



Infrastructure



SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

PROPOSAL DOCUMENTS

2019

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BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

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BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

PROPOSAL DOCUMENT CHECKLIST

Prior to submitting a proposal, prospective bidders should review the checklist below to insure that the proposal is accepted and not declared nonresponsive.

| Yes | No | <u>Proposal Document:</u> |
|--------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Are you aware if your affiliates are bidding on the same project? |
| Yes | No | <u>Proposal Document Preparation:</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the proposal to be submitted an Official Proposal issued by Brownsville Navigation District? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are you submitting only one (1) proposal for this project? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the proposal signed by your company representative or each joint venture participant? |
| <input type="checkbox"/> | <input type="checkbox"/> | Have you entered amounts for all bid items? |
| <input type="checkbox"/> | <input type="checkbox"/> | If using a computer printout, has it been signed by your company representative or each joint venture participant? |
| <input type="checkbox"/> | <input type="checkbox"/> | Have you completed the Brownsville Navigation District Attachments A, B, C, D, and E? |
| <input type="checkbox"/> | <input type="checkbox"/> | Have you acknowledged every addendum by signing the Receipt of Addenda form? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the proposal document (or computer printout) contain the proper number of bid items? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the proposal document contain any conditions not included in the proposal document provided to you? |
| <input type="checkbox"/> | <input type="checkbox"/> | Did you enter prices for all alternate and all base items or all base bid items? |

| Yes | No | <u>Bid Bonds:</u> |
|--------------------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Is the bid bond signed by the surety? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the bid bond signed by the company representative or each joint venture participant? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the exact name of the contractor(s) listed as the principal? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the impressed surety seal affixed to the bid bond? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the name on the surety seal match the name of the surety on the bond? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the bond dated on or earlier than the letting date of the project? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the signer for the surety listed on the power of attorney attached to the bond? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the surety authorized to issue the bond? |
| Yes | No | <u>Bid Guaranty Checks:</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the check a cashier's check, bank money order, or tellers check issued by a state or national bank, savings and loan association, or a state or federally chartered credit union? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the check dated on or before the letting date? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the check less than 90 days old? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the check made payable to Brownsville Navigation District? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the check for at least five (5) percent of the Total Bid Amount? |
| Yes | No | <u>Proposal Document Submission:</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | Are you aware of the time and date deadline for submission of proposal document? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are you aware of the proper delivery location for the proposal document? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are you submitting a complete proposal document? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the proposal submitted in a sealed envelope? |

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

INVITATION TO BID

For the construction of South Port Connector at the Port of Brownsville consisting of flexible base, lime-treated subgrade, reinforced concrete pavement (CRCP), signing and pavement markings, RCP pipe, and bridge structures.

Payment for this project will be made as defined in the specifications.

Sealed Proposals for the above referenced project will be received by the Brownsville Navigation District located at 1000 Foust Rd. Brownsville, Texas 78521 on, or before 3:00 P.M. C.S.T., Tuesday, September 17, 2019. Bids will be opened at the same location at 3:01 P.M. C.S.T. (as per Brownsville Navigation District time clock) on the deadline due date.

The work under this Contract shall be Substantially Complete within two hundred and forty (240) working days after the initial notice to proceed (NTP). The Contractor will be allowed up to an additional thirty (30) calendar days for Final Acceptance. The contract time includes the mobilization and materials procurement period. The complete list of estimated quantities is located in the bid tab. The principal items of work are as follows:

- Embankment
- Limestone Base
- Reinforced Concrete Pavement (CRCP)
- Bridge Structure-Piling, Abutment, Bent, & Reinforced Concrete Slab

To receive, and subsequently submit Official Proposals for this Contract, prospective bidders shall meet the following requirements:

- Be registered with the State of Texas,
- Be eligible to work on Federal Projects,
- Be prequalified by TxDOT to perform the work.

Brownsville Navigation District cannot be held liable in the event a party is unable to submit a valid bid due to delay in the prequalification procedure. Securing prequalification and the timing thereof, shall at all times be the sole responsibility of the Prospective Bidder.

- The contract will be awarded in accordance with Brownsville Navigation District Procurement and Policy Procedures. A copy of the Procurement and Policy Procedures is available online at the Brownsville Navigation District website at www.portofbrownsville.com.

A Pre-bid Meeting will be held for this project on Tuesday, September 3, 2019 at 1:30 P.M. C.S.T, at the Brownsville Navigation District located at 1000 Foust Rd. Brownsville, Texas 78521. The Pre-bid Meeting is **MANDATORY** and prospective bidders must attend in order to have their proposal opened. At 1:00 P.M. C.S.T., at the same location, a Disadvantage Business Enterprise (DBE) networking session will be held. This session is intended to allow DBE firms and companies the opportunity to meet and discuss potential teaming opportunities with prospective bidders.

Although attendance at the DBE networking session is not a requirement for submitting a proposal, the Brownsville Navigation District strongly encourages participation.

Bids received after the above mentioned date and time will not be considered and will be returned unopened. The Brownsville Navigation District reserves the right to accept or reject all or any part of any bid, hold all bids for 120 days from the due date of receipt without actions, waive any technicalities, require statements or evidence of bidder's qualifications, including financial statements, and award the bid which best serves the BND. Acceptance will be based on low bid and qualification of the Contractor. Award of bid shall be to the lowest responsible bidder.

Bid Documents may be obtained at the BND office, at the S&B Infrastructure Office, and online at <http://www.civcastusa.com/>.

| BND Office | CCRMA Office | S&B Infrastructure Office |
|--------------------------------------------|-----------------------------------------------|------------------------------------------------------|
| 1000 Foust Rd. Brownsville, Texas 78521 | 3461 Carmen Ave. Rancho Viejo, Texas 78575 | 5408 N. 10 th St. McAllen, Texas 78504 |

Copies will be available in CD format at no cost.

At the time Bid Documents are obtained Bidder must provide a working e-mail address so as to receive any addendum or clarification issued by the BND.

Standard Specifications (Texas Department of Transportation "Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges", 2014), which form an integral part of this Contract, are available online at the Texas Department of Transportation (TxDOT) website at www.txdot.gov.

PROPOSAL REQUIREMENTS

Each Proposal must be accompanied by a Bid Guaranty consisting of either a Bid Guaranty Check in the amount of at least five (5) percent of the Total Bid Amount or a Bid Bond (on the form provided) in the amount of at least five (5) percent of the Total Bid Amount. The Bid Guarantee Check must be a cashier's check, money order, or teller's check issued by a state or national bank, savings and loan association, or a state or federally chartered credit union and made payable to Brownsville Navigation District. The Bid Guarantee Check must be dated on or before the letting date and must be less than 90 days old.

