities and structures shall be verified at the Site by the Contractor. The Contractor shall not scale measurements or dimensions from the drawings. If there are discrepancies, the County's Representative shall be consulted.

(d) As-Built Drawings: The Contractor shall maintain at the Site for the County one copy of all drawings, specifications, addenda, approved shop or setting drawings, Change Orders and other modifications (collectively referred to herein as "As-Built Drawings") in good order and marked to record all changes as they occur during construction. These shall be available to the County, the Project Inspector, the County's other inspectors and to the County's testing personnel. The drawings shall be neatly and clearly marked in contrasting color during construction to record all variations made during construction. The representation of such variations shall include such supplementary notes, symbols, legends, and details as may be necessary to clearly show the as-built construction.

(e) Record Drawings: Upon completion of the Work and prior to the final inspection, the Contractor shall deliver to the County's Representative one complete set of "As-Built Drawings" referred to in the preceding subsection.

24. SUBMITTALS.

(a) The Contractor shall submit a listing of all Submittals required by the County or which the Contractor identifies as necessary, fixing the dates for the submission of shop or setting drawings, samples and product data. The listing shall be in a format acceptable to the County.

(b) Submittals shall be forwarded to the County's Representative for approval if required by the specifications or if requested by the County. No part of the Work dealt with by a Submittal shall be fabricated by the Contractor, save at his own risk, until such approval has been given.

(c) The Contractor shall furnish to the County's Representative for approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the Work. When Submittals are required by this Contract for materials, the Contractor shall furnish full information concerning the material or articles which he contemplates incorporating in the Work. When required, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material and articles installed or used without required approval shall be at the risk of subsequent rejection.

(d) Submittals shall be accompanied by a letter of transmittal which shall list the Submittals included, the specification section number applicable to each, and the date shown on each Submittal. Submittals shall be complete in every respect and bound in sets. Each Submittal shall be clearly marked to show each item, component and/or optional feature proposed to be incorporated into the Project. Cross reference to the plans or specifications as needed to identify the use for which the item or component is intended.

(e) The Contractor shall check the Submittals for compliance with the requirements of the Contract Documents. The Contractor shall clearly note in writing any and all items which deviate from the requirements of the Contract Documents. Reasons for deviation shall be included with the Submittal.

(f) The Contractor shall forward all Submittals sufficiently in advance of construction requirements to allow reasonable time for checking, correcting, resubmitting and rechecking.

(g) If a Submittal indicates a departure from the Contract requirements, the County may approve or reject the Submittal as the County, in its sole discretion, sees fit. The departure from the Contract requirements shall be further authorized by a Change Order, if a reduction or increase in the Contract Price is appropriate.

(h) The Contractor shall verify that the Submittals conform to the design concept and functional requirements of the plans and specifications, that the detailed design portrayed in shop drawings and proposed equipment and materials shown in Submittals are of the quality specified and will function properly, and that the Submittals comply with the Contract Documents.

25. FEES, SERVICES AND FACILITIES

- (a) The Contractor shall obtain all permits, and shall pay for all fees and charges, including, but not necessarily limited to, fees necessary for temporary access and public right-of-way blockage or use, for use of landfill and other waste disposal facilities, for temporary connections to utilities, and for the use of property (other than the Site) for storage of materials and other purposes unless otherwise specifically stated in the Contract Documents.
- (b) Certain projects such as renovations and interior modifications of existing buildings will usually have water and electric service to the building. In those instances, water and electric power, if required for the Work under the Contract, will be furnished by the County subject to reasonable use by the Contractor, only to the extent and capacity of present services. The Contractor shall be responsible for providing required connections, temporary wiring, piping, etc. to these services in a safe manner and in accordance with applicable codes. All temporary wire, pipe, etc. shall be removed before the Substantial Completion inspection. Acceptance by the Contractor of the use of County's water and electricity constitutes a release to the County of all claims and of all liability to the Contractor for whatever damages which may result from power and water outages or voltage variations.
- (c) The County shall pay any connection charges for permanent utility connections directly to the utility Supplier. The Contractor shall coordinate such connections with the utility Supplier.
- (d) It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor, either directly or through his Subcontractors, shall provide and pay for all material, labor, tools, equipment, water, light, power, telephone and other services or facilities of every nature whatsoever necessary to execute completely and deliver the Work within the Contract Time for Completion or before the Contract Completion Date.

26. EQUALS

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

27. AVAILABILITY OF MATERIALS

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

28. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the Work shall be purchased by the Contractor, or by any Subcontractor or Supplier, subject to any security interest, installment or sales contract or any other agreement or lien by which an interest is retained by the seller or is given to a secured party. The Contractor warrants that he has clear and good title to all materials and supplies which he uses in the Work or for which he accepts payment in whole or in part.

29. STANDARDS FOR MATERIALS INSTALLATION & WORKMANSHIP

(a) Unless otherwise specifically provided in the Contract, all equipment, material, and accessories incorporated in the Work are to be new and in first class condition.

(b) Unless specifically approved by the County or required by the Contract, the Contractor shall not incorporate into the Work any materials containing asbestos or any material known by the industry to be hazardous to the health of building construction workers, maintenance workers, or occupants. If the Contractor becomes aware that a material required by the Contract contains asbestos or other hazardous materials, he shall notify the County's Representative immediately and shall take no further steps to acquire or install any such material without first obtaining County approval.

(c) All workmanship shall be of the highest quality found in the construction industry in every respect. All items of Work shall be done by craftsmen or tradesmen skilled in the particular task or activity to which they are assigned. In the acceptance or rejection of Work, no allowance will be made for lack of skill on the part of workmen. Poor or inferior workmanship (as determined by the County or other inspecting authorities) shall be removed and replaced at Contractor's expense such that the Work conforms to the highest quality standards of the trades concerned, or otherwise corrected to the satisfaction of the County, or other inspecting authority, as applicable.

(d) Under the various sections of the plans or specifications, where specified items are supplied with the manufacturer's printed instructions, recommendations, or directions for installation, or where such instructions, recommendations, or directions are available, installation of the specified items shall be in strict accordance with the manufacturer's printed instructions unless those instructions contradict the plans or specifications, in which case the County's Representative will be notified for an interpretation and decision.

(e) Under the various sections of the plans or specifications, where reference is made to specific codes or standards governing the installation of specified items, installation shall in all cases be in strict accordance with the referenced codes and standards. Where no reference is made to specific codes or standards, installation shall conform to the generally recognized applicable standards for first-class installation of the specific item to be installed. Contractors are expected to be proficient and skilled in their respective trades and knowledgeable of the Codes and Standards of the National Fire Protection Association (NFPA), National Electric Code (NEC), Occupational Safety and Health Act (OSHA) and other codes and standards applicable to installations and associated work by his trade.

(f) Where the manufacturer's printed instructions are not available for installation of specific items, where specific codes or standards are not referenced to govern the installation or specific items, or where there is uncertainty on the part of the Contractor concerning the installation procedures to be followed or the quality of workmanship to be maintained in the installation of specific items, the Contractor shall consult the County's Representative for approval of the installation procedures or the specific standards governing the quality of workmanship the Contractor proposes to follow or maintain during the installation of the items in question.

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

30. WARRANTY OF MATERIALS AND WORKMANSHIP

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

31. USE OF SITE AND REMOVAL OF DEBRIS

- (a) The Contractor shall:

- (1) Perform the Work in such a manner as not to interrupt or interfere with the operation of any existing activity on, or in proximity to, the Site or with the Work of any other separate contractor;
 - (2) Store his apparatus, materials, supplies and equipment in such orderly fashion at the Site of the Work as will not unduly interfere with the progress of his Work or the work of any other separate contractor; and
 - (3) Place upon the Work or any part thereof only such loads as are consistent with the safety of that portion of the Work.

- (b) The Contractor expressly undertakes, either directly or through his Subcontractor(s), to effect all cutting, filling or patching of the Work required to make the same conform to the plans and specifications, and, except with the consent of the County's Representative, not to cut or otherwise alter the Work of any other separate contractor. The Contractor shall not damage or endanger any portion of the Work or Site, including existing improvements, unless called for by the Contract.

- (c) The Contractor expressly undertakes, either directly or through his Subcontractor(s), to clean up frequently all refuse, rubbish, scrap materials and debris caused by his operations, to the end that at all times the Site shall present a neat, orderly and workmanlike appearance. No such refuse, rubbish, scrap material and debris shall be left within the completed Work nor buried on the building Site, but shall be removed from the Site and properly disposed of in the County landfill or otherwise as required by law. The Contractor shall be responsible for the payment of all applicable tipping fees or other disposal fees at any landfill or other waste disposal facility.

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

- (e) The Contractor shall prevent Site soil erosion, the runoff of silt and/or debris carrying water from the Site, and the blowing of dust or debris off the Site in accordance with the applicable requirements and standards of the Contract and the County's Erosion and Sediment Control and Stormwater Management Regulations.

32. TEMPORARY ROADS

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

33. SIGNS

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

34. PROTECTION OF PERSONS AND PROPERTY

(a) The Contractor expressly undertakes both directly and through his Subcontractors, to take every reasonable precaution at all times for the protection of all persons and property which may come on the Site or be affected by the Contractor's Work.

(b) The Contractor shall be solely responsible for providing on site all necessary safety equipment and supplies and for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

(c) The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect the County's property from injury or loss arising in connection with this Contract. He shall make good any such damage, injury or loss, except as may be directly and solely due to errors in the Contract Documents or caused by agents or employees of the County. The Contractor shall adequately protect adjacent property to prevent any damage to it or loss of use and enjoyment by its owners. The Contractor shall provide and maintain all passageways, guard fences, lights and other facilities for protection as required by public authority, local conditions, or the Contract.

(d) In an emergency affecting the health, safety or life of persons or of the Work, or of the adjoining property, the Contractor, without special instruction or authorization from the County, shall act, at his discretion, to prevent such threatened loss or injury. Also, should he, to prevent threatened loss or injury, be instructed or authorized to act by the County, he shall so act immediately, without appeal.

(f) When necessary for the proper protection of the Work, temporary climate control of a type approved by the County must be provided by the Contractor, at the Contractor's expense, unless otherwise specified.

35. CLIMATIC CONDITIONS

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

[SECTION 36 OMITTED]

37. PAYMENTS BY CONTRACTOR

Under Virginia Code § 2.2-4354:

(a) The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the contractor by the County for work performed by subcontractors under that contract:

(1) Pay subcontractors for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractors under that contract; or

(2) Notify the County and subcontractor, in writing, of his intention to withhold all or a part of any subcontractor's payment with the reason for nonpayment.

- (b) Individual Contractors are required to provide their social security numbers; and proprietorships, partnerships, and corporations are required to provide their federal employer identification numbers.
- (c) The Contractor is obligated to pay interest to a subcontractor on all amounts owed by the Contractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under that contract, except for amounts withheld as allowed in subdivision a.
- (d) Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent (1%) per month.
- (e) The Contractor is further required to include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.
- (f) The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section shall not be construed to be an obligation of the County. A contract modification shall not be made for the purpose of providing reimbursement for the interest charge. A cost reimbursement claim shall not include any amount for reimbursement for the interest charge.

38. CHANGES IN THE WORK

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

39. EXTRAS

If the Contractor claims that any instructions given to him by the County, by drawings or otherwise, involve extra Work which increases the scope of the Contract, then, except in emergencies endangering life or property, he shall give the County written notice thereof before proceeding to execute the Work. Said notice shall be given promptly enough to avoid delaying the Work and in no instance later than fourteen (14) days after the receipt of such instructions. Should it not be immediately clear to the Contractor that the change involves extra Work outside the scope of the Contract, written notice shall be sufficient if given as soon as possible after such realization, but in no event later than fourteen (14) days after the start of such Work. If the County agrees, a Change Order shall be issued as provided in Section 38 of these General Conditions, and any additional compensation shall be determined as provided in said Section. Except as otherwise specifically provided, no claims for extra Work shall be allowed unless timely notice, as required by this Section, is given by the Contractor and unless such Work is performed pursuant to written Change Order as provided in Section 38.

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

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

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

(a) If the Contractor should be adjudged as bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed on account of his insolvency, the County may terminate the Contract. If the Contractor should refuse or should repeatedly fail, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials and equipment, or if he should fail to make prompt payment to Subcontractors or Suppliers of material or labor, or if he should disregard laws, ordinances or the written instructions of the County, or otherwise be in substantial violation of any provision of the Contract, then the County may terminate the Contract.

(b) Prior to termination of the Contract, the County shall give the Contractor and his surety ten (10) days written notice pursuant to Section 1 ("Notice") of these General Conditions, during which the Contractor and/or his surety may rectify the basis for the notice. If rectified to the satisfaction of the County within said ten (10) days, the County may rescind its notice of termination. If not, the termination for cause shall become effective at the end of the ten (10) day notice period. In the alternative, the County may, in writing, postpone the effective date of the termination for cause, at its sole discretion, if it should receive reassurances from the Contractor and/or its surety that the basis for the termination will be remedied in a time and manner which the County finds acceptable. If at any time after such postponement, the County determines that Contractor and/or its surety has not or is not likely to rectify the causes of termination in an acceptable manner or within the time allowed, then the County may immediately terminate the Contract for cause, without the necessity of further ten (10) day notice, by notifying the Contractor and his surety in writing of the termination. In no event shall termination for cause terminate the obligations of the Contractor's surety on its payment and performance bonds.

(c) Upon termination of the Contract, the County shall take possession of the Site and of all materials, tools and equipment thereon and finish the Work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment. If the expense of finishing the Work, including compensation

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

(d) If it should be judicially determined that the County improperly terminated this Contract for cause, then the termination shall be deemed to be a termination for the convenience of the County.

(e) Termination of the Contract under this Section is without prejudice to any other right or remedy of the County.

42. TERMINATION BY COUNTY FOR CONVENIENCE

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

(1) All amounts then otherwise due under the terms of this Contract based upon approved Requests for payment.

(2) Amounts due for Work performed in accordance with the Contract subsequent to the latest approved Request for Payment through the date of termination.

(3) Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of such termination.

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

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

(1) All amounts then otherwise due under the terms of this Contract based upon approved Requests for payment.

(2) Amounts due for Work performed in accordance with the Contract subsequent to the latest approved Request for Payment through the date of termination, which shall be the total of:

(a) cost of work performed or supplies delivered;

(b) the costs of settling and paying any reasonable claims to subcontractors and suppliers; and

(c) a mark-up of ten percent (10%) for profit and overhead.

(3) Reasonable compensation for the actual cost of demobilization incurred by the Contractor as a direct result of such termination.

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

allowed hereunder and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.

(c) In the event the Contractor is not satisfied with any payments which the County's Representative shall determine to be due under this section, the Contractor may proceed in accordance with Section 47, "Contractual Disputes."

(d) In no event shall termination for the convenience of the County terminate the obligations of the Contractor's surety on its payment and performance bonds.

43. DAMAGES FOR DELAYS; EXTENSION OF TIME

(a) If the Contractor is delayed at any time in the progress of the Work by any act or omission of the County, its agents or employees or any separate independent contractor of the County, and the act or omission is the result of or is necessitated by causes outside the County's control; or if the Contractor is delayed by strikes, fires, unusual delays in transportation or unavoidable casualties, or other causes outside the County's or Contractor's control, the Contractor shall give the County written notice within ten (10) days of the inception of the delay. The County shall extend the time for Substantial Completion or Final Completion, as the case may be, for the length of time that the Substantial Completion or Final Completion of the Work was actually delayed thereby, and the Contractor shall not be charged with liquidated or actual damages for delay during the period of such extension nor shall the Contractor be due compensation or damages of any kind, under any theory of law, as a result of such delay, the impact of such delay, or acceleration of Work as a result of such delay. In the event a CPM schedule is required by the Contract, no extension of the time allowed for Substantial Completion shall be granted unless the Contractor demonstrates a delay in the critical path of the approved CPM schedule or approved bar graph schedule.

(b) If the Contractor is delayed at any time in the progress of the Work by any act or omission of the County, its agents or employees, due to causes within their control, or delayed by the County's separate, independent contractors, when such delay results from causes within the County's control, and the Contractor intends to seek additional compensation for damages, if any, caused by the delay, the Contractor shall inform the County immediately at the time of the occurrence giving rise to the delay by the fastest means available and shall give written notice no later than two (2) working days after inception of the delay. The Contractor's notice to the County shall specify the nature of the delay claimed by the Contractor, the cause of the delay and the impact of the delay on the Contractor's Work schedule. The County shall then have three (3) working days to respond to the Contractor's notice with a resolution, remedy or direction to alleviate the delay or with a notice rejecting the claim for delay alleged to be caused by the County or parties for whom the County is responsible. If the issue is not then resolved, the Contractor may submit a request for Change Order in accordance with Section 36 or submit a claim as provided for in Section 45. The Contractor shall only be entitled to additional compensation if the delay was unreasonable and was caused solely by acts or omissions of the County, its agents or employees, due to causes within their control, or was caused by the County's separate, independent contractor, when such delay resulted solely from causes within the County's control.

(c) The Contractor shall not be entitled to an extension of the Time for Completion or Contract Completion Date or to any additional compensation for delays caused by acts or omissions of the Contractor due to causes within his control, including, but not limited to, delays resulting from Defective Work including workmanship and/or materials, from rejected work which must be corrected before dependent work can proceed, from Defective Work or rejected work for which corrective action must be determined before like work can proceed, or from incomplete, incorrect or unacceptable Submittals or samples.

(d) No extension of time or additional compensation, if applicable, will be granted for any delay unless the claimed delay directly affects the critical path of the approved CPM schedule or the schedule shown on the approved bar graph schedule, whichever is applicable, and any float has been consumed. No extension of time or additional compensation shall be given for a delay if the Contractor failed to give notice in the manner and within the time prescribed in Subsections (a) or (b) above, whichever applies. Furthermore, no extension of time or additional compensation shall be given for any delay unless a claim therefore is made in writing to the County, within twenty (20) days of the end of the delay. The claim shall state the cause of the delay, the number of days of extension requested and any compensation requested by the Contractor. The Contractor shall report the termination of the delay to the County not less than ten (10) days after such termination. Failure to give notice of either the inception or

the termination of the cause of delay or failure to present a claim for extension of time and/or monetary compensation within the times prescribed shall constitute a waiver of any claim for extension or additional compensation based upon that cause.

(e) Requests for compensation for delays pursuant to Subsection (b) above must be substantiated by itemized data and records clearly showing that the Work delayed could not be completed within the approved schedule, and that the additional costs incurred by the Contractor are directly attributable to the delay in the Work claimed. Furthermore, compensation for delay shall be calculated from the contractual Time for Completion or Contract Completion Date, as adjusted by Change Order, and shall not be calculated based on any early completion planned or scheduled by the Contractor, unless a Change Order has been executed changing the Time for Completion or the Contract Completion Date to reflect such early completion.

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

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

(f) If the Contractor submits a claim for delay damages, the Contractor shall be liable to the County for a percentage of all costs incurred by the County in investigating, analyzing, negotiating and litigating the claim, which percentage shall be equal to the percentage of the Contractor's total delay claim which is determined through litigation to be false or to have no basis in law or in fact.

(g) Any change in the Contract Time for Completion or Contract Completion Date shall be accomplished only by issuance of a Change Order.

(h) If the Contractor fails to complete the Work within the Time for Completion or the Contract Completion Date, the Contractor shall be liable to the County in the amounts set forth in subsection (j) below not as a penalty, but as fixed, agreed and liquidated damages for delay until the Work is substantially or finally completed as the case may be. If liquidated damages are not so fixed in subsection (j), the Contractor shall be liable for any and all actual damages sustained as a result of delay. In addition to damages for delay, whether liquidated or actual, the Contractor shall also be liable for any and all actual damages sustained by the County as a result of any other breach of the Contract, including, but not limited to, Defective Work and abandonment of the Contract.

(i) If the Contractor fails to complete the Work by the Time for Completion or Contract Completion Date, the following provisions apply:

(1) The Contractor shall owe to the County, not as a penalty but as liquidated damages, the sum stated in subsection (j) below as "step one" liquidated damages for each and every partial or total calendar day of delay in Substantial Completion.

(2) Once the Work is substantially complete, the accrual of "step one" liquidated damages shall cease, and the Contractor shall have thirty (30) calendar days in which to achieve Final Completion of the Work.

(3) If Final Completion of the Work is not achieved on or before the thirtieth (30th) calendar day after Substantial Completion, and if the County has not granted any extension of time, the Contractor shall owe to the County, not as a penalty but as liquidated damages, the sum stated in subsection (j) below as "step two" liquidated damages for each and every partial or total calendar day of delay in Final Completion.

(j) Time is of the essence of the contract. Should the Contractor fail to complete the Work within the time agreed upon in the Contract or within such extra time as may have been allowed by Change order, there may be deducted from any sums due or that may become due the Contractor the sum set forth in the following schedule for each and every calendar day, exclusive of Sundays and legal holidays, that the Work shall remain uncompleted. This sum

shall be considered and treated not as a penalty but as liquidated damages due the County from the Contractor by reason of inconvenience to the public, added cost of engineering and supervision, operation of alternative public services, and other factors which have caused the expenditure of public funds resulting from the contractor's failure to complete the work within the time specified in the contract.

Schedule of Liquidated Damages

Step One	\$800 per day
Step Two	\$800 per day

(k) Each party hereby waives any claim or defense as to the validity of any liquidated damages stated in this Agreement as they may appear on the grounds that such liquidated damages are void as penalties or are not reasonably related to actual damage.

(l) Completion of the Work, for purposes of this section, shall occur upon preliminary acceptance of all the Work required by the contract documents. Permitting the Contractor to continue and finish the Work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended by Change Order, shall in no way operate as a waiver on the part of the County of any of its rights under the Contract.

44. INSPECTION FOR SUBSTANTIAL COMPLETION & FINAL COMPLETION

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

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

(b) The Contractor shall notify the County, in writing, of the date when the Work will reach Final Completion and will be ready for final inspection and testing. The notice shall be given at least five (5) days in advance of said date. That inspection and any necessary testing shall be conducted in the same manner as the inspection for Substantial Completion. When the Work is finally and totally complete, including the elimination of all defects, the Work shall be finally accepted by the County and final payment shall be made in accordance with these General Conditions.

(c) The County's Representative shall conduct the inspections. The County may elect to have other persons of its choosing also participate in the inspections. If one or more Substantial or Final Completion re-inspections are required, the Contractor shall reimburse the County for all costs of re-inspection or, at the County's option, the costs may be deducted from payments due to the Contractor.

(d) Approval of Work at or as a result of any inspection required herein shall not release the Contractor or his surety from responsibility for complying with the Contract.

45. GUARANTEE OF WORK

(a) Except as otherwise specified, all Work shall be, and is hereby, guaranteed by the Contractor against defects resulting from the use of materials, equipment or workmanship, which are defective, inferior, or not in accordance with the terms of the Contract, for one (1) year from the date of Final Completion of the entire Project by the County. Equipment and facilities which have seasonal limitations on their operation (e.g. heating or air conditioning units) shall be guaranteed for one (1) full year from the date of seasonally appropriate tests and acceptance, in writing, by the County. Where the County agrees to take Beneficial Occupancy of a portion or phase of the Work which has been determined to be substantially complete before the entire Work is finally completed, the guarantees for the materials, equipment and workmanship in that portion or phase shall begin on the date that the County takes Beneficial Occupancy, unless otherwise specified in the Supplemental Conditions or by separate agreement.

(b) If, within any guarantee period, Work which is not in accordance with the Contract, Defective Work, or inferior material, equipment or workmanship is noted by the County which requires or renders necessary repairs or changes in connection with the guaranteed Work, the Contractor shall, promptly upon receipt of notice from the County, such notice being given not later than two (2) weeks after the guarantee period expires, and without expense to the County:

(1) Place in satisfactory condition in every particular all of such guaranteed Work and correct all defects, inferior materials, equipment or workmanship therein;

(2) Make good all damage to the structure or Site or equipment or contents thereof, which, in the opinion of the County, is the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the Contract; and

(3) Make good any Work or materials or the equipment and contents of structures and/or Site disturbance that results from fulfilling the provisions of this Section.

(c) In any case, when in fulfilling the requirements of the Contract and this guarantee or any other guaranty or warranty, the Contractor disturbs any work performed by a separate contractor, he shall restore such work to a condition satisfactory to the County and guarantee such restored work to the same extent as if it was guaranteed under this Contract.

(d) If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee as set forth in this Section, the County may have the defects or inferior materials, equipment or workmanship corrected and the Contractor and his surety shall be liable for all expense incurred.

(e) All special warranties and guarantees applicable to definite parts of the Work that may be stipulated in or required by the Contract Documents shall be subject to the terms of this Section during the first year of the life of such special warranty or guarantee.

(f) The guarantee of this Section shall be in addition to and not in lieu of all other warranties, express or implied, applicable to or arising from this Contract or by law.

(g) Nothing contained in this Section shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including liability for Defective Work. This Section relates only to the specific obligation of the Contractor as set forth in this Section to correct the Work and does not limit the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor the time within which proceedings may be commenced to establish the Contractor's liability with respect to his other obligations under the Contract Documents.

(h) In the event the Work of the Contractor is to be modified by another contractor, either before or after the Final Inspection, the first Contractor shall remain responsible in all respects under this Section's Guarantee of Work and under any other warranties or guarantees, express or implied, applicable to or arising from this Contract or by law. However, the Contractor shall not be responsible for any defects in material or workmanship introduced by the contractor modifying his Work. The first Contractor and the contractor making the modifications shall each be solely responsible for his respective work. The contractor modifying the earlier Work shall be responsible for any

damage to or defect introduced into the Work by his modification. If the first contractor claims that a subsequent contractor has introduced defects of materials and/or workmanship into his Work, it shall be the burden of the contractor making the claim to demonstrate clearly the nature and extent of such introduced defects and the other contractor's responsibility for those defects. Any contractor modifying the work of another shall have the same burden if he asserts that defects in his work were caused by the contractor whose work he is modifying.

46. ASSIGNMENTS

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

47. CONTRACTUAL DISPUTES

(Virginia Code § 2.2-4363)

(a) Contractual claims, whether for money or for other relief, shall be submitted, in writing, no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given at the time of the occurrence or beginning of the Work upon which the claim is based. The filing of a timely notice is a prerequisite to recovery under this Section. Although the Contractor may be required to submit certain classes of claims prior to final payment, and the Contractor is not prevented from filing claims during the pendency of the Work, the County shall not be obligated to render a final written decision on any claim until after final payment. All claims shall be submitted along with all practically available supporting evidence and documentation.

(b) No written decision denying a claim or addressing issues related to the claim, if rendered prior to final payment, shall be considered a denial pursuant to this Section unless the written decision makes express reference to this Section and is signed by the County. The Contractor may not institute legal action prior to receipt of the County's final written decision on the claim unless the County fails to render such a decision within ninety (90) days of submission of the claim or within ninety (90) days of final payment, whichever is later.

(c) The decision of the County shall be final and conclusive unless the Contractor within six (6) months of the date of the final decision on a claim, initiates legal action as provided in § 2.2-4364 of the Code of Virginia. Failure of the County to render a decision within 90 days shall not result in the Contractor being awarded the relief claimed nor shall it result in any other relief or penalty. The sole result of the County's failure to render a decision within 90 days shall be the Contractor's right to immediately institute legal action. No administrative appeals procedure pursuant to § 2.2-4364 of the Code of Virginia has been established for contractual claims under this Contract.

[SECTION 48 OMITTED]

49. TRAINING, OPERATION AND MAINTENANCE OF EQUIPMENT

(a) As a part of the Work, the Contractor in conjunction with his Subcontractors and Suppliers shall provide the County's operations and maintenance personnel with adequate instruction and training in the proper operation and maintenance of any equipment, systems, and related controls provided or altered in the Work. The training requirements may be further defined in the Contract Documents.

(b) The Contractor shall provide the County with a minimum of two (2) copies of operating, maintenance and parts manuals for all equipment and systems provided in the Work. Further specific requirements may be indicated in the Contract Documents.

50. PROJECT MEETINGS

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

Preconstruction Meeting:

(a) Prior to the start of construction, a "Pre-construction" meeting shall be held. In attendance should be: (a) the County's Representative and Project Inspector, if any; (b) when appropriate, representatives of each design discipline involved in the Project; (c) the Contractor's Representative and superintendent and, representatives of the Contractor's major Subcontractors, if any; and (d) such other persons either the County or the Contractor may invite. No decisions made at this meeting shall be binding unless appropriate Field Orders or Change Orders are issued. This meeting is to exchange certain information and to clarify and discuss various topics, including but not necessarily limited to, the following:

- (1) Persons involved from each entity and their chain of authority including the names of persons authorized to sign Change Orders and any limits to their authority.
- (2) Names, addresses, telephone numbers and FAX numbers to be used for requests for information or clarification, requests for Change Orders, and distribution of shop drawings, Submittals, and notices.
- (3) Contractor's proposed construction schedule and County's sequencing requirements, if any.
- (4) Procedures for submission of shop drawings, product data and other Submittals, if any.
- (5) Procedures for handling Field Orders and Change Orders, if any.
- (6) Procedures for Contractor's request for time extension, if any.
- (7) Construction Site requirements, procedures and clarifications to the manner of conducting the Work Site specialties, including: dust, erosion control, stormwater management, project signs, clean up and housekeeping, temporary facilities, utilities, security, traffic, and safety layout.
- (8) Quality control, testing, inspections, notices required, the tentative schedule of Site visits by the County's Representative and others, and any proposed changes to the Project Inspector's duties
- (9) Creation, maintenance and distribution of project records.
- (10) Procedures for submission of Requests for Payment.

Project Meetings and Progress Reports:

(b) Attendance at Project Meetings: Unless stated otherwise in the Supplemental Conditions, project meetings will be scheduled at least once a month. Invitees to all project meetings shall include representatives from the Contractor and the County. When appropriate, representatives of subcontractors should also be present. Under no circumstances shall project meetings be considered a reason for extensions of time or damages for delay.

(c) Purpose of Project Meetings: The purpose of project meetings shall be to facilitate the timely exchange of information and cooperate to accomplish the Work as required by the Contract Documents. The meeting is an opportunity to discuss status and workmanship of Work in progress, pending requests for payment, compliance with construction schedule, requests for clarification, pending Change Orders, running punch list items, and potential problems which need attention. No decisions made at this meeting shall be binding unless appropriate Field Orders or Change Orders are issued.

(d) Progress Reports: The first item to be discussed at a project meeting will normally be the presentation of a progress report by the Contractor. Written progress reports may be required by the Supplemental conditions. The Contractor shall review progress not less than each month, but as often as necessary to properly manage the Project and stay on schedule. The Contractor shall collect and preserve information on Change Orders, including extensions of time. The Contractor shall evaluate this information and update the latest accepted schedule as often as necessary to finish before the Contract Completion Date.

(e) Performance Delay: If any elements of the Work are behind schedule, regardless of whether they may prevent the Work from being completed on time, the Contractor must indicate in writing in his progress report what measures he is taking and plans to take to bring each such element back on schedule and to ensure that the Contract Completion Date is not exceeded. Should any of the following conditions exist, the County may require the Contractor to prepare, at no extra cost to the County, a plan of action and a recovery schedule for completing the Work by the Contract Completion Date:

(1) The Contractor's progress report(s) indicates delays that are, in the opinion of the County, of sufficient magnitude that the Contractor's ability to complete the Work on time is brought into question;

(2) The Contractor's progress report(s) indicates delays that are, in the opinion of the County, of sufficient magnitude to put the Contractor thirty (30) or more days behind at any time during construction.

(3) The Contractor desires to make changes in the sequencing of Work or the planned duration of future activities which, in the opinion of the County, are of a major nature.

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

COUNTY OF AUGUSTA, VA
IFB # 81010-17-01
SPECIAL TERMS AND CONDITIONS

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

1. Prior to the start of any construction activities the Contractor shall attend a pre-construction meeting with representatives of Augusta County and other appropriate parties for the purposes of scheduling the work and coordination.
2. The Contractor shall attend bi-weekly progress meetings at the offices of the Owner or other designated location for purpose of reporting progress, problems or otherwise expediting the work. Subcontractors shall also attend this meeting when required to resolve specific issues or problems.
3. Item #3 OMITTED.
4. Construction staking shall be done only by a professional engineer or land surveyor registered in the Commonwealth of Virginia. The engineer/surveyor employed by the Contractor shall be responsible for preparation of a detailed staking plan and having that plan reviewed and approved prior to start of work by the Engineer. In accordance with Section 23 of the General Conditions, contractor will maintain a redline set of plans for use in developing a set of as-built drawings. In addition, locations and elevations sufficient to establish proper construction in accordance with the plans will be certified and sealed by contractor's professional engineer or land surveyor on the red-line, or separate as-built drawings.
5. A Land Disturbance Permit shall be required for this project and will be obtained by the Contractor. All work shall be performed in accordance with the latest edition of the Virginia Erosion and Sediment Control Manual.
6. A Storm Water Pollution Prevention Plan (SWPPP) is provided by the Owner and the Owner will obtain General Permit coverage. The Contractor will transfer the existing registration to their name before the construction start date, shall maintain a copy of the SWPPP onsite at all times and shall adhere to all provisions and requirements of the SWPPP. If the County does not elect to transfer the Contractor's registration to itself or another Contractor, Contractor will submit Notice of Termination when the project is complete and accepted by the County.
7. The Contractor shall be required to provide adequate and positive site drainage throughout construction. Any subgrade soils which have been weakened due to inadequate drainage, saturation and or disturbance by construction shall be undercut and replaced with compacted structural fill at no additional cost to the Owner.
8. Item #8 OMITTED.
9. The Contractor shall be responsible for the disposal of all excess materials (including but not limited to undercut, root mat, topsoil and or fill material), obtaining borrow material and the suitability of all on-site material above subgrade. No extra payment will be made for disposal or importing of soils to the project site regardless of the suitability or unsuitability of on-site soils.
10. Select geotechnical engineering information is provided for this project. This is for informational purposes only and should not be considered part of the contract documents. The opinions in this report are those of the geotechnical engineer and represent interpretation of the subsurface conditions, test, and the results of analyses conducted. Should the data contained in this report not be adequate for the Contractor's purposes, the Contractor (at his own expense) may make, prior to bidding, independent exploration, tests and analyses. This report may be examined by bidders at the office of the engineer or copies may be procured from the engineer at nominal charge.
11. Whenever the Contractor's operations affect vehicular or pedestrian traffic, the Contractor shall be responsible for furnishing, installing and maintaining any and all safety control devices in accordance with the *VDOT Work Area Protection Manual* and as deemed necessary by VDOT and the Engineer.
12. Oversight inspections for all water line related work on this project will be conducted by the Augusta County Service Authority (ACSA). The contractor shall be responsible for all required line, structure and compaction testing as outlined in the Special Provision – Construction Quality Control Plan. All water line

related work is to be done in accordance with the latest edition of the ACSA Design and Construction Standards and approved products list (See ACSA for approved product list).

13. Hydrants shall be traffic type with safety flange protection conforming to ANSI/AWWA C 502 and shall have not less than 6 inch diameter barrel, 4-1/2 inch minimum hydrant valve and a measured loss of not more than 2.5 psi through the hydrant at 600 gpm. Hydrant shall have a 6 inch mechanical joint connection to the water main, two 2-1/2 inch hose outlets and one 4-1/2 inch pumper outlet and be so designed that if broken off, the hydrant valve will remain closed. Minimum bury depth shall be 3-1/2 feet or to accommodate depth of water main. Direction of opening shall be left (counterclockwise) with 1-1/2 inch pentagon shape operating nut, and nozzle threading shall be National Standard. Hydrants shall be per the ACSA Approved Products List. Hydrants to be accepted into the Authority's water system shall be painted in accordance with the Approved Products List. The contractor shall provide certification of compliance for domestic materials along with product submittals for the hydrant(s) in accordance with Special Provision – USE OF DOMESTICE MATERIALS.
14. The Contractor is reminded that bids shall be **LUMP SUM** and shall include **ALL WORK** necessary to complete the project to the full intent of the plans. In the event of additions or deductions to the work required by the Contract Documents, the Contractor will be paid extra or shall credit the Owner, as the case may be, on the basis of the unit prices quoted on the Bid Schedule. References to "pay items" shown on the plans or specifications are not relevant for this contract.

COUNTY OF AUGUSTA, VIRGINIA

IFB #81010-17-01

TECHNICAL SPECIFICATIONS

GENERAL: The County of Augusta, Virginia is requesting sealed bids for construction of the Lifecore Drive Enhancement Project (Route 636) and the Tinkling Spring Road Revenue Sharing Project (Route 608).

REQUIREMENTS: The Contractor shall furnish all labor, supervision, equipment, tools, parts and materials, as necessary to perform the work required for these two projects.

SCOPE OF WORK: The project scope for Lifecore Drive (Route 636) consists of the construction of a new eight (8) foot shared use path on the south side of Route 636. Concrete curb & gutter will be added to specific locations along this section of Route 636 and asphalt pavement resurfacing to transition the pavement to the edge of the curb and gutter. Drainage work will also be performed to insure surface water is conveyed to a natural water course. Project will include traffic control, including work zone layouts; pavement marking; signing; erosion and sediment control; minor utility work; seeding of disturbed areas; ADA curb cuts; and other items necessary for the completion of the work along Lifecore Drive from Village Creek Drive to Tinkling Spring Road, approximately 3,431' in length.

The project scope for Tinkling Spring Road (Route 608) consists of constructing a four (4) lane facility on Route 608 between Expo Road (Route 935) and Ramsey Road (Route 635). Concrete curb & gutter will be added along this section of Route 608 and two additional lanes of asphalt pavement will be constructed. Right and left turn lanes will be provided at selected intersections. Storm sewer will be provided to insure roadway surface water is conveyed to natural water courses. Project will include a new eight (8) foot shared use path on the west side of Route 608; traffic control, including work zone layouts; pavement marking; signing; erosion and sediment control; minor utility work; seeding of disturbed areas; ADA curb cuts; and other items necessary for the completion of the work along Tinkling Spring Road from Expo Road to Ramsey Road, approximately 2,940' in length.

SECTION 02100 - SITE CLEARING

PART 1 - GENERAL

1.01 RELATED DOCUMENTS:

Drawings and general provisions of Contract, including General and Supplemental Conditions and other Specification sections, apply to work of this section.

Virginia Department of Transportation (VDOT) Road and Bridge Specifications, Road and Bridge Standards and Work Area Protection Manual, all latest edition. VDOT Copied Notes, Special Provisions, and Supplemental Special Provisions contained in the Bid Proposal. Virginia Erosion and Sediment Control Handbook, latest edition.

1.02 DESCRIPTION OF WORK:

Extent of site clearing is shown on drawings.

Site clearing work includes, but is not limited to:

- Protection of existing trees;
- Removal of trees and other vegetation;
- Topsoil stripping and stockpiling;
- Clearing and grubbing;
- Removal of above-grade and below-grade improvements;
- Backfilling to original level of any depressions resulting from such removal; and
- Removal and disposal of trash, dumped material and other debris found on the site.

1.03 JOB CONDITIONS:

1.03.1 Traffic: Conduct site clearing operations to ensure minimum interference with roads, streets, and other adjacent occupied or used facilities. Do not close or obstruct streets, driveways, or other occupied or used facilities without permission from authorities having jurisdiction. Access to adjoining properties shall be maintained at all times. Work within an existing roadway shall be in accordance with VDOT's Work Area Protection Manual.

1.03.2 Protection of Existing Improvements: Provide protection necessary to prevent damage to existing improvements indicated to remain in place. Protect improvements on adjoining properties and within VDOT right of way. Restore damaged improvements to their original condition, as acceptable to parties having jurisdiction.

1.03.3 Protection of Existing Trees and Vegetation: Protect existing trees and other vegetation indicated to remain in place, against unnecessary cutting, breaking or skinning of roots, skinning and bruising of bark, smothering of trees by stockpiling construction materials or excavated materials within drip line, excess foot or vehicular traffic, or parking of vehicles within drip line. Provide temporary guards to protect trees and vegetation to be left standing.

PART 2 - PRODUCTS

Required erosion control measures shall be as specified in the VDOT Road and Bridge Specifications and Virginia Erosion and Sediment Control Handbook.

PART 3 - EXECUTION

3.01 SITE CLEARING:

3.01.1 General: Remove trees, grass and other vegetation, improvements, or obstructions interfering with installation of new construction in accordance with VDOT Specifications Section 301. Remove such items elsewhere on site as specifically indicated on the plans. Only remove those items necessary to perform the work. Install any necessary erosion control measures prior to any land disturbing activity.

3.01.2 Topsoil: Topsoil is defined as friable clay loam surface soil found in a depth of not less than 4 inches. Satisfactory topsoil is reasonably free of subsoil, clay lumps, stones, and other objects over 1 inch in diameter, and without weeds, roots, and other objectionable material. Remove heavy growths of grass from areas before stripping. Strip and stockpile topsoil in accordance with VDOT Specifications Section 303.04.a

Strip topsoil to whatever depths encountered in a manner to prevent intermingling with underlying subsoil or other objectionable material.

Stockpile topsoil in storage piles in such a manner as to freely drain surface water. Cover storage piles if required to prevent wind-blown dust, and seed excess topsoil storage piles in accordance with temporary seeding requirements. Provide perimeter silt fencing around stockpile area to prevent silt from leaving stockpile area site. **Only stockpile that topsoil necessary to provide for final grassed surfaces. Waste excess topsoil off-site or use to flatten fill slopes as directed by the Engineer.**

- 3.01.3 Clearing and Grubbing: Clear site of trees, shrubs and other vegetation, except for those indicated to be left standing, in accordance with Section 301 of the VDOT specifications. Completely remove stumps, roots, and other debris protruding through ground surface that will be less than 5 ft. below the top of earthwork.

Use only hand methods for grubbing inside drip line of trees to be left standing. Hand cut interfering roots of all trees indicated to remain. Protect existing root systems from damage or dryout to the greatest extent possible. Maintain moist condition for root system and cover exposed roots with burlap. Paint root cuts of 1in. diameter and larger with emulsified asphalt tree paint.

- 3.01.4 Removal of Improvements: Remove existing above- and below-grade improvements necessary to permit construction, and other work as indicated.

- 3.01.5 Backfilling of Depressions: Fill depressions caused by clearing and grubbing operations with satisfactory soil material, unless further excavation or earthwork is indicated. Place fill material in horizontal layers not exceeding 6 in. loose depth, and thoroughly compact to a density equal to adjacent original ground.

3.02 DISPOSAL OF EXCESS AND WASTE MATERIALS:

- 3.02.1 Burning On Site: On-site burning of existing trees, shrubs and other vegetation in the project area will be allowed on this project. Contractor shall coordinate with Augusta County Fire Rescue at (540) 245-5061. Ashes and remaining unburned material shall not be placed in fill but will instead be disposed of offsite.

- 3.02.2 Removal from Site: Remove all waste materials, trash, and debris from the road right of way and dispose of it off site in accordance with Section 106.04 of the VDOT Specifications.

- 3.02.3 Disposal on Site: No on-site disposal areas are available on this project.

END OF SECTION 02100

SECTION 02200 - EARTHWORK

PART 1 - GENERAL

1.01 RELATED DOCUMENTS:

Drawings and general provisions of Contract, including General and Supplemental Conditions and other Specification sections, apply to work of this section.

Virginia Department of Transportation (VDOT) Road and Bridge Specifications, Road and Bridge Standards and Work Area Protection Manual, all latest edition.

Virginia Erosion and Sediment Control Handbook, latest edition.

1.02 DESCRIPTION OF WORK:

Work under this section includes, but is not limited to:

Stripping of topsoil and excavation for walking trail, installation of pond risers, earthfill on upstream face of dam, spillway excavation, forebays, low flow channel; and spreading of topsoil for all areas to be seeded as specified in the drawings.

- 1.02.1 **Definitions:** "Excavation" consists of removal and placement of material to required subgrade **and or** subsoil elevations indicated, and the subsequent disposal of materials removed. "Subgrade" is defined as the undisturbed earth, or the compacted soil layer, immediately below the finished pad elevations, drainage fill, or topsoil materials. "Subsoil" is defined as the undisturbed earth immediately below the existing topsoil layer.

1.03 QUALITY ASSURANCE:

- 1.03.1 Codes and Standards: Perform excavation and embankment work in compliance with VDOT Specifications unless otherwise modified herein.
- 1.03.2 Testing and Inspection: The Contractor shall comply with Special Provision – Construction Quality Control Plan (1-26-17) to perform soil testing and quality control inspection services during earthwork operations.

1.04 JOB CONDITIONS:

- 1.04.1 **Suitability of Materials:** The Contractor shall be responsible for the disposal of excess material (including but not limited to undercut, root mat and excess topsoil and fill material), obtaining borrow material and the suitability of all on-site material above subgrade. No extra payment will be made, regardless of the suitability or unsuitability of on-site soils for the disposal or importing of soils to the project site.
- 1.04.2 Geotechnical Report: Limited geotechnical information is available for these projects. Reports by the Timmons Group, titled **Geotechnical Engineering Report – Lifecore Drive Shared Use Facility, Augusta County, Virginia Job Number : 34049.001**, dated April 15, 2016, and titled **Geotechnical Engineering Report – Route 608 Widening Tinkling Spring Road, Augusta County, Virginia Job Number: 34049.002**, dated March 8, 2016, are for informational purposes only and should not be considered part of the contract documents. The opinions expressed represent the Geotechnical Engineer's interpretation of the subsurface conditions, tests, and the results of analyses conducted. Should the data contained in these reports not be adequate for the Contractor's purposes, the Contractor may make before bidding, at his own expense, independent exploration, tests and analyses.
- 1.04.3 Site Drainage: Control of surface drainage and groundwater is critical because of the moisture sensitivity of on-site soils. The Contractor shall be required to provide adequate and positive site drainage throughout construction. Any subgrade soils which have been weakened due to inadequate drainage, saturation and or disturbance shall be undercut and replaced with compacted structural fill at no additional cost to the Owner.
- 1.04.4 Existing Utilities: Locate existing underground utilities in areas of work. If utilities are to remain in place, provide adequate means of support and protection during earthwork operations. Provide minimum of 48-hour notice to the Engineer, and receive written notice to proceed before interrupting any utility.