A 4% goal for DBE is established for this project.

You must sign below in INK; failure to sign WILL disqualify the offer. All prices must be typewritten or written in ink.

Company Name: _____

Company Address: _____

City, State, Zip Code: _____

Taxpayer Identification Number (T.I.N.): _____

Telephone No. _____ Fax No. _____ E-mail _____

Print Name: _____ Signature: _____

(Your signature attests to your offer to provide the goods and/or services in this bid according to the published provision of this bid. When an award letter is issued, this Bid becomes the contract. If a Bid required specific Contract is to be utilized in addition to this Bid, this signed Bid will become part of that contract. When an additional Contract is required a Bid award does not constitute a contract award and Bid / Contract is not valid until contract is awarded by Brownsville Navigation District Board of Directors (when applicable) signed by the Chairman and Purchase Order is issued.)

BROWNSVILLE NAVIGATION DISTRICT

Ariel Chavez
Port of Brownsville Engineering Director
Brownsville, Texas

THIS FORM MUST BE RETURNED WITH YOUR BID

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

NOTICE TO THE BIDDER

In the space provided below, please enter your total unit price bid amount for this project. Only this figure will be read publicly by Brownsville Navigation District at the public bid opening.

It is understood and agreed by the bidder in signing this proposal that the total bid amount entered below is not binding on either the bidder or Brownsville Navigation District. It is further agreed that the official total bid amount for this proposal will be determined by multiplying the unit bid prices for each pay item by the respective estimated quantities shown in this proposal and then totaling all of the extended amounts.

\$ _____
Total Bid Amount

THIS FORM MUST BE RETURNED WITH YOUR BID

THIS SHEET INTENTIONALLY LEFT BLANK

| EXAMPLE | EXAMPLE | EXAMPLE | EXAMPLE | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|----------------------|---------------------|
| <h2 style="margin: 0;">EXAMPLES</h2> <div style="border: 1px solid black; border-radius: 15px; padding: 5px; margin: 10px auto; width: 80%;"> BID PRICES SUBMITTED BY HAND WRITTEN FORMAT </div> | | | | | | |
| ALT | ITEM-CODE | | | UNIT | APPROX QUANTITIES | DEPT USE ONLY |
| ITEM NO | DESC NO | S.P. NO. | UNIT BID PRICE <u>ONLY</u> WRITTEN IN WORDS | | | |
| 190 | 026 | | RED OAK 1 1/2" - 1 3/4" GAL BB <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;">E</div> <div style="text-align: center;"> <div style="font-size: 2em; margin: 0;">X</div> <div style="font-size: 1.5em; margin: 0;">One hundred fifty</div> <div style="font-size: 1.5em; margin: 0;">and No</div> </div> <div style="margin-left: 10px;"> <div style="font-size: 2em; margin: 0;">M</div> <div style="font-size: 1.5em; margin: 0;">DLRS</div> <div style="font-size: 1.5em; margin: 0;">CENTS</div> </div> </div> | EA | 9.000 | 1 |
| <div style="display: flex; align-items: center;"> <div style="border-left: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> <div> <u>Unit price for <u>each</u> plant in place</u> </div> </div> | | | | | | |
| 249 | 014 | | FLEX BASE(DEL)(DENSOT)(TY A GR4 CL2) <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;">E</div> <div style="text-align: center;"> <div style="font-size: 2em; margin: 0;">X</div> <div style="font-size: 1.5em; margin: 0;">Seven</div> <div style="font-size: 1.5em; margin: 0;">and Fifty three</div> </div> <div style="margin-left: 10px;"> <div style="font-size: 2em; margin: 0;">M</div> <div style="font-size: 1.5em; margin: 0;">DLRS</div> <div style="font-size: 1.5em; margin: 0;">CENTS</div> </div> </div> | TON | 56,787.00 | 14 |
| <div style="display: flex; align-items: center;"> <div style="border-left: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> <div> <u>Unit price for <u>each</u> ton of Flexible Base</u> </div> </div> | | | | | | |
| 430 | 001 | 001 | CL A CONC FOR EXT STR (CULV) <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;">E</div> <div style="text-align: center;"> <div style="font-size: 2em; margin: 0;">X</div> <div style="font-size: 1.5em; margin: 0;">Three hundred five</div> <div style="font-size: 1.5em; margin: 0;">and No</div> </div> <div style="margin-left: 10px;"> <div style="font-size: 2em; margin: 0;">M</div> <div style="font-size: 1.5em; margin: 0;">DLRS</div> <div style="font-size: 1.5em; margin: 0;">CENTS</div> </div> </div> | CY | 45.000 | 27 |
| <div style="display: flex; align-items: center;"> <div style="border-left: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> <div> <u>Unit price for <u>each</u> cubic yard of Concrete</u> </div> </div> | | | | | | |
| 610 | 007 | 001 | RDWY ILL ASSEM(TY ST 50T-8-8)(.4 KW)S <div style="display: flex; align-items: center;"> <div style="border: 1px solid black; padding: 2px; margin-right: 5px;">E</div> <div style="text-align: center;"> <div style="font-size: 2em; margin: 0;">X</div> <div style="font-size: 1.5em; margin: 0;">Fourteen hundred sixteen</div> <div style="font-size: 1.5em; margin: 0;">and Thirty seven</div> </div> <div style="margin-left: 10px;"> <div style="font-size: 2em; margin: 0;">M</div> <div style="font-size: 1.5em; margin: 0;">DLRS</div> <div style="font-size: 1.5em; margin: 0;">CENTS</div> </div> </div> | EA | 13.000 | 7 |
| <div style="display: flex; align-items: center;"> <div style="border-left: 1px solid black; width: 20px; height: 20px; margin-right: 5px;"></div> <div> <u>Unit price of <u>each</u> Roadway Illumination Assembly</u> </div> </div> | | | | | | |
| EXAMPLE | EXAMPLE | EXAMPLE | EXAMPLE | | | |

(Note: Bidders shall not remove this Bidding form from attached documents.)