Should uncharted, or incorrectly charted, piping or other utilities be encountered during excavation, consult utility owner immediately for directions. Cooperate with Engineer and utility companies in keeping respective services and facilities in operation. Repair damaged utilities to satisfaction of utility owner.

- 1.04.5 Protection of Persons and Property: Work within existing roadways shall meet all requirements of VDOT's Work Area Protection Manual. Access to adjoining properties must be maintained at all times. Barricade open excavations occurring as part of this work and post with warning lights.

Protect structures, utilities, sidewalks, pavements, and other facilities from damage caused by settlement, lateral movement, undermining, washout and other hazards created by earthwork operations.

PART 2 - PRODUCTS

2.01 SOIL MATERIALS:

- 2.01.1 Satisfactory Soil Materials are defined as on-site soils complying with ASTM D2487 soil classification groups CL, ML, SC, SM, SP, SW, GC, GM, GP, GW, MH or CH. If any CH or MH materials to be used as fill, such use shall be permitted only if approved by the Owner's Geotechnical Engineer, and they should be blended with more granular or less plastic material (CL, ML, SC, SM, SP, SW, GC, GM, GP, GW) and/or placed in the lower portions of the fills. Borrow material from off-site sources shall classify CL or better, shall have a minimum CBR value of 6 in accordance with VDOT VTM-8 and must be approved by the Engineer prior to placement.
- 2.01.2 Unsatisfactory Soil Materials are defined as those complying with ASTM D2487 soil classification groups OL, OH, and PT.
- 2.01.3 Backfill and Fill Materials: Satisfactory soil materials free of clay, rock or gravel larger than 2 in. in any dimension, organic matter, clearing debris, waste, frozen materials, and other deleterious matter, and meeting the requirements of Section 2.01.1.
- 2.01.5 Topsoil as defined in Section 02100.

PART 3 - EXECUTION

3.01 EXCAVATION:

- 3.01.1 Excavation is Unclassified, and includes excavation to subgrade elevations indicated, **regardless of character of materials and obstructions encountered.**
- 3.01.2 Unauthorized Excavation consists of removal of materials beyond indicated subgrade elevations or dimensions without specific direction of the Engineer. Unauthorized excavation, as well as remedial work directed by the Engineer, shall be at the Contractor's expense. Backfill and compact unauthorized excavations in the same manner as specified for authorized excavations of same classification, unless otherwise directed by the Engineer.
- 3.01.3 Undercut Excavation: When excavation has reached required sub-grade elevations, notify the Engineer who will make an inspection of conditions. If unsuitable bearing material is encountered at required subgrade elevations, carry excavations deeper as directed by the Engineer.
- 3.01.4 The limits and depth of undercut shall be as directed by the Engineer and adjustments to the Lump Sum contract price shall be made where appropriate. Measurement and basis for any additional payment (or credit as the case may be) shall be made based on the unit prices included in the contract for Excess Excavation (off-site disposal), Geotextile Fabric and or other items as may be appropriate.

Undercut required for the installation of pipe culverts and bedding materials shall not be classified as undercut excavation and shall be included in the unit price of the pipe.

- 3.01.5 Stability of Excavations: Slope sides of excavations to comply with Virginia OSHA for the construction industry by the Department of Labor and Industry. Shore and brace where sloping is not possible because of

space restrictions or stability of material excavated. Maintain sides and slopes of excavations in safe condition until completion of backfilling.

- 3.01.6 Dewatering: Prevent surface water and subsurface or groundwater from flowing into excavations and from flooding project site and surrounding area. Maintain positive drainage away from the construction area at all times.

Do not allow water to accumulate in excavations. Remove water to prevent soil changes detrimental to stability of subgrade. Provide and maintain pumps, well points, sumps, suction and discharge lines, and other dewatering system components necessary to convey water away from excavations. Establish and maintain temporary drainage ditches and other diversions outside excavation limits to convey stormwater and water removed from excavations to collecting or run-off areas. Do not use trench excavations as temporary drainage ditches.

- 3.01.7 Material Storage: Stockpile satisfactory excavated materials on site in a location as generally shown on the plans until required for backfill or fill. Alternate locations may be approved by the Engineer with appropriate Erosion & Sediment Control measures. Place, grade and shape stockpiles for proper drainage. Locate and retain soil materials away from edge of excavations. Do not store within drip line of trees indicated to remain.

- 3.01.8 Excavation for Pavements: Cut surface under proposed pavements to comply with cross-sections, elevations and grades as shown on the contract plans and in accordance with VDOT Specifications.

- 3.01.9 Cold Weather Protection: Protect excavation bottoms against freezing when atmospheric temperature is less than 35°F (1°C).

3.02 BACKFILL AND FILL:

- 3.02.1 General: Place acceptable soil material in layers to required subgrade elevations, for each area classification listed below.

In excavations, use satisfactory excavated or borrow material.

Topsoil use satisfactory topsoil and place in a minimum depth as stated in on the contract drawings for all areas to be seeded or landscaped.

Under grassed areas, use satisfactory excavated or borrow material.

Under curb and pavements, use subbase material.

- 3.02.2 Ground Surface Preparation: Remove vegetation, debris, unsatisfactory soil materials, and deleterious materials from ground surface prior to placement of fills in accordance with Section 02100 and as described herein. Existing slopes shall be continuously benched where embankments are constructed one-half width at a time; against slopes of existing embankments or hillsides; or across existing embankments, hillsides, and depressions at a skew angle of 30 degrees or more or the existing slopes are steeper than 4:1. For slopes steeper than 4:1 but not steeper than 1-1/2:1, the bench shall be at least 6 feet in width. For slopes steeper than 1-1/2:1 but less than 1/2:1, the bench shall be at least 4 feet in width. Benching shall consist of a series of horizontal cuts beginning at the intersection with the original ground and continuing at each vertical intersection of the previous cut. Material removed during benching operations shall be placed and compacted as embankment material.

When existing ground surface has a density less than that specified under "Compaction" for particular area classification, break up the top 1 ft. of subgrade, pulverize, moisture-condition to optimum moisture content ($\pm 3\%$), and compact to the required percentage of maximum density, unless otherwise directed by the Engineer.

- 3.02.3 Fill Placement: Place backfill and fill materials in layers not more than 8 in. loose depth for material compacted by heavy compaction equipment, and not more than 4 in. in loose depth for material compacted by hand-operated tampers.

Before compaction, moisten or aerate each layer as necessary to provide optimum moisture content ($\pm 3\%$). Compact each layer to required percentage of maximum dry density for each area classification. Do not place backfill or fill material on surfaces that are muddy, frozen, or contain frost or ice.

Place backfill and fill materials evenly adjacent to structures, piping or conduit to required elevations. Take care to prevent wedging action of backfill against structures or displacement of piping or conduit by carrying material uniformly around structure, piping or conduit to approximately same elevation in each lift.

3.03 GRADING:

- 3.03.1 General: Grading operations shall comply with VDOT Specifications, Section 303. Uniformly grade areas within limits of grading under this section, including adjacent transition areas. Smooth finished surface within specified tolerances (VDOT Specifications, Section 303.05), compact with uniform levels or slopes between points where elevations are indicated, or between such points and existing grades.

Construction activities shall be planned to maintain positive drainage away from the construction area throughout grading operations.

3.04 COMPACTION:

- 3.04.1 General: Compact soil in accordance with VDOT Specifications, Section 303.04.

The density of the structural compact fill shall not be less than ninety five percent (95%) of the maximum dry density as determined by Standard Proctor Method (ASTM D-698).

- 3.04.2 Moisture Control: Where subgrade must be moisture-conditioned before compaction, uniformly apply water to surface of subgrade or layer of soil material to prevent free water appearing on surface during or subsequent to compaction.

Remove and replace, or scarify and air dry, soil material that is too wet to permit compaction to specified density. Soil material that has been removed because it is too wet to permit compaction may be stockpiled or spread and allowed to dry. Assist drying by discing, harrowing or pulverizing until moisture content is reduced to satisfactory value.

3.05 FIELD QUALITY CONTROL:

- 3.05.1 Quality Control Testing during Construction: Allow Engineer to inspect and approve subgrade and fill layers before further construction work is performed. The Contractor shall comply with Special Provision – Construction Quality Control Plan (1-26-17) to perform field density determinations and quality control inspection services.

3.06 MAINTENANCE:

- 3.06.1 Protection of Graded Areas: Protect newly graded areas from traffic and erosion. Keep free of trash and debris. Repair and re-establish grades in settled, eroded, and rutted areas to specified tolerances.

- 3.06.2 Reconditioning Compacted Areas: Where completed compacted areas are disturbed by subsequent construction operations or adverse weather, scarify surface, re-shape, and compact to required density prior to further construction.

3.06.3 Settling: Where settling is measurable or observable at excavated areas during general project warranty period, remove surface (pavement, lawn or other finish), add backfill material, compact, and replace surface treatment. Restore appearance, quality, and condition of surface or finish to match adjacent work, and eliminate evidence of restoration to greatest extent possible.

3.08 DISPOSAL OF EXCESS AND WASTE MATERIALS:

3.08.1 Removal from Right-of-Way: Remove waste, trash, and debris, and dispose of it in a legal manner off site. Excess topsoil, rootmat and other unsuitable soil materials shall be disposed of offsite unless otherwise directed by the Engineer.

END OF SECTION 02200

SECTION 02713 – WATER DISTRIBUTION SYSTEM

PART 1 - GENERAL

1.01 All work shall conform to the latest edition of the Augusta County Service Authority Design and Construction Standards. The Standards are to be used throughout these projects. The Standards can be obtained from Mr. Matt Morris (540-245-5073) or from the web site at ACSAwater.com. There is no charge for these Standards.

PART 2 – PRODUCTS

2.01 All products shall conform to the latest edition of the Augusta County Service Authority Design and Construction Standards. The Augusta County Service Authority Approved Products List can be obtained from Mr. Matt Morris (540-245-5073) or from the web site at ACSAwater.com.

PART 3 – EXECUTION

3.01 All work shall conform to the latest edition of the Augusta County Service Authority Design and Construction Standards.

PART 4 – TESTING

4.01 All work shall conform to the latest edition of the Augusta County Service Authority Design and Construction Standards. The contractor shall be responsible for all required line, structure and compaction testing as outlined in the Special Provision – Construction Quality Control Plan.

END OF SECTION 02713



DEPARTMENT OF THE ARMY
NORFOLK DISTRICT, CORPS OF ENGINEERS
FORT NORFOLK, 803 FRONT STREET
NORFOLK, VIRGINIA 23510-1096

May 10, 2016

REPLY TO
ATTENTION OF:

Western Virginia Regulatory Section
NAO-2015-02022

Augusta County
Department of Community Development
Attn: Jerry VanLear
P.O. Box 590
Verona, Virginia 24482

Dear Mr. VanLear:

This is in regard to your Department of the Army permit application number NAO-2015-02022 place fill in waters of the U.S. for the construction of paths, trails, bike lanes and facilities. Work will occur per plans on file at this office. The project is located near LifeCore Drive, Augusta County Virginia.

Your proposed work as outlined above satisfies the criteria contained in the Corps Nationwide Permit(s) (23) attached. The Corps Nationwide Permits were published in the February 21, 2012 Federal Register notice (77 FR 10184) and the regulations governing their use can be found in 33 CFR 330 published in Volume 56, Number 226 of the Federal Register dated November 22, 1991.

Provided the project specific conditions (above) and the Nationwide Permit General Conditions (enclosed) are met, an individual Department of the Army Permit will not be required. In addition, the Virginia Department of Environmental Quality has provided an unconditional §401 Water Quality Certification for Nationwide Permit Number(s) 23. A permit may be required from the Virginia Marine Resources Commission and/or your local wetlands board, and this verification is not valid until you obtain their approval, if necessary. This authorization does not relieve your responsibility to comply with local requirements pursuant to the Chesapeake Bay Preservation Act (CBPA), nor does it supersede local government authority and responsibilities pursuant to the Act. You should contact your local government before you begin work to find out how the CBPA applies to your project.

Enclosed is a "compliance certification" form, which must be signed and returned within 30 days of completion of the project, including any required mitigation. Your signature on this form certifies that you have completed the work in accordance with the nationwide permit terms and conditions.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2017. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit unless discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 330.4(e) and 33 CFR 330.5 (c) or (d). Project specific conditions listed in this letter continue to remain in effect after the NWP verification expires, unless the district engineer removes those conditions. Activities completed under the authorization of an NWP which was in effect at the time the activity was completed continue to be authorized by that NWP.

If you have any questions, please contact me at (434) 973-0568 or Vincent.d.pero@usace.army.mil

Sincerely,

Vincent D. Pero
Western Virginia Regulatory Section

Nationwide Permit (23) Approved Categorical Exclusions (3/19/2012)

Activities undertaken, assisted, authorized, regulated, funded, or financed, in whole or in part, by another Federal agency or department where:

- (a) That agency or department has determined, pursuant to the Council on Environmental Quality's implementing regulations for the National Environmental Policy Act (40 CFR part 1500 et seq.), that the activity is categorically excluded from environmental documentation, because it is included within a category of actions which neither individually nor cumulatively have a significant effect on the human environment; and
- (b) The Office of the Chief of Engineers (Attn: CECW-CO) has concurred with that agency's or department's determination that the activity is categorically excluded and approved the activity for authorization under NWP 23.

The Office of the Chief of Engineers may require additional conditions, including pre-construction notification, for authorization of an agency's categorical exclusions under this NWP.

Notification: Certain categorical exclusions approved for authorization under this NWP require the permittee to submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 31). The activities that require pre-construction notification are listed in the appropriate Regulatory Guidance Letters. (Sections 10 and 404)

Note: The agency or department may submit an application for an activity believed to be categorically excluded to the Office of the Chief of Engineers (Attn: CECW-CO). Prior to approval for authorization under this NWP of any agency's activity, the Office of the Chief of Engineers will solicit public comment. As of the date of issuance of this NWP, agencies with approved categorical exclusions are the: Bureau of Reclamation, Federal Highway Administration, and U.S. Coast Guard. Activities approved for authorization under this NWP as of the date of this notice are found in Corps Regulatory Guidance Letter 05-07, which is available at: <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/GuidanceLetters.aspx>. Any future approved categorical exclusions will be announced in Regulatory Guidance Letters and posted on this same web site.

REGIONAL CONDITIONS:

1. **Conditions Specific to NWP 23:**

- 1) The use of this NWP applies to an entire project addressed in the Categorical Exclusion prepared by another Federal agency. This NWP cannot be used separately at individual crossings/impact areas of a single project. However, multiple crossings/impact areas of a single project can be authorized by this NWP provided the combined impacts of all crossings/impact areas do not exceed the thresholds described below. This NWP cannot be used in combination with other NWPs for a single project.
- 2) Discharges from an entire project must not cause a combined loss of greater than ½ acre of wetlands.
- 3) The prospective permittee must notify the District Commander, via a pre-construction notification (PCN) if there is a discharge in special aquatic sites, including wetlands, and/or resulting in combined impacts to more than 300 linear feet of streambed resulting from the entire project (send notification to the Norfolk District Corps of Engineers, Regulatory Branch, 803 Front St., Norfolk, VA 23510-1096). Written verification from this office must be received before performing the proposed work. The PCN must be in writing and include

the following information (the Joint Permit Application may also be used; the Virginia Department of Transportation may use their application form):

- Name, address, and telephone number of the prospective permittee.
- Location of the proposed project.
- Vicinity map and project drawings on 8.5-inch by 11-inch paper (plan view, profile, & cross section).
- Brief description of the proposed project and the project purpose.
- A delineation of affected special aquatic sites, including wetlands.
- Statement describing how losses of the waters of the United States will be avoided and minimized to the maximum extent practicable.
- Compensatory mitigation proposal to offset permanent losses of waters of the United States.

When all of the required information is received, the Corps will notify the prospective permittee within 45 days of receipt of all information either that the project may proceed under the nationwide permit or that an individual permit is required. If, after reviewing the PCN, the District Commander determines that the proposed activity would have more than a minimal individual or cumulative adverse impact on the aquatic environment or otherwise may be contrary to the public interest, then he/she will either condition the nationwide permit authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the activity is not authorized by the nationwide permit and will provide the prospective permittee with instructions on how to seek authorization under an individual permit. If the prospective permittee is not notified otherwise within the 45-day period, he/she may presume the activity is authorized under this NWP.

- 4) To ensure that permanent losses of waters of the United States do not result in more than minimal adverse effects to the aquatic environment, compensation will be required for all wetland impacts and for any single impact to a stream of greater than 300 linear feet. For projects where the combined impacts to streams due to the entire project exceed 300 linear feet, but no single impact exceeds 300 linear feet, the Corps will determine on a case-by-case basis whether compensation for stream impacts is required.
2. **Conditions for Waters Containing Submerged Aquatic Vegetation (SAV) Beds:** A pre-construction notification (PCN) is required if work will occur in areas that contain submerged aquatic vegetation (SAVs). Information about SAVs can be found at the Virginia Institute of Marine Science's website: <http://www.vims.edu/bio/sav/>. Additional avoidance and minimization measures, such as relocating a structure or time-of-year (TOYR) restrictions may be required to reduce impacts to SAVs.
3. **Conditions for Anadromous Fish Use Areas:** To ensure that activities authorized by this Nationwide Permit (NWP) do not impact waterways documented to provide spawning habitat or a migratory pathway for anadromous fish, a check for anadromous fish use areas must be conducted via the Norfolk District's Regulatory GIS (for reporting permits) and/or the Virginia Department of Game and Inland Fisheries (VDGIF) Information System (by applicant for non-reporting permits) at <http://vafwis.org/fwis/>. If the project is located in an area documented as an anadromous fish use area (confirmed or potential), a time-of-year restriction (TOYR) prohibiting all in-water work will be required from February 15 to June 30 of any given year or any TOYR specified by VDGIF and/or Virginia Marine Resources Commission (VMRC). For permits requiring a PCN, if the Norfolk District determines that the work is minimal and the TOYR is unnecessary, informal consultation will be conducted with NOAA Fisheries Service (NOAA) to obtain concurrence that the TOYR would not be required for the proposed activity.
4. **Conditions for Designated Critical Resource Waters, which include National Estuarine Research Reserves:** Notification is required for work under this NWP in the Chesapeake Bay National Estuarine Research Reserve in Virginia. This multi-site

system along a salinity gradient of the York River includes Sweet Hall Marsh, Taskinas Creek, Catlett Island, and Goodwin Islands. More information can be found at: <http://www.vims.edu/cbner/>.

5. **Conditions for Federally Listed Species and Designated Critical Habitat:** Notification for this NWP will be required for any project that may affect a federally listed threatened or endangered species or designated critical habitat. The U.S. Fish and Wildlife Service (Service) has developed an online system that allows users to find information about sensitive resources that may occur within the vicinity of a proposed project. This system is named "Information, Planning and Conservation System," (IPaC), and is located at: <http://ecos.fws.gov/ipac/>. This system provides information regarding federally listed and proposed candidate, threatened, and endangered species, designated critical habitats, and Service refuges that may occur in the identified areas, or may be affected by the proposed activities. The applicant may use this system to determine if any federally listed species or designated critical habitat may be affected by their proposed project, ensuring compliance with the Endangered Species Act.
6. **Conditions for Waters with Federally Listed Endangered or Threatened Species, Waters Federally Designated as Critical Habitat, and One-mile Upstream (including tributaries) of Any Such Waters:** A pre-construction notification (PCN) is required for work in the areas listed below for the Counties of Lee, Russell, Scott, Tazewell, Wise, and Washington in Southwestern Virginia within the following specific waters and reaches:
 - 1) Powell River - from the Tennessee-Virginia state line upstream to the Route 58 Bridge in Big Stone Gap and one mile upstream of the mouth of any tributary adjacent to this portion of the River.
 - 2) Clinch River - from the Tennessee-Virginia state line upstream to Route 632 at Pisgah in Tazewell County and one mile upstream of the mouth of any tributary adjacent to this portion of the River, the Little River to its confluence with Maiden Spring Creek, and one mile upstream of the mouth of any tributary adjacent to this portion of Little River.
 - 3) North Fork Holston River - from the Tennessee-Virginia state line upstream to the Smyth County/Bland County line and one mile upstream of any tributary adjacent to this portion of the River.
 - 4) Copper Creek - from its junction with the Clinch River upstream to the Route 58 bridge at Dickensonville in Russell County and one mile upstream of any tributary adjacent to this portion of the Creek.
 - 5) Indian Creek - from its junction with the Clinch River upstream to the fourth Norfolk and Western Railroad bridge at Van Dyke in Tazewell County and one mile upstream of the mouth of any tributary adjacent to this portion of the Creek.
 - 6) Middle Fork Holston River - from the Tennessee-Virginia state line to its junction with Walker Creek in Smyth County near Marion, Virginia.
 - 7) South Fork Holston River - from its junction with Middle Fork Holston River upstream to its junction with Beech Creek in Washington County.

For activities requiring a PCN to work in specific waters and reaches, as described above, in the counties of Lee, Russell, Scott, Smyth, Tazewell, Wise, and Washington in southwestern Virginia, it is recommended that the prospective permittee first contact the applicable Norfolk District Field Office, found at this web link: <http://www.nao.usace.army.mil/Missions/Regulatory/SouthwestContacts.aspx> to determine if the PCN procedures would apply. If required, the PCN must be submitted in writing and include the following information (the Joint Permit Application may also be used – be sure to mark it with the letters PCN at the top of the first page):

- Name, address, and telephone number of the prospective permittee.
- Location of the proposed project.

- Vicinity map and project drawings on 8.5-inch by 11-inch paper (including a plan view, profile, & cross-sectional view).
- Brief description of the proposed project and the project purpose.
- Where required by the terms of the NWP, a delineation of affected special aquatic sites, including wetlands.

When all required information is received by the appropriate field office, the Corps will notify the prospective permittee within 45 days whether the project may proceed under the NWP permit or whether an individual permit is required. If, after reviewing the notification, the District Commander determines that the proposed activity would have more than a minimal individual or cumulative adverse impact on the aquatic environment or otherwise may be contrary to the public interest, then he/she will either condition the nationwide permit authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the activity is not authorized by the nationwide permit and provide the prospective permittee with instructions on how to seek authorization under an individual permit.

Non-federal applicants shall notify the District Commander if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the District Commander that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the PCN must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The District Commander will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete PCN. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

7. **Conditions for Designated Trout Waters:** Notification is required for work in the areas listed below for this NWP. This condition applies to activities occurring in two categories of waters: Class V (Put and Take Trout Waters) and Class VI (Natural Trout Waters), as defined by the Virginia State Water Control Board Regulations, Water Quality Standards (VR-680-21-00), dated January 1, 1991, or the most recently updated publication. The Virginia Department of Game and Inland Fisheries (VDGIF) designated these same trout streams into six classes. Classes I-IV are considered wild trout streams. Classes V and VI are considered stockable trout streams. Information on designated trout streams can be obtained via their Virginia Fish and Wildlife Information Service's (VAFWIS's) Cold Water Stream Survey database. Basic access to the VAFWIS is available via <http://vafwis.org/vfwis/>.