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

BID

To: Brownsville Navigation District
 Attn: Ariel Chavez
 BND Office
 1000 Foust Rd.
 Brownsville, Texas 78521

Gentlemen:

I/we, the undersigned, declare: that I/we have carefully examined the Plans, Standard Specifications, Special Provisions, and all other documents pertaining to this Contract which form a part of this Bid as if set forth at length herein; that I/we understand that the quantities of items shown herein below are approximate only; that I/we have examined the location of the proposed work; that I/we agree to bind myself/ourselves, upon award to me/us by Brownsville Navigation District under this Bid, to enter into and execute a Contract, with the necessary bonds, for the project named above; that I/we agree to start work not later than the date stated in the written Notice to Proceed (Section 8.1 of the Specifications), to furnish all necessary materials, provide all necessary labor, equipment, tools and plant, pay for all required insurance, bonds, permits, fees and service, and do all required work in strict compliance with the terms of all documents comprising said Contract, and to substantially complete the entire project within two hundred and forty (240) working days after initial Notice to Proceed (NTP) and up to an additional thirty (30) calendar days for Final Acceptance.; and that I/we agree to accept as full compensation for the satisfactory prosecution of this project the following unit prices bid resulting in the Official Total Bid Amount for the various scheduled items of work.

SOUTH PORT CONNECTOR CSJ# 0921-06-288 - UNOFFICIAL BID TAB

| ALT | ITEM NO | DESC COE | DESCRIPTION AND UNIT PRICES IN WRITING | | | UNIT OF MEASURE- MENT | Approximate QUANTITY | UNIT PRICE (IN FIGURES) DOLLARS & CENTS | AMOUNT (IN FIGURES) DOLLARS & CENTS |
|-----------------|---------|----------|----------------------------------------------------------------|-----|-------------|--------------------------|-------------------------|-----------------------------------------------|-------------------------------------------|
| BASE BID | | | | | | | | | |
| | 100 | 6002 | PREPARING ROW _____ _____ _____ | Per | Station | STA | 105.00 | | |
| | 110 | 6001 | EXCAVATION (ROADWAY) _____ _____ _____ | Per | Cubic Yard | CY | 9,766.00 | | |
| | 132 | 6006 | EMBANKMENT (FINAL)(DENS CONT)(TY C) _____ _____ _____ | Per | Cubic Yard | CY | 61,819.00 | | |
| | 134 | 6001 | BACKFILL (TY A) _____ _____ _____ | Per | Station | STA | 61.00 | | |
| | 150 | 6001 | BLADING _____ _____ _____ | Per | Station | STA | 6.00 | | |
| | 160 | 6005 | FURNISHING AND PLACING TOPSOIL _____ _____ _____ | Per | Cubic Yard | CY | 7,291.00 | | |
| | 164 | 6036 | DRILL SEEDING (PERM) (RURAL) (CLAY) _____ _____ _____ | Per | Acre | AC | 11.00 | | |
| | 164 | 6042 | DRILL SEEDING (TEMP) (WARM) _____ _____ _____ | Per | Acre | AC | 11.00 | | |
| | 168 | 6001 | VEGETATIVE WATERING _____ _____ _____ | Per | Million Gal | MG | 1,684.00 | | |

SOUTH PORT CONNECTOR CSJ# 0921-06-288 - UNOFFICIAL BID TAB

| ALT | ITEM NO | DESC COE | DESCRIPTION AND UNIT PRICES IN WRITING | | | UNIT OF MEASURE- MENT | Approximate QUANTITY | UNIT PRICE (IN FIGURES) DOLLARS & CENTS | AMOUNT (IN FIGURES) DOLLARS & CENTS |
|-----------------|---------|----------|---------------------------------------------------------------------|-----|-------------|--------------------------|-------------------------|-----------------------------------------------|-------------------------------------------|
| BASE BID | | | | | | | | | |
| | 247 | 6236 | FLBS (RDWY DEL) (TY A GR 1-2)(FINAL POS) _____ _____ _____ | Per | Cubic Yard | CY | 6,684.00 | | |
| | 260 | 6016 | LIME _____ _____ _____ | Per | Ton | TON | 682.00 | | |
| | 260 | 6079 | LIME TRT (SUBGRADE)(6") _____ _____ _____ | Per | Square Yard | SY | 40,107.00 | | |
| | 275 | 6001 | CEMENT _____ _____ _____ | Per | Ton | TON | 455.00 | | |
| | 275 | 6003 | CEMENT TREAT (NEW BASE)(6") _____ _____ _____ | Per | Square Yard | SY | 40,107.00 | | |
| | 310 | 6009 | PRIME COAT (MC-30) _____ _____ _____ | Per | Gallon | GAL | 8,021.00 | | |
| | 340 | 6104 | D-GR HMA(SQ) TY-D SAC-B PG64-22 _____ _____ _____ | Per | Ton | TON | 2,194.00 | | |
| | 360 | 6006 | CONC PVMT (CONT REINF - CRCP) (12") _____ _____ _____ | Per | Square Yard | SY | 38,486.00 | | |
| | 400 | 6001 | STRUCT EXCAV _____ _____ _____ | Per | Cubic Yard | CY | 47.00 | | |

SOUTH PORT CONNECTOR CSJ# 0921-06-288 - UNOFFICIAL BID TAB

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|-----------------|---------|----------|-------------------------------------------------------------------|-----|-------------|--------------------------|-------------------------|-----------------------------------------------|-------------------------------------------|
| BASE BID | | | | | | | | | |
| | 400 | 6005 | CEM STABIL BKFL _____ _____ _____ | Per | Cubic Yard | CY | 536.00 | | |
| | 409 | 6001 | PRESTR CONC PIL (16 IN SQ) _____ _____ _____ | Per | Linear Feet | LF | 80.00 | | |
| | 409 | 6004 | PRESTR CONC PIL (24 IN SQ) _____ _____ _____ | Per | Linear Feet | LF | 16,646.00 | | |
| | 420 | 6013 | CL C CONC (ABUT) _____ _____ _____ | Per | Cubic Yard | CY | 161.00 | | |
| | 420 | 6025 | CL C CONC (BENT) _____ _____ _____ | Per | Cubic Yard | CY | 735.00 | | |
| | 422 | 6001 | REINF CONC SLAB _____ _____ _____ | Per | Square Feet | SF | 218,750.00 | | |
| | 425 | 6039 | PRESTR CONC GIRDER (TX54) _____ _____ _____ | Per | Linear Feet | LF | 30,503.00 | | |
| | 428 | 6001 | PENETRATING CONCRETE SURFACE TREATMENT _____ _____ _____ | Per | Square Yard | SY | 38,846.00 | | |
| | 432 | 6016 | RIPRAP (STONE TY R) (DRY) (12 IN) _____ _____ _____ | Per | Cubic Yard | CY | 348.00 | | |

SOUTH PORT CONNECTOR CSJ# 0921-06-288 - UNOFFICIAL BID TAB

| ALT | ITEM NO | DESC COE | DESCRIPTION AND UNIT PRICES IN WRITING | | | UNIT OF MEASURE- MENT | Approximate QUANTITY | UNIT PRICE (IN FIGURES) DOLLARS & CENTS | AMOUNT (IN FIGURES) DOLLARS & CENTS |
|-----------------|---------|----------|-------------------------------------------------------------------|-----|-------------|--------------------------|-------------------------|-----------------------------------------------|-------------------------------------------|
| BASE BID | | | | | | | | | |
| | 432 | 6045 | RIPRAP (MOW STRIP)(4 IN) _____ _____ _____ | Per | Cubic Yard | CY | 48.00 | | |
| | 450 | 6006 | RAIL (TY T223) _____ _____ _____ | Per | Linear Feet | LF | 8,894.00 | | |
| | 454 | 6001 | SEALED EXPANSION JOINT (4 IN)(SEJ-A) _____ _____ _____ | Per | Linear Feet | LF | 700.00 | | |
| | 464 | 6005 | RC PIPE (CL III)(24 IN) _____ _____ _____ | Per | Linear Feet | LF | 188.00 | | |
| | 467 | 6394 | SET (TY II) (24 IN) (RCP) (6: 1) (C) _____ _____ _____ | Per | Each | EA | 4.00 | | |
| | 500 | 6001 | MOBILIZATION _____ _____ _____ | Per | Lump Sum | LS | 1.00 | | |
| | 502 | 6001 | BARRICADES, SIGNS AND TRAFFIC HANDLING _____ _____ _____ | Per | Month | MO | 12.00 | | |
| | 506 | 6001 | ROCK FILTER DAMS (INSTALL) (TY 1) _____ _____ _____ | Per | Linear Feet | LF | 410.00 | | |
| | 506 | 6011 | ROCK FILTER DAMS (REMOVE) _____ _____ _____ | Per | Linear Feet | LF | 410.00 | | |

SOUTH PORT CONNECTOR CSJ# 0921-06-288 - UNOFFICIAL BID TAB

| ALT | ITEM NO | DESC COE | DESCRIPTION AND UNIT PRICES IN WRITING | | | UNIT OF MEASURE- MENT | Approximate QUANTITY | UNIT PRICE (IN FIGURES) DOLLARS & CENTS | AMOUNT (IN FIGURES) DOLLARS & CENTS |
|-----------------|---------|----------|--------------------------------------------------------------------|-----|-------------|--------------------------|-------------------------|-----------------------------------------------|-------------------------------------------|
| BASE BID | | | | | | | | | |
| | 506 | 6020 | CONSTRUCTION EXITS (INSTALL) (TY 1) _____ _____ _____ | Per | Square Yard | SY | 156.00 | | |
| | 506 | 6024 | CONSTRUCTION EXITS (REMOVE) _____ _____ _____ | Per | Square Yard | SY | 156.00 | | |
| | 506 | 6031 | FRNT END LOADER WORK (ERSN & SEDM CONT) _____ _____ _____ | Per | Hour | HR | 32.00 | | |
| | 506 | 6038 | TEMP SEDMT CONT FENCE (INSTALL) _____ _____ _____ | Per | Linear Feet | LF | 21,072.00 | | |
| | 506 | 6039 | TEMP SEDMT CONT FENCE (REMOVE) _____ _____ _____ | Per | Linear Feet | LF | 21,072.00 | | |
| | 540 | 6001 | MTL W-BEAM GD FEN (TIM POST) _____ _____ _____ | Per | Linear Feet | LF | 200.00 | | |
| | 540 | 6006 | MTL BEAM GD FEN TRANS (THRIE-BEAM) _____ _____ _____ | Per | Each | EA | 8.00 | | |
| | 544 | 6001 | GUARDRAIL END TREATMENT (INSTALL) _____ _____ _____ | Per | Each | EA | 8.00 | | |
| | 550 | 6003 | CHAIN LINK FENCE (REMOVE) _____ _____ _____ | Per | Linear Feet | LF | 160.00 | | |

SOUTH PORT CONNECTOR CSJ# 0921-06-288 - UNOFFICIAL BID TAB

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|-----------------|---------|----------|------------------------------------------------------------------|-----|-------------|--------------------------|-------------------------|-----------------------------------------------|-------------------------------------------|
| BASE BID | | | | | | | | | |
| | 644 | 6001 | IN SM RD SN SUP&AM TY10BWG(1)SA(P) _____ _____ _____ | Per | Each | EA | 8.00 | | |
| | 644 | 6004 | IN SM RD SN SUP&AM TY10BWG(1)SA(T) _____ _____ _____ | Per | Each | EA | 20.00 | | |
| | 644 | 6007 | IN SM RD SN SUP&AM TY10BWG(1)SA(U) _____ _____ _____ | Per | Each | EA | 1.00 | | |
| | 644 | 6030 | IN SM RD SN SUP&AM TYS80(1)SA(T) _____ _____ _____ | Per | Each | EA | 5.00 | | |
| | 658 | 6014 | INSTL DEL ASSM (D-SW)SZ (BRF)CTB(BI) _____ _____ _____ | Per | Each | EA | 88.00 | | |
| | 658 | 6048 | INSTL OM ASSM (OM-2Z)(FLX)GND _____ _____ _____ | Per | Each | EA | 4.00 | | |
| | 658 | 6067 | INSTL DEL ASSM (D-DW)SZ 1(BRF)GF2 _____ _____ _____ | Per | Each | EA | 100.00 | | |
| | 666 | 6036 | REFL PAV MRK TY I (W)8"(SLD)(100MIL) _____ _____ _____ | Per | Linear Feet | LF | 827.00 | | |
| | 666 | 6042 | REFL PAV MRK TY I (W)12"(SLD)(100MIL) _____ _____ _____ | Per | Linear Feet | LF | 616.00 | | |