The waters, occurring specifically within the mountains of Virginia, are within the following river basins:

- 1) Potomac-Shenandoah River Basins
- 2) James River Basin
- 3) Roanoke River Basin
- 4) New River Basin
- 5) Tennessee and Big Sandy River Basins
- 6) Rappahannock River Basin

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VDGIF recommends the following time-of-year restrictions (TOYR) for any in-stream work within streams identified as wild trout waters in its Cold Water Stream Survey database. The recommended TOYR for trout species are:

- Brook Trout: October 1 through March 31
- Brown Trout: October 1 through March 31
- Rainbow Trout: March 15 through May 15

This condition applies to the following counties and cities: Albemarle, Allegheny, Amherst, Augusta, Bath, Bedford, Bland, Botetourt, Bristol, Buchanan, Buena Vista, Carroll, Clarke, Covington, Craig, Dickenson, Floyd, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Lee, Loudoun, Madison, Montgomery, Nelson, Page, Patrick, Pulaski, Rappahannock, Roanoke City, Roanoke Co., Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Staunton, Tazewell, Warren, Washington, Waynesboro, Wise, and Wythe.

Any discharge of dredged and/or fill material authorized by this NWP, which would occur in the designated waterways or adjacent wetlands of the specified counties, requires notification to the appropriate Corps of Engineers field office, and written approval from that office prior to performing the work. The Norfolk District recommends that prospective permittees first contact the appropriate field office by telephone to determine if the notification procedures would apply. The notification must be in writing and include the following information (the standard Joint Permit Application may also be used):

- Name, address, and telephone number of the prospective permittee.
- Location of the proposed project.
- Vicinity map and project drawings on 8.5-inch by 11-inch paper (plan view, profile, & cross-sectional view).
- Brief description of the proposed project and the project purpose.
- Where required by the terms of the nationwide permit, a delineation of affected special aquatic sites, including wetlands.

When all required information is received by the appropriate field office, the Corps will notify the prospective permittee within 45 days whether the project can proceed under the NWP or whether an individual permit is required. If, after reviewing the notification, the District Commander determines that the proposed activity would have more than minimal individual or cumulative adverse impacts on the aquatic environment or otherwise may be contrary to the public interest, then he/she will either condition the nationwide permit authorization to reduce or eliminate the adverse impacts, or notify the prospective permittee that the activity is not authorized by the NWP and provide instructions on how to seek authorization under an individual permit. If the prospective permittee is not notified otherwise within the 45-day period the prospective permittee may assume that the project can proceed under the NWP.

8. Conditions Regarding Invasive Species: Plant species listed by the most current *Virginia Department of Conservation and Recreation's Invasive Alien Plant List* shall not be used for re-vegetation for activities authorized by any NWP. The list of invasive plants in Virginia may be found at: http://www.dcr.virginia.gov/natural_heritage/documents/invlist.pdf.
9. Conditions Pertaining to Countersinking of Pipes and Culverts in Nontidal Waters:

NOTE: COUNTERSINKING IS NOT REQUIRED IN TIDAL WATERS. However, replacement pipes/culverts in tidal waters must be installed with invert elevations no higher than the existing pipe/culvert invert elevation, and a new pipe/culvert must be installed with the invert no higher than the stream bottom elevation.

- a. Following consultation with the Virginia Department of Game and Inland Fisheries (DGIF), the Norfolk District has determined that fish and other aquatic organisms are most likely present in any stream being crossed, in the absence of site-specific evidence to the contrary. Although prospective permittees have the option of providing such evidence, extensive efforts to collect such information is not encouraged, since countersinking will in most cases be required except as outlined in the conditions below.
- b. All pipes: All pipes and culverts placed in streams will be countersunk at both the inlet and outlet ends, unless indicated otherwise by the Norfolk District on a case-by-case basis (see below). Pipes that are 24" or less in diameter shall be countersunk 3" below the natural stream bottom. Pipes that are greater than 24" in diameter shall be countersunk 6" below the natural stream bottom. The countersinking requirement does not apply to bottomless pipes/culverts or pipe arches. All single pipes or culverts (with bottoms) shall be depressed (countersunk) below the natural streambed at both the inlet and outlet of the structure. In sets of multiple pipes or culverts (with bottoms) at least one pipe or culvert shall be depressed (countersunk) at both the inlet and outlet to convey low flows.
- c. Exemption for extensions and certain maintenance: The requirement to countersink does not apply to extensions of existing pipes or culverts that are not countersunk, or to maintenance to pipes/culverts that does not involve replacing the pipe/culvert (such as repairing cracks, adding material to prevent/correct scour, etc.).
- d. Floodplain pipes: The requirement to countersink does not apply to pipes or culverts that are being placed above ordinary high water, such as those placed to allow for floodplain flows. The placement of pipes above ordinary high water is not jurisdictional (provided no fill is discharged into wetlands).
- e. Hydraulic opening: Pipes should be adequately sized to allow for the passage of ordinary high water with the countersinking and invert restrictions taken into account.
- f. Pipes on bedrock or above existing utility lines: Different procedures will be followed for pipes or culverts to be placed on bedrock or above existing buried utility lines where it is not practicable to relocate the lines, depending on whether the work is for replacement of an existing pipe/culvert or a new pipe/culvert:
 - i. Replacement of an existing pipe/culvert: Countersinking is not required provided the elevations of the inlet and outlet ends of the replacement pipe/culvert are no higher above the stream bottom than those of the existing pipe/culvert. Documentation (photographic or other evidence) must be maintained in the permittee's records showing the bedrock condition and the existing inlet and outlet elevations. That documentation will be available to the Norfolk District upon request, but notification or coordination with the Norfolk District is not otherwise required.
 - ii. A pipe/culvert is being placed in a new location: If the prospective permittee determines that bedrock or an existing buried utility line that is not practicable to relocate prevents countersinking, he/she should evaluate the use of a bottomless pipe/culvert, bottomless utility vault, span (bridge) or other bottomless structure to cross the waterway, and also evaluate alternative locations for the new pipe/culvert that will allow for countersinking. If the prospective permittee determines that neither a bottomless structure nor an alternative location is practicable, then he/she must submit a pre-construction notification (PCN) to the Norfolk District in accordance with General Condition 31 of the NWPs. In addition to the information required by General Condition 31, the prospective permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. Options that must be considered include partial

countersinking (such as less than 3" of countersinking, or countersinking of one end of the pipe), and constructing stone step pools, low rock weirs downstream, or other measures to provide for the movement of aquatic organisms. The PCN must also include photographs documenting site conditions. The prospective permittee may find it helpful to contact his/her regional fishery biologist for the Virginia Department of Game and Inland Fisheries (VDGIF), for recommendations about the measures to be taken to allow for fish movements. When seeking advice from VDGIF, the prospective permittee should provide the VDGIF biologist with all available information such as location, flow rates, stream bottom features, description of proposed pipe(s), slopes, etc. Any recommendations from VDGIF should be included in the PCN. The Norfolk District will notify the prospective permittee whether the proposed work qualifies for the nationwide permit within 45 days of receipt of a complete PCN. NOTE: Blasting of stream bottoms through the use of explosives is not acceptable as a means of providing for countersinking of pipes on bedrock.

- g. Pipes on steep terrain: Pipes being placed on steep terrain (slope of 5% or greater) must be countersunk in accordance with the conditions above and will in most cases be non-reporting. It is recommended that on slopes greater than 5%, a larger pipe than required be installed to allow for the passage of ordinary high water in order to increase the likelihood that natural velocities can be maintained. There may be situations where countersinking both the inlet and outlet may result in a slope in the pipe that results in flow velocities that cause excessive scour at the outlet and/or prohibit some fish movement. This type of situation could occur on the side of a mountain where falls and drop pools occur along a stream. Should this be the case, or should the prospective permittee not want to countersink the pipe/culvert for other reasons, he/she must submit a Pre-Construction Notification to the Norfolk District in accordance with General Condition 31 of the Nationwide Permits. In addition to the information required by General Condition 31, the prospective permittee must provide documentation of measures evaluated to minimize disruption of the movement of aquatic life as well as documentation of the cost, engineering factors, and site conditions that prohibit countersinking the pipe/culvert. The prospective permittee should design the pipe to be placed at a slope as steep as stream characteristics allow, countersink the inlet 3-6", and implement measures to minimize any disruption of fish movement. These measures can include constructing a stone step/pool structure, preferably using river rock/native stone rather than riprap, constructing low rock weirs to create a pool or pools, or other structures to allow for fish movements in both directions. Stone structures should be designed with sufficient-sized stone to prevent erosion or washout and should include keying-in as appropriate. These structures should be designed both to allow for fish passage and to minimize scour at the outlet. The quantities of fill discharged below ordinary high water necessary to comply with these requirements (i.e., the cubic yards of stone, riprap or other fill placed below the plane of ordinary high water) must be included in project totals. The prospective permittee may find it helpful to contact his/her regional fishery biologist for the Virginia Department of Game and Inland Fisheries (DGIF), for recommendations about the measures to be taken to allow for fish movements. When seeking advice from DGIF, the prospective permittee should provide the DGIF biologist with all available information such as location, flow rates, stream bottom features, description of proposed pipe(s), slopes, etc. Any recommendations from DGIF should be included in the PCN. The Norfolk District will notify the prospective permittee whether the proposed work qualifies for the nationwide permit within 45 days of receipt of a complete PCN.
- h. Problems encountered during construction: When a pipe/culvert is being replaced, and the design calls for countersinking at both ends of the pipe/culvert, and during construction it is found that the streambed/banks are

on bedrock, then the permittee must stop work and contact the Norfolk District (contact by telephone and/or email is acceptable). The permittee must provide the Norfolk District with specific information concerning site conditions and limitations on countersinking. The Norfolk District will work with the permittee to determine an acceptable plan, taking into consideration the information provided by the permittee, but the permittee should recognize that the Norfolk District could determine that the work will not qualify for a nationwide permit.

- i. Emergency pipe replacements: In the case of an emergency situation, such as when a pipe/culvert washes out during a flood, a permittee is encouraged to countersink the replacement pipe at the time of replacement, in accordance with the conditions above. However, if conditions or timeframes do not allow for countersinking, then the pipe can be replaced as it was before the washout, but the permittee will have to come back and replace the pipe/culvert and countersink it in accordance with the guidance above. In other words, the replacement of the washed out pipe is viewed as a temporary repair, and a countersunk replacement should be made at the earliest possible date. The Norfolk District must be notified of all pipes/culverts that are replaced without countersinking at the time that it occurs, even if it is an otherwise non-reporting activity, and must provide the permittee's planned schedule for installing a countersunk replacement (it is acceptable to submit such notification by email). The permittee should anticipate whether bedrock or steep terrain will limit countersinking, and if so, should follow the procedures outlined in (f) and/or (g) above.

10. Conditions for the Repair of Pipes:

NOTE: COUNTERSINKING IS NOT REQUIRED IN TIDAL WATERS. However, replacement pipes/culverts in tidal waters must be installed with invert elevations no higher than the existing pipe/culvert invert elevation, and a new pipe/culvert must be installed with the invert no higher than the stream bottom elevation.

If any discharge of fill material will occur in conjunction with pipe maintenance, such as concrete being pumped over rebar into an existing deteriorated pipe for stabilization, then:

- A. If the existing pipe or line of pipes are NOT currently countersunk:
- a. As long as the inlet and outlet invert elevations of at least one pipe located in the low flow channel are not being altered, and provided that no concrete apron is being constructed, then the work may proceed under the NWP for the other pipes, provided it complies with all other NWP General Conditions, including Condition 9 for Management of Water Flows. In such cases, notification to the Norfolk District Commander is not required, unless specified in the NWP Conditions for other reasons, and the permittee may proceed with the work.
- b. Otherwise, the prospective permittee must submit a pre-construction notification (PCN) to the Norfolk District Commander prior to commencing the activity. For all such projects, the following information should be provided:
- 1) Photographs of the existing inlet and outlet;
 - 2) A measurement of the degree to which the work will raise the invert elevations of both the inlet and outlet of the existing pipe;
 - 3) The reasons why other methods of pipe maintenance are not practicable (such as metal sleeves or a countersunk pipe replacement);
 - 4) Depending on the specific case, the Norfolk District may discuss potential fish usage of the waterway with the Virginia Department of Game and Inland Fisheries.
- The Norfolk District will assess all such pipe repair proposals in accordance with guidelines that can be found under "Pipe Repair Guidelines" at:

<http://www.nao.usace.army.mil/Missions/Regulatory/GuidanceDocuments.aSPX>

- c. If the Norfolk District determines that the work qualifies for the NWP, additional conditions will be placed on the verification. Those conditions can be found at the web link above (in item ii).
 - d. If the Norfolk District determines that the work does NOT qualify for the NWP, the applicant will be directed to apply for either an LOP-I permit (applicable only for Virginia Department of Transportation projects) or an individual permit. However, it is anticipated that the applicant will still be required to perform the work such that the waterway is not blocked or restricted to a greater degree than its current conditions.
- B. If the existing pipe or at least one pipe in the line of pipes IS countersunk and at least one pipe located in the low flow channel will continue to be countersunk, and no concrete aprons are proposed: No PCN to the Norfolk District is required, unless specified in the NWP Conditions for other reasons, and the permittee may proceed with the work.**
- C. If the existing pipe or at least one pipe in the line of pipes IS countersunk and no pipe will continue to be countersunk in the low flow channel: This work cannot be performed under the NWPs. The prospective permittee must apply for either a Letter of Permission 1 (LOP-I) permit (applicable only for VDOT projects) or an individual permit. However, it is anticipated that the prospective permittee will still be required to perform the work such that the waterway is not blocked or restricted more so than its current conditions.**
- D. Emergency situations: In the case of an emergency situation, a prospective permittee is encouraged to follow the above guidelines at the time of repair. However, if conditions or timeframes do not allow for compliance with the procedure outlined herein, then the pipe can be repaired as it was before the washout, but the prospective permittee will have to come back and replace or reconstruct the pipe/culvert in accordance with these guidelines. In other words, the repair of the pipe is viewed as a temporary fix, and an appropriate repair should be made at the earliest possible date. The Norfolk District must be notified of all pipes/culverts that are repaired without compliance with these guidelines at the time that the repair occurs, even if it is an otherwise non-reporting activity, and that notification must provide the prospective permittee's planned schedule for following these procedures and constructing an appropriate repair (it is acceptable to submit such notification by email).**

GENERAL CONDITIONS:

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR §§ 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR § 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation.

- a) No activity may cause more than a minimal adverse effect on navigation.
- b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

- c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
2. **Aquatic Life Movements.** No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.
3. **Spawning Areas.** Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. **Migratory Bird Breeding Areas.** Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. **Shellfish Beds.** No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.
6. **Suitable Material.** No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. **Water Supply Intakes.** No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. **Adverse Effects From Impoundments.** If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. **Management of Water Flows.** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. **Fills Within 100-Year Floodplains.** The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. **Equipment.** Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. **Soil Erosion and Sediment Controls.** Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high

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tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
 14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.
 15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.
 16. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
 17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
 18. Endangered Species.
 - a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
 - b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.
 - c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
 - d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.
 - e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
 - f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.noaa.gov/fisheries.html> respectively.
19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any "take" permits required under the U.S. Fish and Wildlife Service's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such "take" permits are required for a particular activity.
 20. Historic Properties.
 - a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
 - b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.
 - c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the

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- district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.
- d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
- e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.
21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.
- a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP's 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.
- b) For NWP's 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWP's only after it is determined that the impacts to the critical resource waters will be no more than minimal.
23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal.
- a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
- b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.
- c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.
- (1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.
- (2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.
- (3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) – (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).
- (4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.
- (5) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.
- d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.
- e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWP's. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP's.
- f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation

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(e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

- g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.
- h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.
24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.
25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.
28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:
- A statement that the authorized work was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions.
 - A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
 - The signature of the permittee certifying the completion of the work and mitigation.
31. Pre-Construction Notification.
- Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:
 - He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
 - 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the

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permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the United States expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- (4) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and
- (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

d) Agency Coordination:

- (1) The district engineer will consider any comments from Federal and state agencies

concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

- (2) For all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed, and for all NWP 48 activities that require pre-construction notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
- (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
- (4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

DISTRICT ENGINEER'S DECISION:

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. For a linear project, this determination will include an evaluation of the individual crossings to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings authorized by NWP. If an applicant requests a waiver of the 300 linear foot limit on impacts to intermittent or ephemeral streams or of an otherwise applicable limit, as provided for in NWPs 13, 21, 29, 36, 39, 40, 42, 43, 44, 50, 51 or 52, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in minimal adverse effects. When making minimal effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions

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to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

2. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.
3. If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either: (a) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or (c) that the project is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period, with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

FURTHER INFORMATION:

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.

5. NWPs do not authorize interference with any existing or proposed Federal project.

SECTION 401 WATER QUALITY CERTIFICATION (4/18/12):

The State Water Control Board has provided unconditional §401 Water Quality Certification for all of the Norfolk District Regional Conditions and for the following Nationwide Permits, as meeting the requirements of the Virginia Water Protection Permit Regulation, which serves as the Commonwealth's §401 Water Quality Certification: Nationwide Permits 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 13, 15, 20, 22, 23, 28, 30, 31, 33, 34, 35, 36, 37, 38, 45, 46, 49, and 50.

COASTAL ZONE MANAGEMENT ACT CONSISTENCY DETERMINATION (4/19/12):

Based on the comments submitted by the agencies administering the enforceable policies of the Virginia Coastal Zone Management Program (VCP), the Virginia Department of Environmental Quality (DEQ) concurs that the reissuance of the 2012 NWPs and Virginia Regional Conditions, as proposed, is consistent with the VCP provided that the following conditions, discussed below, are satisfied:

1. Prior to construction, applicants shall obtain all required permits and approvals not yet secured for the activities to be performed that are applicable to the VCP's enforceable policies and that applicants also adhere to all the conditions contained therein.
 - The Virginia Marine Resources Commission's (VMRC) concurrence of consistency with the subaqueous lands management enforceable policy is based on the recognition that prospective permittees may be required to obtain additional state and/or local approvals prior to commencement of work in waters of the United States from the VMRC and/or the local wetlands board. Such approvals must precede implementation of the projects.
 - Similarly, the Department of Conservation and Recreation, Division of Stormwater Management, Local Implementation (formerly the Division of Chesapeake Bay Local Assistance) concurs that the proposed action is consistent with the coastal lands management enforceable policy provided projects are designed and constructed in a manner consistent with all state and local requirements pursuant to the Chesapeake Bay Preservation Act ("the Act") (Virginia Code §10.1-2100 et seq.) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20 et seq.). Applicable projects must receive local approval to be consistent with the coastal lands management enforceable policy.
2. The State Water Control Board has provided §401 Clean Water Act Water Quality Certification for the NWPs and Virginia Regional Conditions. Therefore, the activities that qualify for the NWPs meet the requirements of DEQ's Virginia Water Protection Permit Regulation, provided that the permittee abides by the conditions of the NWP. As to the exceptions for activities that would otherwise qualify for one of these Nationwide Permits, the State will continue to process applications for individual §401 Certification through a Virginia Water Protection General or Individual Permit pursuant to 9 VAC 25-210-10 et seq. The Commonwealth requests that the Corps forward to DEQ pre-construction notifications for any activities that fall into an excepted category for individual review of certain activities.

In accordance with the *Federal Consistency Regulations* at 15 CFR Part 930, section 930.4, this conditional concurrence is based on the applicants demonstrating to the Corps that they have obtained, or will obtain, all necessary authorizations prior to implementing a project which qualifies for a NWP. If the requirements of section 930.4, sub-paragraphs (a)(1) through (a)(3) are not met, this conditional concurrence becomes an objection under 15 CFR Part 930, section 940.43.

SPECIAL PROVISION COPIED NOTEScn100-000050-01**VDOT SUPPLEMENTAL SPECIFICATIONS (SSs), SPECIAL PROVISIONS (SPs) AND SPECIAL PROVISION COPIED NOTES (SPCNs)**

Where Virginia Department of Transportation (VDOT) Supplemental Specifications, Special Provisions and Special Provision Copied Notes are used in this contract, the references therein to “the Specifications” shall refer to the *Virginia Department of Transportation Road and Bridge Specifications*, dated 2016 for both imperial and metric unit projects. References to the “Road and Bridge Standard(s)” shall refer to the *Virginia Department of Transportation Road and Bridge Standards*, dated 2008 for both imperial and metric unit projects. References to the “Virginia Work Area Protection Manual” shall refer to the 2011 edition of the *Virginia Work Area Protection Manual with Revision Number 1* incorporated, dated April 1, 2015 for imperial and metric unit projects. References to the “MUTCD” shall refer to the 2009 edition of the *MUTCD with Revision Numbers 1 and 2* incorporated, dated May 2012; and the 2011 edition of the *Virginia Supplement to the MUTCD with Revision Number 1* dated September 30, 2013 for imperial and metric unit projects.

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

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

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

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

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

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

10-6-16 (SPCN)

[cn100-000051-00](#)

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

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

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

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10-6-16 (SPCN)

[cn102-040100-00](#)

SEC.102.04(a)—EVIDENCE OF EXAMINATION OF SITE OF WORK AND PROPOSAL — Section 102.04(a) of the Specifications is amended to include the following:

Prospective Bidders are hereby advised that attendance of the Proj. Showing is a prerequisite for submitting a bid proposal for this project. The "Notice of Advertisement for Bids" will designate the date, time and location for showing the work for interested parties. Prospective Bidders shall register in writing with the Engineer at the Project Showing and all attending parties will be noted in the Project Showing letter. Failure on the part of the Prospective Bidder to attend the Project Showing for this project and to register with the Engineer will be cause for rejection of the Bidder's proposal.

7-12-16 (SPCN)

[cn102-050100-00](#)

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

(g) Compliance with the Cargo Preference Act

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

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States. a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

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

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

[cn108-060110-00](#)

SECTION 108.06(b) LIQUIDATED DAMAGES of the Specifications is replaced by the following:

All work for this Contract shall be completed and accepted on or before the time limit established in the Contract. In the event the Contractor fails to complete the work by the time limit, liquidated damages, representing the estimated additional cost of administration, engineering, supervision, inspection and other expenses will be charged against the Contractor in the amount of \$800.00 for each calendar day beyond the time limit, including Sundays and Holidays, in which the Contract remains in an incomplete state.

1-14-08; Reissued 7-12-16 (SPCN)

[cn302](#)

Pipe Backfill Material – Pipe backfill shall be performed in accordance with VDOT Standard PB-1 and Section 302.03(a) 2. g. of the Specifications unless noted herein. Regular Backfill material within the limits of roadway embankments and under existing or proposed roadway shall meet a minimum CBR value of 15.0 as determined by VTM-8. Ground line shall be considered the top of trench at the time of pipe installation. When pipe does not project above ground line, Regular Backfill shall extend to the top of the pipe trench in fills or subgrade in cuts. Outlet pipes for storm water management basins shall be installed as noted on the plans. The cost of furnishing, placing and compacting the Regular Backfill and disposing of unsuitable material excavated from the trench shall be included in the price of the pipe and will not be measured and for separate payment.

6-17-13 (SPCN)

cn302-030100-00

SECTION 302.03(b) PRECAST DRAINAGE STRUCTURES of the Specifications is amended to include the following:

Precast units, excluding concrete pipe, prestressed concrete items and soundwalls, conforming to the requirements herein will only be accepted under a Quality Control/Quality Acceptance Program (QC/QA). The Contractor shall have the producer perform quality control functions according to a Department approved QC/QA plan. Each piece, manufactured under the QC/QA program, in addition to the date and other required markings, shall be stamped with the letters (QC), as evidence that the required QC/QA procedures have been performed. Each shipping document shall be affixed with the following:

We certify that these materials have been tested and conform to VDOT Precast Concrete Products Quality Assurance Program

Signature and Title

1-14-08; Reissued 7-12-16 (SPCN)

cn303-000100-00

AGGREGATE MATERIAL shall be the size specified conforming to Section 203 of the Specifications. The aggregate shall be placed at locations shown on the plans or as directed by the Engineer. Aggregate material will be measured in units of tons for the size specified according to Section 109 of the Specifications. Payment will be made at the contract unit price per ton, which bid price shall be full compensation for furnishing, placing, and shaping and compaction, if required.

Payment will be made under:

Pay Item	Pay Unit
Aggregate Material (Size)	Ton

5-23-95c; Reissued 7-12-16 (SPCN)

cn303

SECTION 303 – EARTHWORK is amended as follows:

Section 303.04(a) Regular Excavation of the Specifications is amended to include the following: All Regular Excavation used to construct embankments for this project shall meet a minimum CBR value as shown on the plans as determined by VTM-8, shall not include USCS CH or MH soils unless stabilized with lime (per VTM-11) or cement (per VTM-72), or as approved by the District Materials Engineer. If the Contractor demonstrates that stabilization of the onsite excavation is the most cost effective construction method and pay items for manipulation and cement or lime are not included in the contract, the work will be measured and paid for in accordance with Section 109.05 of the Specifications.

Section 303.04(b) Borrow Excavation of the Specifications is amended to replace the fifth paragraph with the following: All Borrow Excavation for this project shall meet a minimum CBR value as shown on the plans as determined by VTM-8, shall not include USCS CH or MH soils unless stabilized with lime (per VTM-11) or cement (per VTM-72), or as approved by the District Materials Engineer. If the Contractor demonstrates that stabilization onsite excavation is

the most cost effective construction method and pay items for manipulation and cement or lime are not included in the contract, the work will be measured and paid for in accordance with Section 109.05 of the Specifications. If stabilization is used borrow excavation quantities will be adjusted in accordance with Section 104.02(a) of the Specifications.

Section 303.04(h) Embankments of the Specifications is amended to replace the twenty third paragraph with the following: All Embankment for this project shall meet a minimum CBR value as shown on the plans as determined by VTM-8, shall not include USCS CH or MH soils unless stabilized with lime (per VTM-11) or cement (per VTM-72), or as approved by the District Materials Engineer. If the Contractor demonstrates that stabilization of the onsite embankment is the most cost effective construction method and pay items for manipulation and cement or lime are not included in the contract, the work will be measured and paid for in accordance with Section 109.05 of the Specifications. If stabilization is used embankment quantities will be adjusted in accordance with Section 104.02(a) of the Specifications.

(10-6-16) SPCN

[cn315.05](#)

SECTION 315.05 (e) Density of the Specifications is amended to include the following:

For shared use paths constructed with a single lift of asphalt concrete, density measurement requirements will not be required. Compaction shall be completed with a minimum of 5 passes with at least an 8 ton steel wheel roller meeting the requirements of Section 315.03 (c) of the Specifications, unless otherwise approved by the Engineer. Rollers will only be operated in static mode. The Engineer will require the Contractor to adjust the roller pattern and/or equipment if the compaction is damaging the asphalt mat or underlying base layer.

12-19-16 (SPCN)

Lane Closure Advisory Management System (LCAMS)

The Contractor shall be required to attend LCAMS training before any lane closures are installed. The Contractor shall call the VDOT TOC Program Manager @ 540-332-9881 to schedule the required training.

The Contractor shall provide a weekly traffic control work plan to the Locality Project Manager or designee. Each location of planned work for the week (requiring traffic control) must be included within the plan and each planned work location shall be entered into LCAMS by the Contractor by Thursday at Noon the week prior to the work.

For unexpected work or special occasions, the information shall be entered as soon as possible but before the work at the site begins.

If the Contractor is found to have installed a lane closure without notification, or that the location has not been entered into LCAMS, the County may require the Contractor to immediately remove the lane closure and may require the Contractor to refrain from installing any planned lane closures until such time as the Contractor can demonstrate to the County that the Contractor can fully comply with the requirements of lane closure notifications, or has the site entered into LCAMS, and the requirements of this Contract with regard to the same.

11-15-16 (SPCN)

TREE CUTTING:

There is an Environmental Commitment for Protection of Bats: WORK ON THE ROUTE 608 – TINKLING SPRING ROAD PROJECT SHALL ABIDE BY THE TIME OF YEAR RESTRICTION OF 4/15-9/15 DURING WHICH TIME THERE SHALL BE NO REMOVAL OF TREES OVER 3" DIAMETER AT BREAST HEIGHT.

11-16-16 (SPCN)

PREDETERMINED MINIMUM WAGE RATES

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

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

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

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

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

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

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

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

By direction of the Secretary of Labor



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

General Decision Number: VA170128 01/06/2017 VA128

Superseded General Decision Number: VA20160128

State: Virginia

Construction Type: Highway

Counties: Alleghany, Appomattox, Augusta, Bath, Bland,
Buchanan, Buckingham, Buena Vista*, Carroll, Charlotte, Clifton
Forge*, Covington*, Craig, Cumberland, Dickenson, Floyd,
Franklin, Frederick, Galax*, Giles, Grayson, Halifax,
Harrisonburg*, Henry, Highland, Lee, Lexington*, Martinsville*,
Montgomery, Nelson, Norton*, Page, Patrick, Prince Edward,
Pulaski, Radford*, Rockbridge, Rockingham, Russell, Salem*,
Shenandoah, Smyth, South Boston*, Staunton*, Tazewell,
Waynesboro*, Winchester*, Wise and Wythe Counties in Virginia.

*INDEPENDENT CITIES

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 \$10.20 for calendar year 2017 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 \$10.20 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 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/06/2017

SUVA2013-001 09/20/2013

	Rates	Fringes
ASBESTOS WORKER.....	\$ 12.66	
CARPENTER (STRUCTURE).....	\$ 18.21	
CEMENT MASON/CONCRETE FINISHER....	\$ 19.35	

ELECTRICIAN.....\$ 17.05

FORM SETTER.....\$ 16.00

IRONWORKER, REINFORCING.....\$ 22.71

IRONWORKER, STRUCTURAL.....\$ 24.00

LABORER

Asphalt Raker.....\$ 14.51

Blaster.....\$ 21.80

Construction Worker I

(Skilled Laborer.....\$ 15.30

Construction Worker II

(Laborer).....\$ 12.37

Deckhand.....\$ 13.70

Fence Erector.....\$ 12.83

Flagger.....\$ 11.45

Grade Checker.....\$ 15.25

Guardrail Erector.....\$ 13.18

Landscape Worker.....\$ 12.27

Pipe Layer.....\$ 16.75

Power Tool Operator.....\$ 14.00

Sign Erector.....\$ 15.27

PAINTER.....\$ 25.00

POWER EQUIPMENT OPERATOR:

Air Compressor.....	\$ 11.75
Asphalt Distributor.....	\$ 15.26
Asphalt Paver.....	\$ 16.02
Backhoe.....	\$ 17.79
Boom/Auger.....	\$ 29.00
Bulldozer (Utility).....	\$ 15.38
Bulldozer.....	\$ 19.36
Concrete Finish Machine	
Screed, Bridge.....	\$ 34.60
Concrete Finish Machine.....	\$ 34.60
Concrete Paving Machine.....	\$ 13.94
Concrete Pump.....	\$ 16.45
Concrete Saw.....	\$ 22.50
Crane, Derrick, Dragline....	\$ 26.68
Crusher Tender.....	\$ 17.00
Drill Operator.....	\$ 20.00
Excavator (Gradall).....	\$ 20.53
Front End Loader.....	\$ 19.36
Hydro Seeder.....	\$ 16.64
Log Skidder.....	\$ 16.00
Mechanic.....	\$ 15.89
Mobile Mixer.....	\$ 10.45
Motor Grader (Fine Grade)...	\$ 26.13
Motor Grader (Rough Grade)..	\$ 20.64
Oiler, Greaser.....	\$ 19.23

Pavement Marking Operator...	\$ 15.44
Pavement Marking Truck	
Operator.....	\$ 18.00
Pavement Planing Groundman..	\$ 14.04
Pavement Planing Operator...	\$ 17.28
Pile Driver, Leadsman.....	\$ 21.70
Pile Driver.....	\$ 15.00
Pipe Boring/Jacking	
Machine Operator.....	\$ 11.00
Plant Operator.....	\$ 13.45
Roller (Finish).....	\$ 13.61
Roller (Rough).....	\$ 15.85
Scraper Pan.....	\$ 12.78
Shot Blast Machine.....	\$ 14.94
Shovel Operator (2 yds and	
under).....	\$ 10.41
Shovel Operator (over 2	
yds).....	\$ 11.50
Slip-Form Paver.....	\$ 9.50
Slurry Seal Paver Machine	
Operator.....	\$ 14.23
Slurry Seal Paver Truck	
Operator.....	\$ 10.43
Stabilizer Operator.....	\$ 9.55
Stone-Spreader.....	\$ 13.54
Subgrade Machine Operator...	\$ 11.50
Tractor Operator (Crawlers)..	\$ 14.08

Tractor Operator (Utility)..\$ 12.25

Trenching Machine.....\$ 12.00

Vacuum Machine.....\$ 19.25

TRAFFIC SIGNALIZATION:

Traffic Signal Installation.....\$ 21.91

TRUCK DRIVER

Fuel and Lubricant Service

Truck Driver.....\$ 16.25

Transit Mix Truck Driver....\$ 12.25

Truck Driver (Single,
Tandem & Multi Rear Axle)...\$ 15.19

Truck Driver, Heavy Duty
(7 c.y. & under).....\$ 15.50

Truck Driver, Heavy Duty
(over 7 c.y.).....\$ 16.69

WATERPROOFER.....\$ 13.16

WELDER.....\$ 15.76

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.

END OF GENERAL DECISION.

SP0F0-000130-00

May 1, 2012; Reissued July 12, 2016
FHWA-1273 (Electronic Version)

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

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FHWA-1273 – Revised May 1, 2012

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

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

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

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

II. **NONDISCRIMINATION**

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

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

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

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

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

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

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

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

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the Contracting Officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the Contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the Contractor's EEO obligations within thirty days following their reporting for duty with the Contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the Contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the Contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

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

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

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

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

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

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

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

6. **Training and Promotion:**

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

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

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

III. NONSEGREGATED FACILITIES

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

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

IV. Davis-Bacon and Related Act Provisions

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

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

1. Minimum wages

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

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

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

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

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

2. Withholding

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

3. Payrolls and basic records

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

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

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

- (4) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
- c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the Contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

- a. Apprentices (programs of the USDOL).

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

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

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

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.
3. **Withholding for unpaid wages and liquidated damages.** The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.
4. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Instructions for Certification – First Tier Participants:

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

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

- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

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

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

- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
 - (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. Instructions for Certification - Lower Tier Participants:

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

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Participants:

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

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

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

Females- 6.9%

Minorities - See Attachment "A"

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

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

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

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

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

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

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

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, shall assign two or more women to each construction project. The Contractor shall specifically ensure that all foreman, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off the street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or women sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources 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 or nation 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.	

SP102-050100-00

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
USE OF DOMESTIC MATERIAL

July 26, 2013; Reissued July 12, 2016

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 products (including miscellaneous steel 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 regardless of the percentage they exist in the manufactured product or final form they take. Therefore, "Domestically produced in the United States of America" means all manufacturing processes must occur in the United States of America, to mean, in one of the 50 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 whereby a raw material or a reduced iron ore material is changed, altered or transformed into a steel or iron item or product which, because of the process, is different from the original material. 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. Materials used in the coating process need not be domestic materials.

For the purposes herein 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 process takes place.

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. The use of foreign source steel or iron billet is not acceptable under the provisions of Buy America. For the purposes of this provision all steel or iron material not meeting the criteria as domestically produced in the United States of America will be considered as "foreign" material. All iron and steel items will be classified hereinafter as "domestic" or "foreign", identified by and subject to the provisions herein.

Domestically produced iron or steel ingots or billets shipped outside the United States of America for any manufacturing process and returned for permanent use in a project would not comply with "Buy America" requirements.

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.

Section 635.410(b) of Title 23 CFR permits a minimal amount of steel or iron material to be incorporated in the permanent work on a federal-aid contract. The cost of such materials or products must not exceed one-tenth of one percent of the Contract amount or \$2500, whichever is greater. The cost of the foreign iron or steel 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.

In the event the total cost of all "foreign" iron and steel product or material does not exceed one-tenth of one percent of the total contract cost or \$2,500, whichever is greater, the use of such material meeting the limitations herein will not be restricted by the domestic requirements herein. However, by signing the bid, the Bidder certifies that such cost does not exceed the limits established herein.

Waivers:

With prior concurrence from Federal Highway Administration (FHWA) headquarters, the Federal Highway Division Administrator may grant a waiver to specific projects provided it can be demonstrated:

1. that the use of domestic steel or iron materials would be inconsistent with the public interest; or
2. materials or products requested for use are not produced in the United States in sufficient or reasonably available quantities and are of satisfactory quality for use in the permanent work.

The waiver request shall be submitted with supportive information to include:

1. Project number\description, project cost, waiver item, item cost, country of origin for the product, reason for the waiver, and
2. Analysis of redesign of the project using alternative or approved equal domestic products

In order to grant such a waiver the request for the waiver must be published in the Federal Register for a period not less than 15 days or greater than 60 days prior to waiving such requirement. An initial 15 day comment period to the waiver will be available to the public by means of the FHWA website: <http://www.fhwa.dot.gov/construction/contracts/waivers.cfm>. Following that initial 15 day period of review and comment the request for waiver will be published by the FHWA in the Federal Register. The effective date of the FHWA finding, either to approve or deny the waiver request, will be 15 days following publication in the Federal Register.

Only the FHWA Administrator may grant nationwide waivers which still are subject to the public rulemaking and review process.

Alternative Bidding Procedures:

An alternative bidding procedure may be employed to justify the use of foreign iron and/or steel. To qualify under this procedure the total project is bid using two alternatives, one based on the use of domestic products and the other, the use of corresponding foreign source steel and/or iron materials.

In accordance with the provisions of Section 103.02 of the Specifications the Contract will be awarded to the lowest responsive and responsible bidder who submits the lowest total bid based on furnishing domestic iron or steel unless such total exceeds the lowest total bid based on furnishing foreign iron and/or steel by more than 25 percent, in which case the award will be made to the lowest responsive and responsible bidder furnishing foreign iron and/or steel based upon furnishing verifiable supportive data. The bidder shall submit a bid based on permanently incorporating only domestic iron and/or steel in the construction of the project. The bidder may also submit a bid for the same proposed contract based on being allowed to permanently incorporate corresponding foreign iron and/or steel materials meeting the other contract requirements into the work on the Contract. If he chooses to submit such a bid, that alternate bid shall clearly indicate which foreign iron and/or steel items will be

permanently installed in the work as well as contain prices for all other items listed in the corresponding domestic proposal to complete a total "Foreign" bid.

In the event the Contract is awarded to the bidder furnishing foreign iron and/or steel materials or items the provision for price adjustment of steel items will be permitted, however, price fluctuations shall use the U.S. index as stated in the Special Provision for Price Adjustment For Steel. The Contractor must indicate which corresponding eligible steel items he chooses price adjustment to apply. In the event the Contract is awarded to a bidder furnishing foreign iron and/or steel items and during the life of that contract the Contractor discovers he cannot furnish foreign iron and/or steel material as originally anticipated and agreed upon, he shall be responsible to honor the total bid price and furnish such iron and/or steel materials meeting the Contract requirements from other sources as necessary to complete the work.

In the event the Contractor proposes to furnish "foreign" iron and steel and can verify a savings in excess of 25 percent of the overall project cost if bid using domestic materials, the Contractor shall submit a second complete paper bid proposal clearly marked "Foreign" including Form C-7 and supportive data supplement on all sheets. Supportive data shall list, but not be limited to, origin of material, best price offer, quantity and complete description of material, mill analysis, evidence or certification of conformance to contract requirements, etc. The "Foreign" bid shall be completed using the best price offer for each corresponding bid item supplying foreign material in the alternative bid and submit the same with the Contractor's "Domestic" bid. The Contractor shall write the word "Foreign" by the bid total shown on Form C-7 as well as last page of Schedule of Items showing the total bid amount. The bidder shall also contact the State Contract Engineer to inform him that he is also submitting an alternate "Foreign" paper bid.

The information listed on the supportive data sheet(s) will be used to provide the basis for verification of the required cost savings. In the event comparison of the prices given, or corrected as provided in Section 103.01 of the Specifications, shows that use of "foreign" iron and steel items does not represent a cost savings exceeding the aforementioned 25 percent, "domestic" iron and/or steel and prices given there for shall be used and the "100 percent Domestic Items Total" shall be the Contractor's bid.

Certification of Compliance:

Where domestic material is supplied, prior to incorporation into the Work, the Contractor shall furnish to the Department a certificate of compliance (such as may be furnished by steel mill test reports) that all steel and/or iron products supplied to the project except as may be permitted (one-tenth of one percent of the total contract cost or \$2,500, whichever is greater) and permanently incorporated into the work satisfies the domestic requirements herein. This certification shall contain a definitive statement about the origin of all products covered under the provisions of Buy America as stated herein.

In lieu of the Contractor providing personal certification, the Contractor may furnish a stepped certification in which each handler of the product, such as supplier, fabricator, manufacturer, processor, etc. furnishes an individual certification that their step in the process was domestically performed.

SP105-000100-00

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
INFORMAL PARTNERING

January 14, 2008c; Reissued July 12, 2016

I. DECLARATION AND DESCRIPTION

The Virginia Department of Transportation (VDOT) is firmly committed to the formation of a partnering relationship with the Contractor, all subcontractors, suppliers, FHWA representatives; where appropriate, other federal agencies, local government officials, utilities representatives, law enforcement and public safety officials, consultants, and other stakeholders to effectively and efficiently manage and complete each construction or maintenance contract to the mutual and individual benefits and goals of all parties. Partnering is an approach to fulfilling this commitment where all parties to the contract, as well as individuals and entities associated with or otherwise affected by the contract, willingly agree to dedicate themselves by working together as a team to fulfill and complete the construction or maintenance contract in cost effective ways while preserving the highest standards of safety and quality called for by the Contract combined with the goals of on time/on budget completion. The approach must still allow for the fact that the members of the team share many common interests yet have differing authorities, interests, and objectives that must be accommodated for the project to be viewed as successful by all parties. It is recognized by VDOT that partnering is a relationship in which:

- Trust and open communications are encouraged and expected by all participants
- All parties move quickly to address and resolve issues at the lowest possible level by approaching problems from the perspectives and needs of all involved
- All parties have identified common goals and at the same time respect each other's individual goals and values
- Partners create an atmosphere conducive to cooperation and teamwork in finding better solutions to potential problems and issues at hand

II. INFORMAL PARTNERING STRUCTURE

It is the business intent of the Department that **informal** partnering will be required on **this** project, whereby the spirit and principles of partnering are practiced from onsite field personnel to executive level owners and employees. The VDOT Field Guide to Partnering available on the VDOT website <http://www.virginiadot.org/business/resources/partnerfinalallowres.pdf> will be the standard reference guide utilized to structure and guide partnering efforts. This guide will be systematically evaluated to incorporate better practices as our partnering efforts evolve. Of particular note is the need for effective and responsive communication between parties to the partnering relationship as emphasized in Section 105.03(d) of the Specifications.

Informal partnering need not require the services of a professional facilitator and may be conducted by the actual partnering participants themselves. Informal partnering, and more specifically the Partnering Charter, will not change the legal relationship of the parties to the Contract nor relieve either party from any of the terms of the Contract.

III. PROCEDURES

The following are general procedures for informal partnering and are not to be considered as inclusive or representative of procedural requirements for all projects. Participants shall consult the VDOT Field Guide for Partnering for assistance in developing specific guidelines to those efforts required for their individual projects.

Prior To Project Construction: At least 5 days prior to or in connection with the preconstruction conference the Contractor shall attend a conference with the Engineer at which time he and the Engineer shall discuss the extent of the informal partnering efforts required for the project, how these have been accommodated in the Contractor's bid and the identity of expectations and stakeholders associated with the project. Informal partnering efforts require the Department and the Contractor to mutually choose a single person from among their collective staffs, or a trained facilitator to be responsible for leading all parties through the VDOT Field Guide to Partnering and any subsequent partnering efforts.

Partnering Meetings During Project Construction: In informal partnering efforts the Contractor shall provide a location for regularly scheduled partnering meetings during the construction period. Such meetings will be scheduled as deemed necessary by either party. The Contractor and VDOT will require the attendance of their key decision makers, including subcontractors and suppliers. Both the Contractor and VDOT shall also encourage the attendance of affected utilities, concerned businesses, local government and civic leaders or officials, residents, and consultants, which may vary at different times during the life of the Contract. The Department and the Contractor are to agree upon partnering invitees in advance of each meeting. Follow-up partnering workshops may be held throughout the duration of the project as deemed necessary by the Contractor and the Engineer.

IV. MEASUREMENT AND PAYMENT

Informal Partnering, because the extent to which certain partnering activities are pursued is at the Contractor's option, and may vary according to project complexity, work history between the parties, project duration, the Contractor's own unique methods, means, and schedule to execute and complete the work, etc.; will not be paid for as a separate bid item but the all costs associated with informal partnering efforts for the duration of the work shall be considered inclusive and incidental to the cost of other appropriate items.

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

July 12, 2016_

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 SWAM, and Non-SWAM/DBE vendor payments annually on June 30th (if not a business day, then the next business day), and within 30 days after final acceptance of the work, to the District Civil Rights Section. The Contractor shall provide the information in a format consistent with revised Form C-61 Vendor Payment Report, subject to the approval of the Engineer.

DBE Participation and reporting shall be according to the Special Provision for Section 107.15 (Use of Disadvantaged Business Enterprises). The Contractor shall provide the information in a format consistent with Form C-63 Vendor Payment Compliance Report.