SOUTH PORT CONNECTOR CSJ# 0921-06-288 - UNOFFICIAL BID TAB

| ALT | ITEM NO | DESC COE | DESCRIPTION AND UNIT PRICES IN WRITING | | | UNIT OF MEASURE- MENT | Approximate QUANTITY | UNIT PRICE (IN FIGURES) DOLLARS & CENTS | AMOUNT (IN FIGURES) DOLLARS & CENTS |
|-----------------|---------|----------|--------------------------------------------------------------------|-----|-------------|--------------------------|-------------------------|-----------------------------------------------|-------------------------------------------|
| BASE BID | | | | | | | | | |
| | 666 | 6048 | REFL PAV MRK TY I (W)24"(SLD)(100MIL) _____ _____ _____ | Per | Linear Feet | LF | 38.00 | | |
| | 666 | 6141 | REFL PAV MRK TY I (Y)12"(SLD)(100MIL) _____ _____ _____ | Per | Linear Feet | LF | 1,566.00 | | |
| | 666 | 6153 | REFL PAV MRK TY I (Y)(ISLAND)(100MIL) _____ _____ _____ | Per | Square Feet | SF | 300.00 | | |
| | 666 | 6224 | PAVEMENT SEALER 4" _____ _____ _____ | Per | Linear Feet | LF | 43,803.00 | | |
| | 666 | 6228 | PAVEMENT SEALER 12" _____ _____ _____ | Per | Linear Feet | LF | 2,182.00 | | |
| | 666 | 6303 | RE PM W/RET REQ TY I (W)4"(SLD)(100MIL) _____ _____ _____ | Per | Linear Feet | LF | 21,582.00 | | |
| | 666 | 6315 | RE PM W/RET REQ TY I (Y)4"(SLD)(100MIL) _____ _____ _____ | Per | Linear Feet | LF | 22,221.00 | | |
| | 672 | 6009 | REFL PAV MRKR TY II-A-A _____ _____ _____ | Per | Each | EA | 491.00 | | |
| | 677 | 6001 | ELIM EXT PAV MRK & MRKS (4") _____ _____ _____ | Per | Linear Feet | LF | 1,210.00 | | |

SOUTH PORT CONNECTOR CSJ# 0921-06-288 - UNOFFICIAL BID TAB

| ALT | ITEM NO | DESC COE | DESCRIPTION AND UNIT PRICES IN WRITING | | | UNIT OF MEASURE- MENT | Approximate QUANTITY | UNIT PRICE (IN FIGURES) DOLLARS & CENTS | AMOUNT (IN FIGURES) DOLLARS & CENTS |
|-------------------------|---------|----------|-------------------------------------------------------------------|-----|-------------|--------------------------|-------------------------|-----------------------------------------------|-------------------------------------------|
| BASE BID | | | | | | | | | |
| | 685 | 6002 | RELOCATE RDSD FLASH BEACON ASSEMBLY _____ _____ _____ | Per | Each | EA | 1.00 | | |
| | 6056 | 6001 | PREFORMED IN-LANE (TRANS) RUMBLE STRIP _____ _____ _____ | Per | Linear Feet | LF | 200.00 | | |
| BASE BID TOTAL = | | | | | | | | | |

The quantities shown in the above schedule of items are considered to be approximate only and are given as the basis for comparison of bids. Brownsville Navigation District may increase or decrease the amount of any item or portion of the work as may be deemed necessary or expedient. Any increase or decrease in the amount of any item or portion of work will be added or deducted from the total contract bid price on the basis of the unit price provided and the associated quantity for that specific item or work. Brownsville Navigation District reserves the right to delete, in whole or in part, without prejudice prior to the award of the Contract, any items listed in the Bid. An increase or decrease in the quantity for any unit price item will not be regarded as sufficient ground for an increase or decrease in the unit price, nor in the time allowed for the completion of the work, except as provided for in the Specifications.

The cost of any work performed, materials furnished, services provided or expenses incurred, whether or not specifically delineated in the Contract document but which are incidental to the scope, intent and completion of this Contract, have been included in the price bid for the various items scheduled hereinabove.

Accompanying this Bid is a Bid Guaranty consisting of either a Bid Guaranty Check in the amount of at least five (5) percent of the Total Bid Amount or a Bid Bond (on the form provided) in the amount of at least five (5) percent of the Total Bid Amount. The bid Guarantee Check is a cashier's check, money order, or teller's check issued by a state or national bank, savings and loan association, or a state or federally chartered credit union and made payable to Brownsville Navigation District. The Bid Guarantee Check is dated on or before the letting date and is less than 90 days old. It is hereby understood and agreed that said check or bond is to be forfeited as liquidated damages in the event that, on the basis of this Bid, Brownsville Navigation District should award this Contract to me/us and that I/we should fail to execute and deliver said Contract and the prescribed Contract Bond, together with the required progress schedule, proof of proper insurance coverage and other necessary documents, all within the fifteen (15) calendar days after award of the contract; otherwise, said check or bond is to be returned to the undersigned.

Business Name of Bidder _____

Type of Organization Individual ☐
 Partnership ☐
 Corporation ☐

Texas Corporation Registration No. _____

Address of Bidder: _____

Signature of Owner,
Partner or Corp. Officer: _____

Title: _____

Date: _____

Witness or Attest _____ (Affix Corporate Seal Here)

NOTE: ONLY A PREQUALIFIED BIDDER MAY USE THIS BIDDING FORM. BIDDING FORMS ARE NOT TRANSFERABLE.

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

AFFIDAVIT ATTACHMENT A

The undersigned certifies that the Bid prices contained in this Bid have been carefully checked and are submitted as correct and final and if Bid is accepted (within 90 days), agrees to furnish any and/or all items upon which prices are offered, at the price(s) and upon the conditions contained in the Specifications.

BEFORE ME, the undersigned authority, A Notary Public in and for the State of _____, on this day personally appeared _____ who, after having first been duly sworn, upon oath did depose and say;

That the foregoing Bid submitted by _____ hereinafter called "Bidder" is the duly authorized agent of said company and that the person signing said Bid has been duly authorized to execute the same. Bidder affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this Bid in collusion with any other Bidder. The Bidder is not a member of any trust, pool, or combination to control the price of products or services Bid on, or to influence any person to Bid or not to Bid thereon. I further affirm that the Bidder has not given, offered to give, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discounts, trip, favor, or service to a public servant in connection with the submitted Bid. The contents of this Bid as to prices, terms or conditions of said Bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this Bid.

Name and Address of Bidder:

Telephone number _____ Fax number _____

Signature

Name: _____ Title: _____

SWORN TO AND SUBSCRIBE BEFORE ME THIS _____ day of _____ 20_____.

Notary Public in and for County _____ State _____

RETURNED WITH YOUR BID

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

ATTACHMENT B

BROWNSVILLE NAVIGATION DISTRICT EXPRESSLY REQUESTS THAT BIDDERS / PROPOSERS NOT DISCUSS THIS ENGAGEMENT OR THIS BIDDER'S / PROPOSER'S PLANS, EXPERIENCE OR CREDENTIALS WITH OTHER BIDDERS / PROPOSERS OR ANY BROWNSVILLE NAVIGATION DISTRICT BOARD MEMBER, OR ANY EVALUATION COMMITTEE MEMBER APPOINTED BY THE BROWNSVILLE NAVIGATION DISTRICT. EXCLUDED ARE PRE-BID OR PRE-PROPOSAL CONFERENCES, EVALUATION COMMITTEE SCHEDULED VENDOR PRESENTATIONS OR VENDOR INTERVIEWS, OR EVALUATION COMMITTEE SCHEDULED EQUIPMENT OR SERVICES DEMONSTRATIONS.

01. Has any individual with the firm submitting this Proposal/Bid/Response made any contact with any Brownsville Navigation District Board Member, or an Evaluation Committee member concerning this Invitation to Bid/RFP/RFQ, other than questions to the General Engineering Consultant?

02. Has any individual with the firm submitting this Proposal/Bid/Response made any contact with any other Bidder or Proposer concerning this Invitation to Bid/RFP/RFQ?

Signature of person submitting this Bid

Date

RETURNED WITH YOUR BID

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

ATTACHMENT C

ORDER NO. 2007O2005

THE STATE OF TEXAS §
 §
COUNTY OF CAMERON §

ORDER ADOPTING CONTRACTING RULES FOR PERSONS INDEBTED TO COUNTY

WHEREAS, pursuant to V.T.C.A., Local Government Code, Section 262.0276, the Brownsville Navigation District Board is authorized to adopt rules permitting a Brownsville Navigation District to refuse to enter into a contract or other transaction with a person indebted to the county;

WHEREAS, the Brownsville Navigation District Board finds it is in the best interest of Cameron County to adopt such rules;

NOW THEREFORE, BE IT ORDERED by the Brownsville Navigation District Board, that the following rules be adopted regarding Cameron County and persons interested in doing business with Brownsville Navigation District:

1. Brownsville Navigation District may refuse to enter into a contract or other transaction with a person with a past due debt to Cameron County, including delinquent ad valorem taxes, even if the person is the lowest bidder or successful proposer; and
2. **For purposes of this Order, a debt is past due if it is not received in the County Treasurer's Office by the due date in a written agreement or notice, and ad valorem taxes are past due if not received in the County Tax Assessor/Collector's Office by February 1st following the January 1st on which the ad valorem taxes are due.**
3. For purposes of this Order, a person includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with Brownsville Navigation District requiring approval by the Brownsville Navigation District Board.

ADOPTED this ____ day of _____, 20__.

01. Is the person or the firm submitting this Bid current with all local and State taxes?

Signature of person submitting this Bid

Date

THIS FORM MUST BE RETURNED WITH YOUR BID

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

ATTACHMENT D **CONFLICT OF INTEREST QUESTIONNAIRE**

MUST BE FILLED OUT AND SUBMITTED WITH THE BID/RFP/RFO
IF DISCLOSING: BIDDER / PROPOSER MUST ALSO FILE WITH THE COUNTY CLERK'S OFFICE
THE BROWNSVILLE NAVIGATION DISTRICT WILL NOT BE FILING ON THE BIDDER'S
BEHALF

For vendor or other person doing business with local governmental entity

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

By law this questionnaire must be filed with the records administrator (County Clerk's Office) of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. *See* Section 176.006, Local Government Code.

A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

1. Name of person doing business with local governmental entity.

| |
|-----------------------------------|
| OFFICE USE ONLY Date Received: |
|-----------------------------------|

2. ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3. Describe each affiliation or business relationship with an employee or contractor of the local governmental entity who makes recommendations to a local government officer of the local governmental entity with respect to expenditure of money .

4. Describe each affiliation or business relationship with a person who is a local government officer and who appoints or employs a local government officer of the local governmental entity that is the subject of this questionnaire.

CONFLICT OF INTEREST QUESTIONNAIRE

Page 2

For vendor or other person doing business with local governmental entity

5. **Name of local government officer with whom filer has affiliation or business relationship. (Complete this section only if the answer to A, B, or C is YES.)**

This section, item 5 including subparts A, B, C & D, must be completed for each officer with whom the filer has affiliation or business relationship. Attach additional pages to this Form CIQ as necessary.

- A. Is the local government officer named in this section receiving or likely to receive taxable income from the filer of the questionnaire?

☐ Yes ☐ No

- B. Is the filer of the questionnaire receiving or likely to receive taxable income from or at the direction of the local government officer named in this section AND the taxable income is not from the local governmental entity?

☐ Yes ☐ No

- C. Is the filer of this questionnaire affiliated with a corporation or other business entity that the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes ☐ No

- D. Describe each affiliation or business relationship.

6. **Describe any other affiliation or business relationship that might cause a conflict of interest.**

7. **Does any individual with the firm submitting BID, RFP, RFQ have any business relationship with any Brownsville Navigation District Board Member, Official or employee within the third degree of Consanguinity kinship or the second degree of Affinity kinship? (see attached Nepotism Chart)**