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

SS106-002016-01

July 12, 2016

VIRGINIA DEPARTMENT OF TRANSPORTATION
2016 ROAD AND BRIDGE SUPPLEMENTAL SPECIFICATIONS
SECTION 106—CONTROL OF MATERIAL**SECTION 106—CONTROL OF MATERIAL** of the Specifications is amended as follows:**Section 106.08—Storing Materials** is amended to replace the third paragraph with the following:

Chemicals, fuels, lubricants, bitumens, paints, raw sewage, and other potential pollutant-generating materials as determined by the Engineer or defined in the *VPDES General Permit For Discharge of Stormwater from Construction Activities* shall not be stored within any flood-prone area unless no other location is available. A flood-prone area is defined as the area adjacent to the main channel of a river, stream or other waterbody that is susceptible to being inundated by water during storm events and includes, but is not limited to, the floodplain, the flood fringe, wetlands, riparian buffers or other such areas adjacent to the main channel. If stored in a flood-prone area, the material shall be stored in one or more secondary containment structures with an impervious liner and be removed entirely from the flood-prone area at least 24 hours prior to an anticipated storm event that could potentially inundate the storage area. Any storage of these materials outside of a flood-prone area that is in proximity to natural or man-made drainage conveyances where the materials could potentially reach a river, stream, or other waterbody if a release or spill were to occur, must be stored in a bermed or diked area or inside a secondary containment structure capable of preventing a release. Any spills, leaks or releases of such materials shall be addressed according to Section 107.16(b) and (e) of the Specifications. Accumulated rain water shall be pumped out of impoundment or containment areas into approved filtering devices. All proposed pollution prevention measures and practices must be identified by the Contractor in his Pollution Prevention Plan as required by the Specifications, other Contract documents and/or the *VPDES General Permit for Discharge of Stormwater from Construction Activities*.

SP107-150100-00

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
SECTION 107.15

December 10, 2010; Reissued July 12, 2016

Section 107.15 of the Specifications is replaced by the following:

Section 107.15—Use of Disadvantaged Business Enterprises (DBEs)

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, 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, 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 Minority Business Enterprise (DMBE) 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 Minority Business Enterprise and the Metropolitan Washington Airports Authority Internet websites: <http://www.dmbv.virginia.gov/> ; <http://mwaa.com/362.htm>

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://insidevdot/C7/Civil%20Rights/default.aspx>

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, national origin, or sex 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_DB_E_Compmitments.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

DBE participation on the Contract will count toward meeting the DBE contract goal in accordance with the following criteria:

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.
- (g) 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.
- (h) 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.**
- (i) 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

Loss of DBE Eligibility: When a DBE firm has been removed from eligibility as a certified DBE firm, the following actions will be taken:

1. 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.
2. 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.
3. 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.

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.

1. All Contractor requests to terminate, substitute, or replace a certified DBE shall be in writing, and shall include the following information:
 - (a) The date the Contractor determined the DBE to be unwilling, unable, or ineligible to perform.
 - (b) The projected date that the Contractor shall require a substitution or replacement DBE to commence work if consent is granted to the request.
 - (c) 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;
 - (d) A brief statement of the affected DBE's capacity and ability to perform the work as determined by the Contractor;
 - (e) 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;
 - (f) The current percentage of work completed on each bid item by the DBE;
 - (g) The total dollar amount currently paid per bid item for work performed by the DBE;
 - (h) 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;
 - (i) 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.
2. 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.

3. 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.

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:

1. 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;
2. 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;
3. 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;

4. 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;
5. 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.
		(For Illustrative Purposes Only)
<u>Firm X</u>		
Truck 1	Owned by DBE	\$100 per day
Truck 2	Owned by DBE	\$100 per day
<u>Firm Y</u>		
Truck 1	Leased from DBE	\$110 per day
Truck 2	Leased from DBE	\$110 per day
<u>Firm Z</u>		
Truck 1	Leased from Non DBE	\$125 per day
Truck 2	Leased from Non DBE	\$125 per day
Truck 3	Leased from Non DBE	\$125 per day
Truck 4	Leased from Non DBE	\$125 per day
Truck 5	Leased from Non DBE*	\$125 per day
Truck 6	Leased from Non DBE*	\$125 per day

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

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

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

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

6. 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.

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.

- o Firm name
- o Firm address
- o Firm's status as a DBE or non-DBE
- o The age of the firm and
- o The annual gross receipts of the firm

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

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

O. Suspect Evidence of Criminal Behavior

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

Suspected DBE Fraud

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

P. Summary of Remedies for Non-Compliance with DBE Program Requirements

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

1. Disadvantaged Business Enterprise (DBE) Program Requirements

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

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

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

Once awarded the contract, the Contractor shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each certified DBE firm participating in the Contract shall fully perform the designated work items with the DBE's own forces and equipment under the DBE's direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the Contract in the event of such a contract breach.

3. Disqualification of Bidder

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

4. Bidding Procedures

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

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

actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is encouraged to seek additional participation during the life of the Contract.

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

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

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

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. The 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.

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

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.

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.

SS107-002016-01

July 12, 2016

VIRGINIA DEPARTMENT OF TRANSPORTATION
2016 ROAD AND BRIDGE SUPPLEMENTAL SPECIFICATIONS
SECTION 107—LEGAL RESPONSIBILITIES

SECTION 107—LEGAL RESPONSIBILITIES of the Specifications is amended as follows:

Section 107.16(b)2 Air is amended to include the following:

Reasonable precautions shall be taken at all times to prevent particulate matter from becoming airborne according to the State Air Pollution Control Board regulation [9 VAC 5 Chapter 50, Article 1](#), Standards of Performance for Visible Emissions and Fugitive Dust/Emissions.

Section 107.16(e)3 SWPPP Requirements for Support Facilities is amended to include the following:

The Contractor shall develop and enforce a Spill Prevention Control and Countermeasure (SPCC) Plan conforming to 40 CFR 112 if the aggregated volume of Oil stored within the project limits at any one time is greater than 1320 gallons. Oil, in this context, shall be defined according to 40 CFR 112. The aggregated volume includes that of both stationary and portable storage facilities but does not include individual storage containers with less than a 55 gallon capacity. The Contractor shall include the SPCC Plan as a part of his Pollution Prevention Plan for the project.

Section 107.16(e)4.a Inspection Requirements is replaced with the following:

a. Inspection Requirements

The Contractor shall be responsible for conducting site inspections according to the requirements herein. Site inspections shall include erosion, sediment control, and pollution prevention practices and facilities; all areas of the site disturbed by construction activity; all on-site support facilities; and all off site support facilities within VDOT right of way or easement. The Contractor shall document such inspections by completion of Form C-107, Construction Runoff Control Inspection Form, according to the directions contained within the form. Inspections shall be conducted using one of the following schedules:

- Schedule 1 - At least once every 7 calendar days (equivalent to the once every five business days schedule in the VPDES *General Permit for Discharge of Stormwater from Construction Activities*) and within 48 hours following any measureable storm event. If a measureable storm event occurs when there are more than 48 hours between business days, the Contractor shall perform his inspection no later than the next business day. The Contractor shall install a rain gage at a central location on the project site for the purposes of determining the occurrence of a measureable storm event. Where the project is of such a length that one rain gage may not provide an accurate representation of the occurrence of a measurable storm event over the entire project site, the Contractor shall install as many rain gages as necessary to accurately reflect the amount of rainfall received over all portions of the project. The Contractor shall observe all rain gages no less than once each business day at the time prescribed in the SWPPP General Information Sheet notes in the construction plans or other contract documents to determine if a measureable storm event has occurred. The procedures for determining the occurrence of a measurable storm event are identified in the SWPPP General Information Sheet notes in the construction plans or other contract documents.

- Schedule 2 - At least each Monday and Thursday (equivalent to the once every four business days schedule in the VPDES *General Permit for Discharge of Stormwater from Construction Activities*). Where Monday or Thursday is a non-business day, the inspection may be performed on the next business day afterward. In no case shall the inspections be performed less than once every four business days.

The inspection schedule (1 or 2) is to be selected prior to the beginning of land disturbance. Once an inspection schedule is selected, it shall be defined in the appropriate note in the SWPPPP General Information Sheets contained in the construction plan set and shall be used for the duration of the project. A business day is defined as Monday through Friday excluding State holidays. A measurable storm event is defined as one producing 0.25 inches of rainfall or greater over a 24 hour time period.

For those areas of the site that have been temporarily stabilized or where land disturbing activities have been suspended due to continuous frozen ground conditions and stormwater discharges are unlikely, the inspection schedule may be reduced to once per month. If weather conditions (such as above freezing temperatures or rain or snow events) make stormwater discharges likely, the Contractor shall immediately resume the regular inspection schedule. Those definable areas where final stabilization has been achieved will not require further inspections provided such areas have been identified in the project's Stormwater Pollution Prevention Plan.

Special Provision for Section 108.02 Limitation of Operations

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
SECTION 108.02 LIMITATION OF OPERATIONS
(PROTECTION OF KARST FEATURES)

October 18, 2016

A. Background

Portions of the project include environmentally sensitive areas for federally protected species. These species are protected by the Endangered Species Act (16 USC 1531 et seq., hereinafter "the Act") and the Virginia Endangered Species Act (29.1-563 et seq.). These acts makes it illegal to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect any species protected therein. Activities that may adversely affect surface and ground water quality, subsurface hydrology, and any important karst features (open throated sinkholes and cave entrances) may result in adverse impacts to these species.

B. Requirements

1. Erosion & Sedimentation Measures

All E&S measures will adhere to or exceed VDOT's approved statewide plan. When work is proposed within 100 feet of important karst features, the Contractor shall incorporate protective measures (such as E&S fencing, diversion berms, dikes or other, appropriate E&S measures) to avoid offsite sedimentation and runoff to these environmentally sensitive areas. Monitoring, maintenance, and repair will be conducted in accordance with the Department's approved E&S plan.

2. Earth Moving Activities

Earth-disturbing activities will be conducted in a manner that minimizes alteration of existing grade and hydrology to the extent practicable in the vicinity of important karst features. In addition to the requirements in the E&S Plan, the following will be implemented in these environmentally sensitive areas:

- a. If a subsurface void should open or be intersected, or a new sinkhole forms within the right of way or construction work area, work in that area will stop and the void shall be isolated from the rest of the work area with sandbags or other suitable materials. The Contractor shall notify the Engineer, District Environmental Manager, and District Materials Engineer immediately. Appropriate remediation measures shall be employed per Standard Insertable Sheet No. isd/msd 2944) as directed by the Materials Engineer, to ensure project integrity and protection of the environmentally sensitive areas.
- b. Unless otherwise directed by the Materials Engineer, in linear excavations up gradient from and within 100 feet of important karst features, spoils will be placed on the up gradient side of the excavation so that, if any erosion takes place, the stockpiled soil will flow back into the excavation and not down gradient towards the karst feature.

3. Blasting

If blasting is required the Special Provision for Controlled Blasting Near Important Karst Features shall apply.

4. Spill Prevention

To avoid and minimize spills, unless otherwise directed by the Construction Engineer, the contractor shall:

- a. Locate equipment servicing and maintenance areas, including washing operations, more than 100 feet from streams and important karst features.
- b. Provide secondary containment for all hazardous materials, chemicals, fuels, lubricating oils, and petroleum products stored within 100 feet of important karst features and streams; and
- c. Check all equipment daily for leaks before beginning work; leaking equipment shall be removed from the construction limits.

5. Herbicide Usage.

- a. Herbicide usage is restricted to those approved for use in aquatic environments and not known to be toxic to crustaceans.
- b. Before herbicide use, the Contractor shall identify and provide Material Safety Data Sheet(s) of the selected herbicides to the Engineer for review and approval.
- c. All herbicide application within 100 feet of important karst features shall be conducted using non-aerosol application methods.

6. Contractor education

Contractors shall attend a pre-construction meeting prior to beginning work on site to discuss the requirements of these specifications and the importance of adhering to them.

Special Provision for Controlled Blasting Near Important Karst Features

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
CONTROLLED BLASTING NEAR IMPORTANT KARST FEATURES

October 17, 2016

I. DESCRIPTION

This project is in close proximity to private property, dwellings, water wells, springs, utilities, railroads and/or other structures, including important karst features. Important karst features include caves and open throated sinkholes. The Contractor shall explore other means of loosening and/or reducing the size of the excavation without blasting. If blasting becomes necessary, then controlled blasting techniques shall be employed during construction. The Contractor shall conduct an on-site review of the work involved and develop a plan of operations for performing the excavation work before prosecuting the work. The blasting plan shall be submitted to the Engineer at least two (2) weeks before scheduled blasting.

II. BLASTING PROCEDURES

No blasting shall be performed within fifty (50) feet of existing or new bridge foundations, railroad right-of-way, residential or commercial buildings, wells, other structures, or natural resources without the written approval of the Engineer. In the vicinity of proposed concrete construction, blasting shall be scheduled so that blasting operations are fully complete before placing concrete.

All blasting shall be performed in accordance with the current edition of the Virginia Statewide Fire Prevention Code. The Contractor shall use the services of an experienced powder man at all times. The drill hole diameter, hole spacing, and size of charge per hole shall be such as to afford satisfactory breakage with a minimum of vibration. A Construction Blasting Quantity and Distance Table shall be utilized to control the maximum quantity of explosives per shot for instantaneous firing or per delay for delay firing in pounds. At no time shall the total size of any charge cause the particle velocity of the ground motion to exceed 0.50 inches per second when measured at the nearest structure or resource in Section I to a blast.

The Contractor shall maintain a daily log of the type, grade, and quantity of explosives, type of detonating cap, hole locations, depths, and minimum distances from the blasts to private property, dwellings, water wells, springs, utilities, other structures, and natural resources. A copy of this log shall be submitted to the Engineer at the end of each workday on which blasting activity has occurred.

III. SEISMIC MONITORING

The Contractor shall also submit a comprehensive blasting plan detailing the blasting techniques to be used near property, structures, and resources described to the Department. Seismic monitoring shall be performed by a qualified firm before performing construction operations near property, structures, and natural resources. Some of the initial blasts shall be monitored close to the blasting while others shall be monitored at property, structures, and natural resources; and the blasting plan shall be revised if it is anticipated that the maximum particle velocity at those locations will exceed 0.50 inches per second.

The seismograph used should have the ability to store digital data for documentation and inspection by or submittal to the Department. Further, the seismograph used shall be capable of accurately measuring frequency and amplitude in three planes: vertically, longitudinally, and transversely. These instruments must be dynamically calibrated and of such sensitivity that displacements as little as 0.0005 inches and frequencies of from 1 to 100 cycles per second may be read. The instruments

must also be capable of adjustment so that the peak of maximum amplitude of vibration can be recorded on the tape or disk.

The Contractor shall cooperate and coordinate blasting activities with the owners of private property, dwellings, water wells, springs, utilities, structures, and natural resources.

The cost for explosives and blasting operations, alternative methods, monitoring, and the recording and submission of daily blasting logs will be considered incidental to the cost of regular excavation, and will not be measured for separate payment. Contractor's failure to maintain and submit daily blasting logs as stipulated herein will result in withholding payment for regular excavation until such time that daily logs are provided.

IV. Rock Slopes

For use in this Special Provision, slopes shall be considered rock slopes when the following criteria are met:

1. Height of final slope is fifteen (15) feet or greater.
2. Fifty (50) percent of the face of the final slope is rock, based on visual inspection.

All rock slopes with a slope of 1H:1V or steeper shall be pre-split by blasting, controlled blasting or non-explosive techniques, in accordance with Section 303.04a of the Specifications and the preceding sections.

SP108-000110-00

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

April 29, 2008; Reissued July 12, 2016

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

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

I. GENERAL REQUIREMENTS

The Contractor shall plan and schedule the work and shall submit his initial plan in the form of a Baseline Progress Schedule for the Engineer's review and acceptance. Upon acceptance, the Progress Schedule shall become the project Schedule of Record (SOR). The Contractor shall maintain the SOR regularly to ensure that the schedule continues to represent the Contractor's current actual work plan and progress. The SOR shall be used by the Engineer for planning and coordination of the Department activities, and for evaluation of the Contractor's progress and the effects of impacts on the project.

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

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

II. PROGRESS SCHEDULE SUBMITTAL REQUIREMENTS

Baseline Progress Schedule – The Contractor shall submit to the Engineer his initial progress schedule in the form of a Baseline Progress Schedule at least seven (7) calendar days prior to beginning work. The Baseline Progress Schedule submittal shall include three (3) sets of the written Progress Schedule Narrative, Bar-Chart Progress Schedule, and the Progress Earnings Schedule; as well as two (2) sets of data compact disks containing the electronic working files of the Bar-Chart Progress Schedule and Progress Earnings Schedule as specified below:

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

- a) A description of the Contractor's overall plan of operations in terms of:
 - i) The proposed overall sequence of construction;
 - ii) The general procedures for completing each feature or major operation;
 - iii) Planned resources in terms of number and types of crew and equipment;
 - iv) Anticipated daily production rates for each major operation;
 - b) A Tabular Milestone Schedule to establish interim milestones to complete each phase or stage of work, feature, major traffic switch, or other milestone dates specified in the Contract or required to assess progress of the work;
 - c) A description of the proposed working calendar to indicate the number of work days per week, number of shifts per day, and number of hours per day as well as the anticipated number of non-working days per month with considerations for:
 - i) Holidays;
 - ii) Normal weather conditions;
 - iii) Known constraints and restrictions (i.e. traffic, local events, time of year, environmental, permits, utility, etc.);
 - d) A description of any potential issues that may impact the schedule.
2. Bar-Chart Progress Schedule: The Bar-Chart Progress Schedule shall be submitted in a format wholly compatible with Microsoft Excel or the latest Primavera project and program management software with the capability to import and export project data in the Primavera proprietary exchange format (XER). The Bar-Chart schedule shall be time-scaled and shall show the following:
- a) A listing of activities to represent the major categories of work and the related time-based tasks required for timely completion of each feature, including but not limited to the controlling items of work. Each activity shall contain the following schedule properties:
 - i) Activity Identification;
 - ii) Activity Description;
 - iii) Original Duration (total anticipated number of days to complete the activity);
 - iv) Remaining Duration (remaining number of days required to complete the activity shall equal the original duration for activities that have not started);
 - v) Planned Start and Finish Dates;
 - vi) Critical Dates (must start by or finish by dates) for the critical activities;
 - vii) Percent Complete;
 - b) Activity bars shall be sequenced according to their relationship to time, other activities, and in order of the intended sequence of progress;
 - c) The Bar-Chart Schedule shall allow for sufficient space for an additional plot per activity for comparison of the actual progress to the baseline schedule.
3. Progress Earnings Schedule: The Progress Earnings Schedule shall be submitted on the Department electronic Form C-13C template. The Progress Earnings Schedule shall be prepared according to the following:
- a) The Progress Earnings Schedule shall indicate the Contractor's anticipated cumulative percent complete for each month as of the Contractor's progress estimate date as defined in Section 109.08(a) of the Specifications;

- b) It shall be based on the dollar value of the work to be completed each month as depicted on the Bar-Chart Schedule;
- c) The anticipated cumulative percent complete shall be based on the anticipated cumulative progress earnings relative to the total contract value. Total contract value will be considered to mean the original amount of the contract including any authorized adjustments for changes to the work according to, but not limited to, the provisions of Sections 109.04 and 109.05 of the Specifications;
- d) Anticipated payments for Material on Hand according to Section 109.09 of the Specifications or for other adjustments including asphalt, fuel, retainage, incentives, disincentives, etc., will not be considered in the Progress Earnings Schedule;
- e) The Progress Earnings Schedule shall include a plot of the anticipated monthly cumulative earnings progress curve.

Progress Schedule Update – The Contractor shall on a monthly basis submit for the Engineer's review and acceptance the Contractor's Progress Schedule Update within five (5) working days after the Contractor's progress payment estimate cut-off date. The Contractor shall update the Bar-Chart and Progress Earnings Schedule to reflect the actual progress of accomplished work and the proposed plan for completing the remaining work as of the progress payment estimate cut-off date. The Progress Schedule Update submittal shall include three (3) sets of the printed copies and two (2) sets of data compact disks containing the electronic working files of the Bar-Chart Progress Schedule and Progress Earnings Schedule Update as defined below:

1. Bar-Chart Progress Schedule Update: The Bar-Chart Progress Schedule Update shall be based on the currently accepted Bar-Chart Progress Schedule and shall show the following:
 - a) Actual start/finish dates for completed activities, actual start/planned finish dates for on-going activities, and planned start/finish dates for the remaining activities.
 - b) Remaining duration for unfinished activities shall be based on the amount of time required to complete the remaining work;
 - c) Activity percent complete for work-in-place shall be based on the amount of work completed relative to the total amount of work represented by the activity (cumulative actual dollar value of work completed relative to the total allocated contract value for the activity);
 - d) A parallel plot of the Progress Schedule Update activity bars against the currently accepted Baseline Progress Schedule.
2. Progress Earnings Schedule Update: The Progress Earnings Schedule Update shall be based on the currently accepted Progress Earnings Schedule and shall show the following:
 - a) Actual monthly and cumulative earnings for each payment period for work completed and the projected monthly and cumulative earnings for each period for the remaining work;
 - b) A plot of the actual and projected cumulative earnings progress curve against the currently accepted Baseline or Revised Progress Earnings curve.

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

- The Contractor proposes to revise his work plan. (The Contractor may revise his Progress Schedule at any time at his discretion.)

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

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

The Contractor shall submit a **Schedule Impact Analysis (SIA)** for all changes to the work that will impact the schedule, including changes requested by the Engineer or the Contractor. If the Engineer and the Contractor agree changes to the work do not or will not affect or impact the progress schedule, the Engineer will not require a written Schedule Impact Analysis (SIA) be submitted but will require the Contractor to certify in writing that such changes did not impact the schedule.

Schedule Impact Analysis (SIA) – The Contractor will be required, as determined by the Engineer to submit a written Schedule Impact Analysis for any of the following reasons:

1. The Contractor discovers any previously unknown or unanticipated issue that he believes may impact the work plan or schedule; in such cases the Contractor shall notify the Engineer within forty-eight (48) hours of any discovered issues;
2. When the Engineer issues a written request for changes to the work that will impact the work plan or schedule;
3. When the work is impacted by other changes that are deemed by the Engineer to be beyond the control of the Contractor

The written Schedule Impact Analysis (SIA) shall explain the effects of the impact(s) on the Contractor's work plan or schedule; and if appropriate shall substantiate any requests for adjustment of the Contract. Such changes may include, but not be limited to, changes caused by others (i.e. railroads, utilities, etc.) or changes to the work as defined in Section 104 of the Specifications. The Contractor shall submit the written SIA within fourteen (14) calendar days after the finish date of the impact. The written SIA shall include a description of the impact; explanation and justification of the effects of the impact on the work plan or schedule; and a description of any proposed plan to mitigate the effects of the impact. The SIA will be evaluated against the SOR for any adjustments to the Contract according to the provisions of Section 108.04 of the Specifications.

If no SIA is required for changes to the work the Contractor shall submit a Revised Progress Schedule within the timeframe stated below.

When a Revised Progress Schedule is required by the Engineer for revisions in the work plan or schedule or for authorized changes to the Contract, the Contractor shall submit for the Engineer's review and acceptance the Revised Progress Schedule within fourteen (14) calendar days of receipt of the Engineer's written request. The Revised Progress Schedule shall be prepared and submitted in the form of a Baseline Progress Schedule; however, it shall reflect the actual progress of accomplished work as of the submittal date, any impact as a result of the change(s), and the proposed plan for completing the remaining work. The Revised Progress Schedule submittal will be reviewed by the Engineer for acceptance as specified herein. The accepted Revised Progress Schedule shall then replace the previous SOR for the remainder of the work.

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

If the Contractor fails to provide an acceptable Baseline Progress Schedule within sixty (60) calendar days from the Contract Notice to Proceed date, a Progress Schedule Update, or if a Revised Progress Schedule is required as specified herein and the Contractor fails to provide such a schedule, the Engineer will delay approval for payment of the Contractor's monthly progress estimate until such time as the Contractor has satisfied the submittal requirements.

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

III. REVIEW AND ACCEPTANCE

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

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

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

Upon acceptance, the Baseline or Revised Progress Schedule will become the Schedule of Record (SOR) and will replace any previous SOR. For the purposes of this Special Provision the SOR is defined as the currently accepted progress schedule by which all schedule references will be made and progress will be compared. The currently accepted Progress Schedule Update will not replace the SOR, but will be used as the contemporaneous schedule with which to assess current progress, and to evaluate the effects of any time-related changes or impacts on the work.

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

IV. MONITORING THE WORK AND ASSESSING PROGRESS

Monitoring The Work – The Engineer will monitor the work regularly to identify any deviations from the Contractor's scheduled performance relative to the SOR. The Engineer may request a meeting with the Contractor to discuss the Contractor's current progress or to review the approximate date for starting each critical inspection stage during the following thirty (30) days. At least once a week, the

Contractor shall advise the Engineer of the approximate timing for anticipated critical stages for the subsequent week. The Contractor must advise the Engineer at least twenty-four (24) hours in advance of any changes in the Contractor's planned operations or critical stage work requiring Department inspection.

Progress Evaluation – Progress will be evaluated by the Engineer at the time of the monthly progress estimate relative to the Schedule of Record (SOR). The Contractor's actual progress may be considered unsatisfactory if any of the following conditions occurs:

1. The actual Total earnings to date percentage for work completed is more than ten (10) percentage points behind the cumulative earnings percentage for work scheduled; or
2. Any interim milestone or critical activity completion date is later than the scheduled completion date by more than twenty-one (21) calendar days or ten (10) percent of the contract duration, whichever is less; or
3. The projected project completion date is later than the contract completion date by twenty-one (21) calendar days or ten (10) percent of the contract duration, whichever is less.

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

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

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

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

V. MEASUREMENT AND PAYMENT

Category II progress schedule submittals including the baseline and any subsequent revisions requested by the Engineer as described herein, will not be measured or paid for separately. All

associated costs to prepare, update, revise, and/or furnish the progress schedules for Category II projects according to the requirements herein shall be considered incidental to the work.

SP315-000100-00

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
SECTION 315— ASPHALT CONCRETE PLACEMENT

July 12, 2016

SECTION 315—ASPHALT CONCRETE PAVEMENT of the Specifications is replaced with the following:

Section 315.05(e)—Density is amended to replace the second paragraph of 1. with the following:

(e) **Density:** Density shall be determined according to the following:

Density shall be determined with a thin-lift nuclear gauge conforming to VTM-81 or from the testing of plugs/cores taken from the roadway where the mixture was placed. Density test locations shall be marked and labeled according to VTM-76. When acceptance testing is performed with a nuclear gauge, the Contractor shall have had the gauge calibrated within the previous 12 months by an approved calibration service. In addition, the Contractor shall maintain documentation of such calibration service for the 12-month period from the date of the calibration service. The required density of the compacted course when tested with a nuclear gauge shall not be less than 98.0 percent and not more than 102.0 percent of the target control strip density.

Section 315.05(e)—Density is amended to replace **TABLE III-3** with the following:

TABLE III-3
Minimum Control Strip Density Requirements

Mixture Type	Min. Control Strip Density (%)¹
SM-9.5A, 12.5A	92.5
SM-9.5D, 12.5D	92.5
SM-9.5E, 12.5E	92.5
IM-19.0A, IM-19.0D, IM-19.0E	92.2
BM-25.0A, BM-25.0D	92.2

¹The control strip density requirement is the percentage of theoretical maximum density of the job-mix formula by SUPERPAVE mix design or as established by the Engineer based on two or more production maximum theoretical density tests.

Section 315.05(e)—Density is amended to replace **TABLE III-4** with the following:

TABLE III-4
Payment Schedule for Failing Control Strips

% TMD	% of Payment
90.0-92.2/92.5 ¹	95
88.0-89.9	90
Less than 88.0	75

¹ For SM-9.5 and SM-12.5 mixes, the minimum density value is 92.5% per Table III-3. For IM-19.0 and BM-25.0 mixes, the minimum density value is 92.2 per Table III-3.

Section 315.05(e)1.b Test section (lot) is replaced with the following:

- b. **Test section (lot):** For the purposes of determining acceptance, the Engineer will consider each day's production as a lot unless the paving length is less than 3,000 linear feet or greater than 7,500 linear feet. When paving is less than 3,000 feet, that day's production will be combined with the previous day's production or added to the next day's production to create a lot as described below.

The standard size of a lot will be 5,000 linear feet (five 1,000 foot sublots) of any pass 6 feet or greater made by the paving train for the thickness of the course. If the Engineer approves, the lot size may be increased to 7,500 linear foot lots with five 1,500 foot sublots when the Contractor's normal daily production exceeds 7,000 feet. Pavers traveling in echelon will be considered as two passes. When a partial lot occurs at the end of a day's production or upon completion of the project, the lot size will be redefined as follows:

- If the partial lot contains one or two sublots, the sublots will be added to the previous lot.
- If the partial lot contains three or four sublots, the partial lot will be redefined to be an entire lot.

The Contractor shall perform acceptance testing for density for each subplot by obtaining one sawed 4 inch by 4 inch specimen, or one 4-inch-diameter cores, at a single random test site selected by the Engineer.

- The sub-lot site shall be marked as described in VTM-76.
- The bulk specific gravity of the cores shall be determined according to VTM-6.
- The density of the cores shall be determined according to VTM-22.

Cores or plugs shall be bulked in the presence of the Engineer. The Department reserves the right to have the cores or plugs bulked on the project site. The Contractor shall number subplot test sites sequentially per lot, mark these on the pavement, fill them with the paving mixture, and compact them prior to the completion of each day of production.

The tonnage of each lot will be based on the lot's width and length and the mixture application rate as designated in the Contract or as revised by the Engineer. Payment will be made according to Table III-5.

If a minimum of 80% of each subplot's core/plug samples is no lower than 92.5% of TMD for Surface Mixes and 92.2% of TMD for Intermediate and Base Mixes and the lot average results in 100% payment, then the Engineer will increase the unit bid price for AC mixture by five (5) percent.

**TABLE III-5
Payment Schedule for Surface, Intermediate and Base Courses**

% TMD	% of Payment
Greater than 96.5 ¹	95
92.2 ² /92.5 ³ – 96.5	100
90.0 – 92.1 ² /92.4 ³	95
88.0 – 89.9	90
Less than 88.0	75

¹ For BM-25.0 HMHB(+0.4), the maximum TMD percentage shall be 98%.

² For Intermediate and Base Mixes, the minimum TMD percentage is 92.2 per Table III-3

³ For Surface Mixes, the minimum TMD percentage is 92.5% per Table III-3

The Engineer at any time on any project may perform lot density verification testing. Lot density verification is performed by testing plugs. The Contractor shall be responsible for taking plugs for testing. The Engineer will perform verification testing of the plugs per the VDOT Manual of Instructions Section 503.03 – Verification Density Testing. If the Contractor disputes either the density of the plugs determined or the resulting pay factor does not provide for at least 100% payment of the unit bid price, then the Contractor may request the referee procedure to be invoked as outlined in Section 503.03(a)(1). Payment for that lot, will be according to the specifications in Table III-5.

Longitudinal joints shall also be tested for density using a nuclear density gauge at each test site in the subplot. For surface and intermediate mixes, the edge of the gauge shall be placed within 4 inches of the joint. For base mixes, the edge of the gauge shall be placed within 6 inches of the joint. The Contractor shall not place the gauge over top of the joint. The joint density value shall be recorded. The Contractor shall report to the Engineer and institute corrective action if a single longitudinal joint density reading is less than 95 percent of the target control strip density. The Engineer will not use the values obtained from the joint readings in payment calculation. The Contractor shall furnish the test data developed during the day's paving to the Engineer by the end of the day's operations.

Section 315.05(e)2—Surface, intermediate, and base courses is replaced with the following:

2. **Surface, intermediate, and base courses** not having a sufficient quantity of material to run a roller pattern and control strip shall be compacted to a minimum density of 91.5 percent of the theoretical maximum density as determined according to VTM-22. The Contractor shall be responsible for cutting cores or sawing plugs for testing by the Department. One set of plugs/cores shall be obtained within the first 20 tons of small quantity paving and every 100 tons thereafter for testing by the Department. Core/plug locations shall be randomly selected by the Engineer. If the density is determined to be less than 91.5 percent, the Engineer will make payment according to Table III-6.

TABLE III-6
Payment Schedule for Surface, Intermediate and Base Courses
(Not sufficient quantity to perform density roller pattern and control strip)

% TMD	% of Payment
Greater than 91.5	100
90.2-91.4	95
88.3-90.1	90
Less than 88.2	75

Any section in which a mixture (e.g., SM-9.0) is being placed at an application rate of less than 125 pounds per square yard (based on 110 pounds per square yard per inch) that does not have a sufficient quantity of material for a roller pattern and control strip shall be compacted by rolling a minimum of three passes with a minimum 8-ton roller. The Engineer will not require density testing.

For asphalt patching, the minimum density of 91.5 percent of the maximum theoretical density will be determined according to VTM-22. The Contractor is responsible for cutting cores or sawing plugs. One set of plugs/cores shall be obtained within the first 20 tons of patching material and every 100 tons thereafter for testing by the Contractor or the Department. The Engineer will randomly select core/plug locations. If the density is less than the 91.5 percent, payment will be made on the tonnage within the 20 or 500 ton lot according to Table III-5.

Section 315.05(g)—Density is amended to replace the first and second paragraphs with the following:

- (g) **Rumble Strips:** This work shall consist of constructing rumble strips on mainline shoulders of highways by cutting 1/2-inch-deep concave depressions into existing asphalt concrete surfaces as shown on the VDOT Standards Drawings and as directed by the Engineer.

Rumble strips shall be installed according to the details of the RS-1 (shoulders) or RS-3 (centerline) Standard Drawings. The Contractor shall demonstrate to the Engineer the ability to achieve the desired surface regarding alignment, consistency, and conformity with these specifications and the Standards Drawings prior to beginning production work on mainline shoulders. The test site shall be approximately 25 feet longitudinally at a location mutually agreed upon by the Contractor and Engineer.

315.07(b) Finished Grade Tolerance is amended to replace the first paragraph with the following:

- (b) **Finished Grade Tolerance:** After placement of the final pavement layer, finished grade elevations shall be within +/-0.04 foot of the elevations indicated in the plans unless otherwise specified, provided that the actual cross slope does not vary more than 0.20 percent from the design cross slope indicated in the plans and the pavement thickness conforms to the thickness tolerances specified herein.

315.08—Measurement and Payment is amended to replace “Rumble strips” with the following:

Rumble strips will be measured in linear feet and will be paid for at the contract unit price per linear foot of shoulder where the rumble strips are actually placed and accepted, excluding the

test site. This distance will be measured longitudinally along the edge of pavement with deductions for bridge decks, acceleration/deceleration lanes, surface drainage structures, and other sections where the rumble strips were not installed. This price shall be full compensation for installation, cleaning up debris and disposal of waste material. The test site will not be measured for payment but shall be included in the unit price for rumble strip.

315.08—Measurement and Payment is amended to replace “**Saw-cut asphalt concrete pavement**” with the following:

Saw-cut asphalt concrete pavement will be measured in linear feet for the depth specified and will be paid for at the contract unit price per foot, which price shall be full compensation for saw-cutting the asphalt pavement to the depth specified.

These prices for asphalt shall also include heat stabilization additive, furnishing samples, and maintaining traffic.

315.08—Measurement and Payment is amended to delete “**Patching**”.

SP315-000220-00

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
SURFACE PREPARATION AND RESTORATION PRIOR TO PLANT MIX OVERLAY

February 2, 2011; Reissued July 12, 2016

I. DESCRIPTION

This work shall consist of removing deteriorated pavement, cleaning the area and repairing with the appropriate asphalt mixes in areas designated by the Engineer. This work is applicable only to the routes or areas designated to be overlaid in this contract and where the Engineer has authorized the limits for preparation and restoration. This preparation and restoration will be accomplished prior to the overlay paving operation. After the preparation, the Contractor will be responsible for maintaining the prepared surface until the overlay has been completed.

Definitions: For the purpose of the Specifications surface preparation is defined as the following:

- TYPE I -** A localized disintegration of the pavement, including distorted areas, no more than 5 inches in depth and no more than 20 square feet in surface area.
- TYPE II -** A localized disintegration of pavement, including distorted areas, no more than 5 inches in depth and more than 20 square feet in surface area.
- TYPE III -** A localized disintegration more than 5 inches in depth, limits of surface area as defined by the Engineer.

II. MATERIALS

Surface preparation and restoration material shall be as follows:

For 0-2 inches - use surface mix

For 2-5 inches - use intermediate mix

For greater than 5 inches - use base mix or intermediate mix

Tack coat shall conform Section 210 of the Specifications.

III. PROCEDURES

The Engineer will designate the limits of surface area for preparation and restoration to be achieved prior to beginning the work.

Areas designated for surface preparation and restoration shall be thoroughly cleaned, unsuitable material removed and edges shaped to vertical sides prior to applying tack coat.

A tack coat shall be applied to all exposed surfaces of the area which will receive asphalt material.

The Contractor shall utilize the mix and type of asphalt for surface preparation and restoration according to Section II Materials that he shall use with that route's overlay. Asphalt material shall be placed in lifts of no more than 3 inches in depth. After leveling each lift, it shall be compacted with an approved mechanical tamper or other approved method. Care shall be taken to ensure the surface of the finished repaired area conforms to the grade of the surrounding pavement.

IV. MEASUREMENT AND PAYMENT

When the bid proposal contains a pay item, corresponding to any of the types below, specified in the "Schedule of Items"; that type of surface preparation and restoration will include the work designated in the corresponding type's description and be paid for according to the price designated by the bidder. If the bid proposal contains no pay item for the type of surface preparation and restoration as described herein, such as may be discovered in the field; that surface preparation and restoration shall meet the definition of Section I and will be measured and paid for according to the following:

Surface Preparation and Restoration Type I will be measured in tons of asphalt material and paid for at the rate of three times the contract unit bid price per ton of the mix type(s) of asphalt authorized by the Engineer. This price shall include removing and disposing of unsuitable material, preparing the area, furnishing and applying tack coat, furnishing and applying asphalt material, and compaction.

Surface Preparation and Restoration Type II will be measured in tons of asphalt material and paid for at the rate of four times the contract unit bid price per ton of the mix type(s) of asphalt authorized by the Engineer. This price shall include removing and disposing of unsuitable material, preparing the area, furnishing and applying tack coat, furnishing and applying asphalt material, and compaction.

Surface Preparation and Restoration Type III will be measured in tons of asphalt material and paid for at the rate of five times the contract unit bid price per ton of the mix type(s) of asphalt authorized by the Engineer. This price shall include removing and disposing of unsuitable material, preparing the area, furnishing and applying tack coat, furnishing and applying asphalt material, and compaction.

Special Provision for Construction Quality Control Plan

VIRGINIA DEPARTMENT OF TRANSPORTATION
SPECIAL PROVISION FOR
LOCAL ASSISTANCE PROGRAM
CONSTRUCTION QUALITY CONTROL PLAN

January 26, 2017

I. GENERAL

Minimally, the Construction Quality Control (QC) Plan must address the following:

1. Describe the Contractor's Quality Control organization, including the number of full-time equivalent employees or Sub-Contractors with specific Quality Control responsibilities, including an organizational chart showing lines of authority and reporting responsibilities.
2. List by discipline the name, qualifications, duties, responsibilities and authorities for all persons proposed to be responsible for Construction Quality Control;
3. Provide Quality Control sampling, testing and analysis plan with methods that include a description of how random locations for testing and sampling are determined;
4. Identify the laboratory(s) to be used for each type of testing;
5. Specify documentation for QC activities;
6. Provide procedures to meet contract requirements for corrective action when QC criteria are not met.

The Contractor's QC Plan shall utilize industry standard inspection procedures as well as those outlined in VDOT's Construction Manual, Materials Manual of Instruction, Road and Bridge Specifications and the minimum requirements specified in Table 3.

II. LOCALITY/VDOT RESPONSIBILITIES

Verification Sampling and Testing (VST) and Independent Assurance (IA) sampling and testing shall be performed by the Locality and/or VDOT to validate the Contractor's QC sampling and testing.

The Locality shall hold final authority for determining the acceptance of materials incorporated into the Project. The acceptance decision shall consider results of the Contractor's QC sampling and testing at specified frequencies and locations, the Locality/VDOT VST and IA sampling and testing at specific frequencies and locations, inspection by the Locality of the attributes and processes that may affect the quality of the finished product and any dispute resolution procedures to resolve discrepancies between the verification and Contractor's sampling and testing.

III. CONTRACTOR'S RESPONSIBILITIES

The Contractor shall be responsible for the quality of construction and materials incorporated into the Project. The Contractor's QC measures shall ensure that operational techniques and activities provide material of acceptable quality. Contractor sampling and testing shall be performed to control the processes and determine the degree of material compliance with the Contract.

The following Table 1 details comparison tolerances between IA and VST, and IA and QC, results that shall require investigation to determine the cause(s) of any results out of tolerance.

Table 1 – IA Tolerances		
Tests	Tolerance	Source
Soil/Aggregate Wet Density using Nuclear Gauge in Direct Transmission	CL Soil – 1.91 pcf ML Soil – 2.15 pcf SP Soil – 1.86 pcf	AASHTO T 310 / VTM-10
Soil/Aggregate Density using Sand Cone	2.0 pcf	ASTM D1556 / AASHTO T 217
Soil/Aggregate Moisture using Nuclear Gauge in Backscatter Position	CL Soil – 1.44 pcf ML Soil – 1.63 pcf SP Soil – 2.10 pcf	AASHTO T 310 / VTM-10
Soil/Aggregate Moisture determined by Oven Dry	14% difference*	ASTM D2216 / AASHTO T 265
One Point Proctor - Density	4.5 pcf	AASHTO T 99 Method A
One Point Proctor - Moisture	15% difference*	AASHTO T 99 Method A
Concrete Slump	0.82 inch for 1" to 2" slump 1.10 inch for 3" to 4" slump 1.50 inch for 5" to 6" slump	ASTM C143
Concrete Air	0.8% points using pressuremeter 32% difference using rollerometer	ASTM C231 ASTM C173
Concrete Temperature	1 degree F	ASTM C1064
Concrete Unit Weight	2.31 pcf	ASTM C138
Concrete Permeability	51% difference*	VTM-112
Concrete Strength	8% difference on the average of 3 cylinders	ASTM C39 ASTM C31
Asphalt Bulk Specific Gravity	0.02	AASHTO T 166 / VTM-6
*Percent difference calculation shall be $\% \text{ diff} \leq \left(\frac{\text{absolute value}[W_1 - W_2]}{\{[1/2] * [W_1 + W_2]\}} \right) * 100$		

IV. PREPARATORY INSPECTION MEETINGS

Prior to the start of work, the Contractor shall hold a Preparatory Inspection Meeting to ensure that all project personnel have a thorough understanding of the upcoming work. The purpose of the Preparatory Inspection Meeting is to provide coordination and communication between the Contractor's production personnel, QC personnel and the Locality. Pay items correspond to the sections of VDOT's Road and Bridge Specifications, such as clearing and grubbing, aggregate base material and asphalt concrete items.

V. CONTRACTOR SAMPLING AND TESTING

Contractor shall perform all Quality Control sampling and testing for the project, in accordance with Table 3. All QC sampling and testing shall be performed by technicians certified by VDOT and all laboratory testing shall be performed by AASHTO Materials Reference Laboratory (AMRL) and Cement and Concrete Reference Laboratory (CCRL) accredited laboratories. All materials used in the project shall meet the requirements of the 2016 VDOT Road & Bridge Specifications, plans and special provisions contained herein. All materials utilized on this project shall be from VDOT approved sources and all mix designs shall be VDOT-approved.

Contractor shall furnish copies of all test results to the Project Manager or other authorized Locality representative within 24 hours of completing the test of the acquired sample or the next day of business.

VI. RECORDS

The Contractor shall prepare separate test reports meeting the requirements of AASHTO R18 or may use the current appropriate VDOT forms. The Contractor shall also prepare, maintain and submit completed test records and final materials certification in accordance with the requirements of VDOT's LAP Manual, Section 13.2.9.

VII. ACCEPTANCE

All plant manufactured materials shall be tested at the plant and accepted by VDOT in accordance with VDOT's QA Programs as described in the VDOT Materials Manual of Instruction. Field testing for density shall be the responsibility of the Contractor for QC. See Section VIII VDOT Inspected and Tested Items for more information.

Locality/VDOT VST sampling and testing, in addition to the Contractor's QC results, shall be used to determine the materials' adherence to specification requirements. Materials that are found to be outside specification requirements shall be investigated by the Locality.

A cooperative effort by the Contractor and the Locality to identify the cause of any non-specification material or any discrepancy in the test results will include the following actions:

- i. A check of test data, calculation and results;
- ii. Observation of the Contractor's sampling and testing by the Locality;
- iii. Check of test equipment by the Locality.

When the source of test result discrepancies between the Contractor and the Locality/VDOT cannot be resolved, a referee split sample shall be obtained and tested; this work shall be performed by the Locality/VDOT. The testing of the sample shall be performed in duplicate by the laboratory without knowledge of the specific project conditions such as the identity of the Contractor, the test results of the Locality/VDOT and Contractor or the specification targets. The results of these tests shall be binding on both the Contractor and the Locality. The Contractor or its representative may witness the testing if requested. Costs incurred for referee testing shall be paid by the party found in error.

The Locality may elect to accept small quantities of material without normal sampling and testing frequencies. The determination to accept materials using this provision rests solely with the Locality. Structural Concrete shall not be considered under the small quantity definition.

An item can be accepted as a small quantity if the proposed project quantity for a specific item is less than one subplot or one-half of a subplot for mainline paving.

Factors that the Locality shall consider prior to use of small quantity acceptance are:

- i. Has the material been previously approved?
- ii. Is the material certified?
- iii. Is there a current mix design or reference design?
- iv. Has it been recently tested with satisfactory results?
- v. Is the material structurally significant?