Signature of person doing business with the governmental entity

Date

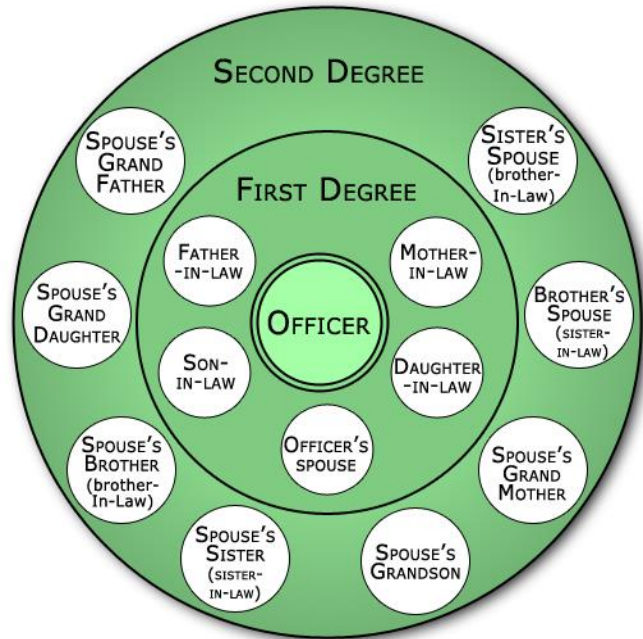
RETURNED WITH YOUR BID

NEPOTISM CHART

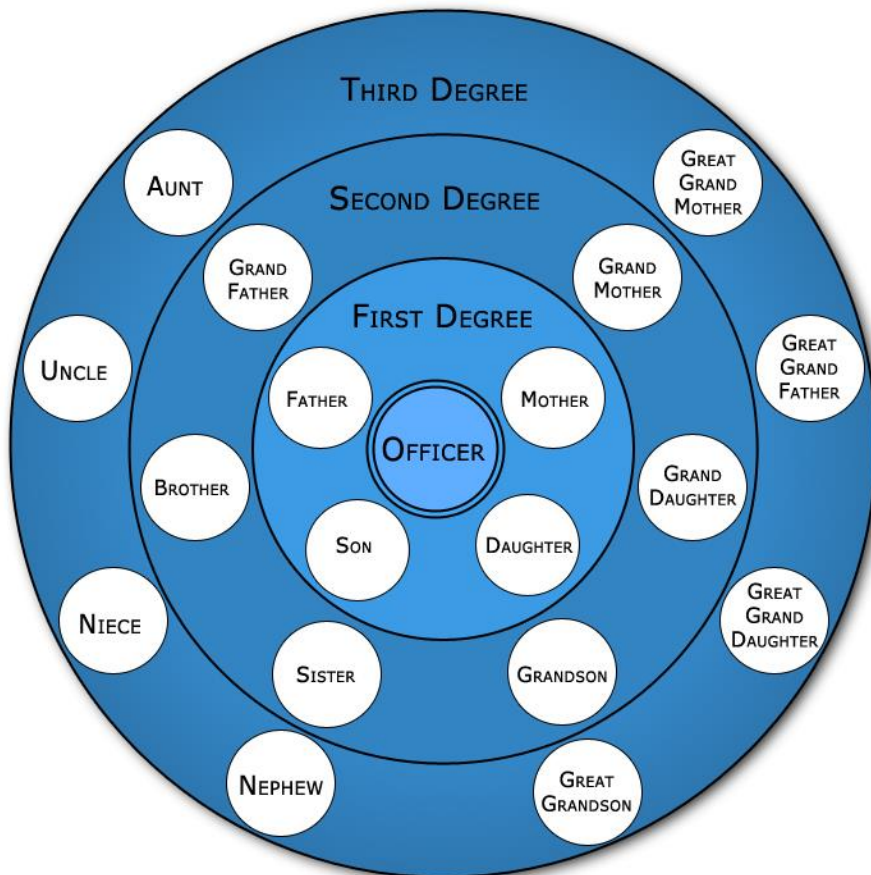
The chart below shows

- **Affinity Kinship** (relationship by marriage)
- **Consanguinity Kinship** (relationship by blood) for purposes of interpreting nepotism as defined in VTCA Government Code, Chapter 573, §§573.021 - .025

AFFINITY KINSHIP Relationship by Marriage



CONSANGUINITY KINSHIP Relationship by Blood



BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

ATTACHMENT E

DISCLOSURE OF INTERESTS

MUST BE FILLED OUT AND SUBMITTED WITH THE BID/RFP/RFQ
IF DISCLOSING: BIDDER / PROPOSER MUST ALSO FILE WITH THE COUNTY CLERK'S OFFICE
THE BROWNSVILLE NAVIGATION DISTRICT WILL NOT BE FILING ON THE BIDDER'S
BEHALF

Cameron County, Texas requires all persons or firms seeking to do business with the Brownsville Navigation District to provide the following information. Every question must be answered. If the question is not applicable, answer with "N/A." By law this questionnaire must be filed with the records administrator (County Clerk's Office) of the local government.

Date _____

FIRM NAME: _____

ADDRESS: _____

FIRM is: 1. Corporation () 2. Partnership () 3. Sole Owner ()
4. Association () 5. Other () _____

DISCLOSURE QUESTIONS

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee, elected official, or board member" of Brownsville Navigation District having Substantial Interest in Business Entity Local Govt. Code 171.002

DISCLOSURE OF INTERESTS (CONTINUED)

- a) For purpose of this chapter, a person has a substantial interest in a business entity if :
- (1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
 - (2) funds received by the person from the business entity exceeds 10 percent of the person's gross income for the previous year.
- b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.
- c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

| Name | Title | Department |
|------|-------|------------|
| | | |
| | | |
| | | |
| | | |
| | | |

CERTIFICATE

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the Brownsville Navigation District as changes occur.

Certifying Person: _____ Title: _____
(Type or Print)

Signature of Certifying Person: _____ Date: _____

THIS FORM MUST BE RETURNED WITH YOUR BID

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

REFERENCES FOR PREVIOUSLY COMPLETED CONSTRUCTION PROJECTS

The following is a table of references for three (3) recent projects completed over the past three (3) years which are of similar scope and magnitude as the project being bid.

| | Reference Contact Information And Title | Project Description and Location | Project Cost | Project Completion Date |
|---|--------------------------------------------|----------------------------------|--------------|-------------------------------|
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |

If more space is needed, attach additional sheet(s).

The undersigned guarantees the accuracy and completeness of all the information given above.

Business Name of Bidder: _____

Address of Bidder: _____

Signature of Owner,
Partner or Corp. Officer: _____

Title: _____

Date: _____

Witness or Attest:

(Affix Corporate Seal Here)

THIS FORM MUST BE RETURNED WITH YOUR BID

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BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 (See reverse for public burden disclosure.)

| | | | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|--|
| 1. Type of Federal Action: a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance | | 2. Status of Federal Action: a. bid/offer/application b. initial award c. post-award | | 3. Report Type: a. initial filing b. grant For material change only: year _____ quarter _____ date of last report _____ | |
| 4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____ | | | 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____ | | |
| 6. Federal Department/Agency: | | | 7. Federal Program Name/Description: CFDA Number, if applicable: _____ | | |
| 8. Federal Action Number, if known: | | | 9. Award Amount, if known: \$ _____ | | |
| 10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary) | | | b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary) | | |
| 11. Amount of Payment (check all that apply): \$ _____ actual _____ planned _____ | | 13. Type of Payment (check all that apply): a. retainer b. one-time fee c. commission d. contingent fee e. deferred f. other; specify: _____ | | | |
| 12. Form of Payment (check all that apply) a. cash b. in-kind; specify: nature _____ value _____ | | | | | |
| 14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-LLL-A, if necessary) | | | | | |
| 15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No | | | | | |
| 16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required dis- closure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. | | | Signature: _____ Print Name: _____ Title: _____ Telephone No: _____ Date: _____ | | |
| FEDERAL USE ONLY | | | Authorized for Local Reproduction Standard Form - LLL | | |