Small quantity acceptance may be accomplished by visual, certification or other methods. Acceptance of small quantities of materials by these methods must be fully documented. Documentation of materials under these methods must be provided by the Locality. For visual documentation, an entry shall be noted on field records, with a statement as to the basis of acceptance of the material and the approximate quantity involved. A separate list of items and quantities acceptance on visual inspection shall be maintained by the Locality.

VIII. VDOT INSPECTED AND TESTED ITEMS

The Contactor shall identify to the Locality any and all off-site fabricated materials from producers not in an existing VDOT QA Program. The inspection of project-specific fabricated items shall be accomplished by VDOT. To facilitate these inspections, the Contractor shall promptly notify the Locality of the intended fabricator and provide two (2) copies of the Approved Shop Drawings. In addition, the Contractor shall submit a Source of Materials, Form C-25, for all materials for which VDOT retains responsibility for testing.

See Table 2 below for a listing of materials for which VDOT retains responsibility for testing:

Table 2 – VDOT Off-Site Fabrication Inspection and Testing	
Item	Point of Contact
Pre-Stressed Concrete Structural Elements, girders (AASHTO and Bulb-T beams) and piles	VDOT Central Office Materials – Structures Section
Structural Steel Elements (beams and girders)	VDOT Central Office Materials – Structures Section
Metal Traffic Signal Poles, Light Poles and Arms	VDOT Central Office Materials – Structures Section
Laminated Bridge Bearing Pads	VDOT Central Office Materials – Physical Lab
Pre-Cast Concrete Structures	VDOT Central Office Materials – Quality Assurance Section (Approved List 34)
Pipe (concrete, steel, aluminum and high density polyethylene) for culverts, storm drains and underdrains	VDOT Central Office Materials – Quality Assurance Section (Approved Lists 25, 26 and 42)
Asphalt Concrete QA Program	VDOT District Materials Section
Aggregate CMA QA Program	VDOT District Materials Section
Hydraulic Concrete QA Program	VDOT District Materials Section

IX. PAYMENT

The costs of all material, labor, personnel, equipment, sampling, testing, documentation and report preparation for QC sampling and testing of material under the above Construction Quality Control Plan shall be incidental to the contract bid price for the respective material. No additional compensation shall be provided for these items.

Table 3 – QC/VST/IA Testing Frequencies

1 – Contractor QC samples shall be randomly located. Test results are compared against Specifications.
 2 – Locality and VDOT VST samples shall be randomly located, in different locations than Contractor QC samples. Test results are compared against Specifications.
 3 – VDOT IA samples are split samples with the Contractor QC and Locality VST samples. Test results are compared against the tolerances provided in Table 1.
 4 – In lieu of XRF (VMT-130), the following tests may be used: Spark Atomic Emission Spectrometry (ASTM E415), atomic absorption (ASTM E350) and Inductive Coupled Plasma (ICP) spectrometry (ASTM E2594).

Material Type	Spec. Section	Test Reference	QC ¹ Frequency	VST ² Frequency	VDOT IV ² Frequency	VDOT IA ³ Frequency
BACKFILL	106.03; 302.03; 303.04; 401.03; Contract Special Provisions					
Moisture Density Relations – Standard Proctor, Atterberg Limits, Grain Size Analysis & CBR (All backfill types and borrow sources)		VTM-1; VTM-7; VTM-8; VTM-25	One (1) test weekly during production and with change in material. Change in material would be a change in the visual USCS soil classification (e.g. CL to CH)	One (1) test every five (5) weeks during production.	Minimum of two (2) tests per year during production or 10% of VST frequency, whichever is greater. Perform at least one (1) test for first five (5) QC tests.	Minimum of two (2) tests per year during production or 10% of VST frequency, whichever is greater. Perform at least one (1) test on QC personnel in the first month of production.
In-Place Density Tests – Box Culverts and Pipes, Drop Inlets, Manholes, Abutments, Retaining Walls (including MSE Walls)		VTM-10	One (1) per 100 LF length, each lift, alternating sides (alternating side applies to box culverts and pipes only); minimum one (1) test per 150 CY; minimum one (1) test per work shift at each location and whenever there is a change in material or compaction equipment/method.	One (1) test per 1500 CY, minimally one (1) test every ten (1) days of production.	Minimum of one (1) test per 15,000 CY. Perform at least one (1) test for first five (5) QC tests.	Minimum of one (1) test per 15,000 CY. Perform at least one (1) test on Contractor QC personnel in the first month.
HYDRAULIC CEMENT CONCRETE (HCC) STRUCTURAL	217					
HCC Entrained Air Content a) Pressuremeter b) Volumetric Meter c) Slump d) Unit Weight e) Temperature		ASTM C231; ASTM C173; ASTM C138; ASTM C1064	Test every load	One (1) test per 500 CY; minimum one (1) test per project	One (1) test per 5000 CY; minimum one (1) test per project	One (1) test per 5000 CY; minimum one (1) test per project

HCC Compressive Strength		ASTM C31/C39	One (1) set of three (3) cylinders per 100 CY; minimum one (1) set of three (3) cylinders per day	One (1) set of three (3) cylinders per 5000 CY; minimum one (1) set of three (3) cylinders per project.	One (1) set of three (3) cylinders per 10,000 CY; minimum of one (1) set of three (3) cylinders per project.	One (1) set of three (3) cylinders per 10,000 CY; minimum of one (1) set of three (3) cylinders per project.
HCC Chloride Permeability		VTM-112	One (1) set of two (2) cylinders per 100 CY; minimum one (1) set of two (2) cylinders per day.	One (1) set of two (2) cylinders per 5000 CY; minimum one (1) set of two (2) cylinders per project.	One (1) set of two (2) cylinders per 10,000 CY; minimum one (1) set of two (2) cylinders per project.	One (1) set of two (2) cylinders per 10,000 CY; minimum one (1) set of two (2) cylinders per project.
HCC Reinforcing Steel (Non-Corrosion Resistant Bar)		ASTM A615	Verify manufacturer's certificates for every shipment for acceptance prior to placement.	One (1) sample per manufacturer per most common size per project. Test for tensile, yield, elongation and weight per unit length.	One (1) sample per project; test for tensile, yield, elongation and weight per unit length.	Verify 10% of the mill certifications.
HCC Reinforcing Steel (Corrosion Resistant Bar)		ASTM A955; AASHTO MP13-04; ASTM A1035	Verify manufacturer's certificates for every shipment for acceptance prior to placement.	One (1) sample per manufacturer per most common size per project. In addition to testing tensile, yield, elongation and weight per unit length, verify alloy using X-ray Fluorescence (XRF) Spectroscopy ⁴ .	One (1) sample per project. In addition to testing tensile, yield, elongation and weight per unit length, verify alloy using X-ray Fluorescence (XRF) Spectroscopy ⁴ .	Verify 10% of the mill certifications.
SOILS / SUBGRADE / EMBANKMENT	106.03; 302.03; 303.04; 305.03; 308.03; 309.05; Contract Special Provisions					
Moisture Density Relations of Soils – Standard Proctor, Atterberg Limits, Grain Size & CBR (Soils/Subgrade/Embankment – this is not redundant with backfill requirements)		VTM-1; VTM-7; VTM-8; VTM-25	Once weekly and with change in material. Change in material would be a change in the visual USCS soil classification (e.g. CL to CH)	Once every five (5) weeks during production.	Minimum of two (2) tests per calendar year during production or 10% of VST frequency, whichever is greater. Perform at least one (1) test for first five (5) QC tests.	Minimum of two (2) tests per calendar year for each QC personnel during production or 10% of VST frequency, whichever is greater. Perform at least one (1) test on QC personnel in the first month of production.

In-Place Density		VTM-10	One (1) test per 500 LF interval each lift; minimum one (1) test per work shift at each location and whenever there is a change in material or compaction equipment/method.	One (1) test per 500 CY (10% of QC frequency); minimally one (1) test every ten (10) days of production.	Minimum of one (1) test per calendar year for each QC personnel during production or 10% of VST frequency, whichever is greater. Perform at least one (1) test for first five (5) QC tests.	Minimum of one (1) test per calendar year for each QC personnel during production or 10% of VST frequency, whichever is greater. Perform at least one (1) test for each QC personnel in the first month of production.
TREATED SUBGRADE / SUBBASE, AGGREGATE, BASE MATERIAL and CEMENT-TREATED AGGREGATE BASE MATERIAL	306.03; 307.05; 308.04; 309.05					
Depth Checks		VTM-38B	One (1) test per 0.5 mile per lane width (Two (2) per mile per paver/mixer width from 0 to 1 miles; three (3) from 1 to 1.5 miles; four (4) from 1.5 to 2 miles; Project divided into lots, each lot stratified and locations determined randomly.)	One (1) test per five (5) miles per lane width (10% of QC frequency); minimally one (1) test per roadway in first five (5) QC tests.	Minimum of one (1) test per calendar year or one (1) test per 50 miles per lane width, whichever is greater.	Minimum of one (1) test per project per calendar year or one (1) test per 50 miles per lane width for each QC personnel, whichever is greater. Perform at least one (1) IA test on QC personnel in the first month of production.
In-Place Density		VTM-10	One (1) test per 0.5 mile per lane width; average of five (5) nuclear gauge readings comprises one (1) nuclear density test.	One (1) test per five (5) miles per lane (10% of QC frequency); minimum of one (1) test per roadway.	Minimum of one (1) test per project per year or one (1) test per 50 miles per lane width, whichever is greater.	Minimum of one (1) test per project per year or one (1) test per 50 miles per lane width for each QC personnel, whichever is greater. Perform at least one (1) IA test on QC personnel in the first month of production.
ASPHALT CONCRETE PLACEMENT	315					
Pavement Density by Nuclear Method with In-Place Pavement Density by Cores/Plugs serving the VST function		VTM-76; VTM-6; VTM-22	Establish roller pattern, control strips and test sections. Ten (10) stratified random density tests per test section (5000 LF).	One set of two (2) stratified random cores/plugs per 25,000 LF per paver width. Both cores obtained from the same test section. Minimum two (2) cores/plugs per project.	One set of two (2) stratified random cores/plugs per 50,000 LF per paver width. Both cores obtained from the same test section. Minimum two (2) cores/plugs per project.	Materials representative observe and witness QC and VST testing to assure testing is performed properly and equipment is calibrated on a system basis; minimum once per calendar year.

Pavement Density by Core/Plug Method with In-Place Density by Cores/Plugs serving the VST function		VTM-76; VTM-6; VTM-22	Establish roller pattern, control strips and test sections. Five (5) stratified random density tests per test section (5000 LF).	One set of two (2) stratified random cores/plugs per 25,000 LF per paver width. Both cores obtained from the same test section. Minimum two (2) cores/plugs per project.	One set of two (2) stratified random cores/plugs per 50,000 LF per paver width. Both cores obtained from the same test section. Minimum two (2) cores/plugs per project.	Materials representative observe and witness QC VST testing to assure testing is performed properly and equipment is calibrated on a system basis; minimum once per calendar year.
In-Place Pavement Density – Distances too short for Control Strip Establishment (Asphalt Pavement)		VTM-6	Minimum of one (1) core/plug per location not long enough to establish roller pattern/control strip	Obtain one (1) random core/plug per ten (10) QC locations.	One (1) stratified random core per twenty (20) QC locations). Minimum one (1) core/plug per project.	Materials representative observe and witness QC and VST testing to assure testing is performed properly and equipment is calibrated on a system basis; minimum once per calendar year.
Depth Checks by Cores (Asphalt Pavement)		VTM-32	Obtain cores at the following frequency per 24-foot pavement width: from 0 to 0.5 miles, two (2) cores; from 0.5 to 0.75 miles, three (3) cores; from 0.75 to 1 mile, four (4) cores.	Obtain one (1) random core per ten (10) QC locations.	One set of two (2) stratified random cores/plugs per 50,000 LF per paver width. Both cores obtained from the same test section. Minimum two (2) cores/plugs per project.	Materials representative observe and witness QC and VST testing to assure testing is performed properly and equipment is calibrated on a system basis; minimum once per calendar year.
STONE MATRIX ASPHALT PLACEMENT	317					
In-Place Pavement Density		VTM-6; VTM-22	Establish trial section and test sections. Three (3) stratified random cores/plugs per test strip. Five (5) stratified random density tests per test section (5000 LF).	One set of two (2) stratified random cores/plugs per 25,000 LF per paver width. Both cores obtained from the same test section. Minimum two (2) cores/plugs per project.	Randomly select and reweigh one (1) QC core/plug per five (5) QC test sections. Minimum one (1) core/plug per project.	Materials representative observe and witness QC and VST testing to assure testing is performed properly and equipment is calibrated on a system basis; minimum once per calendar year.
HYDRAULIC CEMENT CONCRETE PAVEMENT	217					
HCC Entrained Air Content a) Pressuremeter b) Volumetric Meter c) Slump d) Unit Weight e) Temperature		ASTM C231; ASTM C173; ASTM C143; ASTM C138; ASTM C1064	First three (3) loads and if passing results obtained, then one (1) test per hour.	One (1) test per day of production	One (1) test per 5000 CY; minimum one (1) test per project.	One (1) test per 10,000 CY; minimum one (1) test per project.

Compressive Strength of Concrete Cylinders		ASTM C31; ASTM C39	One (1) set of three (3) cylinders per 250 CY; minimum one (1) set of three (3) cylinders per day.	One (1) set of three (3) cylinders per 10,000 CY; minimum one (1) set of three (3) cylinders per project.	One (1) set of three (3) cylinders per 20,000 CY; minimum one (1) set of three (3) cylinders per project.	One (1) set of three (3) cylinders per 50,000 CY for each QC personnel; minimum one (1) set of three (3) cylinders per project.
HYDRAULIC GEMENT CONCRETE MISCELLANEOUS ITEMS	217					
HCC Entrained Air Content a) Pressuremeter b) Volumetric Meter c) Slump d) Unit Weight e) Temperature		ASTM C231; ASTM C173; ASTM C143; ASTM C138; ASTM C1064	One (1) test per load.	One (1) test per 1250 CY; minimum one (1) test per project.	One (1) test per 12,500 CY; minimum one (1) test per project.	One (1) test per 12,500 CY for each QC personnel; minimum one (1) test per project.
Compressive Strength of Concrete Cylinders		ASTM C31; ASTM C39	One (1) set of three (3) cylinders per 500 CY; minimum one (1) set of three (3) cylinders per day.	One (1) set of three (3) cylinders per 12,500 CY (cumulative); minimum one (1) set of three (3) cylinders per project.	One (1) set of three (3) cylinders per 25,000 CY (cumulative); minimum one (1) set of three (3) cylinders per project.	One (1) set of three (3) cylinders per 25,000 CY for each QC personnel (cumulative); minimum one (1) set of three (3) cylinders per project.
PAVEMENT MARKINGS	704					
Marking and Bead Application Rate		VTM-94	Perform VTM-94 at start-up with periodic checks every three (3) hours of operation.	Randomly select three (3) ten-foot areas at the beginning, middle and end of in-place sections of markings per day. Skip lines and edge lines are considered separately: 1) Inspect PM for correct placement, straightness, edges, thickness, bead distribution and embedment, day and night color and brightness. Inspect structure of tape to ensure patterned waffles have not been damaged by roller.	Upon completion of pavement markings installation, perform two (2) tests consisting of one (1) day and one (1) night time review of the marking installation (examining the brightness and nighttime color while driving along project). Performed by Regional Operations once the markings have been completed.	Review 5% of the C-85 daily reports to verify calculated quantities match the application rates and confirm that daily measurements were performed as described in VTM-94. Performed by Construction staff.
CLEARING AND GRUBBING	301					
Ensure activities are confined to limits and seeded within 30 days of disturbance			Daily	Review documentation monthly	Review documentation upon completion	Monthly

PRE-CAST STRUCTURES	404					
Verify bedding material is installed properly and that pre-cast materials are not chipped or cracked			Daily	Verify QA stamp, installation and documentation monthly	Verify 10% of VST documentation	10% of structure or runs of pipe
EROSION AND SILTATION CONTROL	303.03; Std. 113; DCR Specifications and Certifications					
Monitor for correct installation and maintenance			Daily	Inspection after 0.25" or greater rain event	Monthly inspection of documentation and verification of certifications	Weekly
GEOSYNTHETICS	245	Various				
Each type			One (1) set of required tests for each lot of each different type and manufacturer; visually inspect 100% of installed material	Review documentation monthly	One (1) set of required tests for each different type of material per project	10% of QC visual inspection
UNDERCUT	303.04; Contract Documents					
Review area to determine need for undercut			Prior to start of work at each location; after rain events	Review all reports; verify qualified inspector and correct equipment	Review documentation upon completion	10% of VST frequency
Measure undercut area			Prior to backfill at each location	Review all calculations/reports; verify qualified inspector and correct equipment	Review documentation upon completion	10% of VST frequency
LOAD BEARING PILES	403					
Monitor operations and document blow count			Continuously	Review documentation weekly	Review documentation upon completion	Weekly
Perform Center of Gravity calculations			For each foundation	Review one (1) calculation per twenty (20) foundations	Review one (1) randomly selected calculation per project	N/A

STRUCTURAL STEEL	407					
Receive bolts, sample, verify the documentation is complete and perform laboratory Skidmore, tension and galvanized coating testing	226.02(h)		Each nut-bolt-washer (NBW) assembly lot shall be samples at a minimum rate of two (2) assemblies per NBW lot. The documentation shall be collected from the bolt supplier and the galvanizer for each lot and supplied along with the samples to the Locality. QC personnel shall monitor the storage and conditions of the bolts to ensure they remain in good, well-lubricated condition.	Each NBW lot shall be tested, one (1) bolt in direct tension, one (1) assembly for galvanized coating and one (1) nut for rotational capacity testing (Rot-Cap).	Collect a separate sample (at random) of not less than 10% of the lots sampled (two lot minimum) and test for tension, Rot-Cap and galvanized coating. Review documentation to verify origin and physical properties meet specifications.	Each project phase, two (2) of the sampled NBW assemblies shall be monitored during VST testing.
Verify daily Skidmore testing is performed 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.	407.06(c)		Each day and each NBW lot (three bolts per lot) used shall be Rot-Cap tested in the Skidmore device in accordance with proper procedures.	Three (3) NBW assemblies from each lot shall be Rot-Cap tested each week during production.	Collect an independent sample and perform Rot-Cap test once at the start of each phase of erection.	Witness VST once per week during erection; minimum two times per project.
Verify the installation crews are using proper installation procedures in accordance with specifications to tension the bolts	407.06		Monitor each crew during erection to ensure proper technique (TOTN – turn of the nut or DTI – direct tension indicating washers) is followed.	No test	No test	Monitor each crew for six (6) NBW assemblies once each week during erection.

Verify the bolted connections have been tensioned properly using statistical sampling frequency and a calibrated torque wrench	407.06(c)4		For each connection, test 10% or a minimum of two (2) NBW assemblies, verifying the required torque. Complete testing before the deck is formed.	Test two (2) NBW assemblies in 25% of the slip-critical connections (minimum of two connections per traverse line of splices) and two (2) NBW assemblies in 10% of the secondary member connections.	Monitor the VST testing.	Verify that the equipment is calibrated within the appropriate timeframe.
PROTECTIVE COATING OF STEEL STRUCTURES	411; SSPC-PA-2					
Monitor surface preparation and check coating thickness			Take three (3) surface profile measurements per day of blasting. Five (5) spot measurements (15 individual readings) per day as defined in PA-2 for coating thickness after each layer of applied protective coating at each location.	One (1) surface profile measurement per month of blasting. One (1) spot measurement (3 individual readings) per month as defined in PA-2 for coating thickness after each layer of applied protective coating at each location.	One (1) per three (3) months; minimum one (1) per project.	Observe QC testing at 10% of VST frequency. Minimum once per project.
UNDERDRAINS	501	VTM-108				
Inspect to ensure no deficiencies			All accessible outlet locations; additionally a minimum of 10% of longitudinal sections.	One (1) per twenty-five (25) outlet locations; minimum one (1) per project.	Select one (1) uninspected site for Locality to inspect.	Observe one (1) per five (5) QC inspections; minimum one (1) per project.
STORM SEWER AND CULVERT POST-INSTALLATION INSPECTION	302.03(d)	VTM-123				
Various			Per VTM-123	Review each post-installation report.	Review documentation upon completion.	N/A
GUARDRAIL	505					
Verify that guardrail is installed per specifications and at proper height			Daily	Spot-check per 505 LF.	Select one (1) independent site per project for spot-check.	Observe one (1) VST spot-check per mile; minimum two (2) per project.
FENCING	507					
Verify fencing type, height and location			Daily	Review documentation monthly	Review documentation upon completion.	N/A

ROW MONUMENTS	503					
Verify monument type and location			10% of ROW monuments.	Review documentation monthly during installation.	Review documentation upon completion.	N/A
MAINTENANCE OF TRAFFIC	512	Work Zone Safety Checklist				
Monitor installation and maintenance			Daily	Review documentation every two (2) weeks.	Review documentation on each site visit.	N/A
SOUND BARRIER WALLS	519					
Verify location and installation per shop drawings			Daily	Review documentation every two (2) weeks.	Review documentation upon completion.	N/A
TOPSOIL AND SEEDING	602; 603					
			Daily	Review documentation monthly.	Review documentation upon completion.	Review final installation.
PLANTING	605					
Verify that proper plants are installed at correct locations per plans			Daily	Review documentation monthly.	Review documentation upon completion.	Review final installation.
Monitor that plants are cared for during establishment period			Daily	Review documentation monthly.	Review documentation upon completion.	N/A
TRAFFIC SIGNS	512	WAPM; MUTCD				
Verify that signs meeting current standards are utilized in locations per plans			Daily	Review documentation monthly.	Review documentation upon completion.	Weekly
TRAFFIC SIGNALS	703					
Monitor installation for conformance with plans and specifications			Daily	Review documentation monthly.	Review documentation upon completion.	N/A
WATER AND SEWER FACILITIES	520					
Monitor installation for conformance with plans and specifications.			Daily	Review documentation monthly.	Review documentation upon completion.	N/A
SPECIALTY CONTRACT ITEMS						
Various	Various	Various	Monitor at rates set forth in approved Quality Control Plan.	Monitor at rates set forth in approved Quality Assurance Plan.	10% of VST frequency.	10% of VDOT VST frequency.
<p>1 – Contractor QC samples shall be randomly located. Test results are compared against Specifications. 2 – Locality and VDOT VST samples shall be randomly located, in different locations than Contractor QC samples. Test results are compared against Specifications. 3 – VDOT IA samples are split samples with the Contractor QC and Locality VST samples. Test results are compared against the tolerances provided in Table 1. 4 – In lieu of XRF (VTM-130), the following tests may be used: Spark Atomic Emission Spectrometry (ASTM E415), atomic absorption (ASTM E350) and Inductive Coupled Plasma (ICP) spectrometry (ASTM E2594).</p>						

SS102-010100-00

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

January 10, 2017

I. Description

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

II. Non-Discrimination

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

III. Measurement and Payment

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