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity or this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number, the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB

0348-0046

CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

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Standard Form - LLL-A

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BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

CONTRACTOR'S ASSURANCE (Subcontracts-Federal Aid Projects)

By signing this proposal, the contractor is giving assurances that all subcontract agreements will incorporate the Standard Specification and Special Provisions to Section 9.6.B. "Payment Provisions for Subcontractors", all subcontract agreements exceeding \$2,000 will incorporate the applicable "Wage Determination Decision", and, all subcontract agreements of \$10,000 or more will incorporate the following:

| | |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Special Provision | "Certification of Nondiscrimination in Employment" |
| Special Provision | "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" (Executive Order 11246) |
| Special Provision | "Standard Federal Equal Employment Opportunity Construction Contract Specifications" (Executive Order 11246) |
| Form FHWA 1273 | "Required Contract Provisions Federal-aid Construction Contracts" (Form FHWA 1273 must also be physically attached to subcontracts and purchase orders of \$10,000 or more) |

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BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

NON-COLLUSION AFFIDAVIT

STATE OF _____§

COUNTY OF _____§

I, _____, of the City of _____, County of _____ and State of _____, being of full age and duly sworn according to law on my oath depose and say:

That I am _____(Title) of _____, the Bidder making the Bid submitted to Brownsville Navigation District, on the ____ day of _____, 20__, for Contract No. 0921-06-288 in connection with the South Port Connector project; that I executed the said Bid with full authority to do so;

The said Bidder has not, directly or 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 or which would increase the cost of construction or maintenance in connection with the said Contract; that no person or selling agency has been employed or retained to solicit or secure the said Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bonafide full-time employees;

I further warrant that all statements contained in said Bid and in this Affidavit are true and correct and made with full knowledge that the said Brownsville Navigation District relies upon the truth of the statements contained in said Bid and in this Affidavit in awarding the said Contract.

Sworn to and subscribed
before me this _____
day of _____,
20__.

By: _____
Person Signing Bid

Print Name: _____
Title: _____

Notary Public

My commission expires:

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

BID BOND

KNOW ALL PERSONS MEN BY THESE PRESENTS, that _____, as Principal/Contractor, and _____, as Surety, legally authorized to do business in the State of Texas, are held and firmly bounded unto the Brownsville Navigation District, as Authority, in the amount of at least FIVE (5) PERCENT OF THE TOTAL BID AMOUNT, on which the Contract is awarded lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally and firmly by these presents:

WHEREAS, the Contractor is herewith submitting its Bid for Contract No. 0921-06-288, entitled South Port Connector project.

NOW, THEREFORE, the condition of this obligation is such, that if the Contractor shall be awarded the Contract upon said Bid and shall, within fifteen (15) calendar days after the date of written notice of such award, enter into and deliver a signed Contract and the prescribed Performance Bond for the faithful performance of the Contract, together with the required proof of proper insurance coverage and other necessary documents, then this obligation shall be null and void; otherwise, to remain in full force and effect, and the Contractor and Surety will pay unto Brownsville Navigation District the difference in money between the amount of the Total Amount written in the Bid of said Contractor and the amount for which Brownsville Navigation District may legally contract with another party to perform the said work, if the latter amount be in excess of the former; but in no event shall the Surety's liability exceed the penal sum hereof.

SIGNED AND SEALED this _____ day of _____, 20____.

PRINCIPAL/CONTRACTOR

Business Name

Address

Witness or Attest:

By: _____

Title:

(Affix Corporate Seal Here)

SURETY:

Business Name

Address

Witness or Attest:

By: _____

Title:

(Attach evidence of Power of Attorney)

(Affix Corporate Seal Here)

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

CONTRACT AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 20__, between Brownsville Navigation District, 1000 Foust Rd. Brownsville, Texas 78521, hereinafter called the Authority and _____, or his, its or their successors, executors, administrators and assigns, hereinafter called the Contractor.

WITNESSETH, that the Contractor agrees with Brownsville Navigation District for the consideration herein mentioned, and at his, its or their own proper cost and expense, to do all the work and furnish all the materials, equipment, teams and labor necessary to prosecute and complete and to extinguish all liens therefore, Contract No. 0921-06-288, entitled South Port Connector project, in the manner and to the full extent as set forth in the Plans, Standard Specifications, Special Provisions, Bid (for the basis of award stated herein below) and other documents related to said Contract which are on file at the office of Brownsville Navigation District and which are hereby adopted and made part of this Agreement as completely as if incorporated herein, and to the satisfaction of the Authority or its duly authorized representative who shall have at all times full opportunity to inspect the materials to be furnished and the work to be done under this Agreement.

This Contract is awarded on the basis of the Official Total Bid Amount based on the unit prices bid of _____ dollars and _____ Cents (\$_____).

In consideration of the foregoing premise, the Authority agrees to pay the Contractor for all items of work performed and materials furnished at the amount of the unit prices bid prices bid therefore in the Bid submitted for this Contract, subject to any percentage reductions in the total Contract amount that may be named in the Bid corresponding to the basis of award stated in the above paragraph, and subject to the conditions set forth in the Specifications.

The Contractor agrees as follows:

- a. I/WE will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor.
- b. I/WE agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- c. I/WE in any solicitations or advertising for employees placed by or on behalf of itself, will state that it is an equal opportunity employer.
- d. Notices and advertisements and solicitations placed in accordance with federal law, rule or regulation, shall be deemed sufficient for the purposes of meeting the requirements of this section.
- e. Contract Time - The Work will be Substantial Complete within two hundred and forty (240) working days after receipt of the initial Notice to Proceed (NTP). The Contractor will be allowed up to an additional thirty (30) calendar days for Final Acceptance.
- f. Failure by Contractor to fulfill these requirements is a material breach of the Contract, which may result in the termination of this Contract, or such other remedy, as the Authority deems appropriate.
- g. All notices to Brownsville Navigation District shall be sent by certified or registered mail, addressed to: Brownsville Navigation District Coordinator, 1000 Foust Rd. Brownsville, Texas 78521 or at such other address as the Authority may otherwise designate. All notices to Contractor shall be sent certified or registered mail, addressed to:
_____ or at such other address as said Contractor may otherwise designate in writing.
- h. This Agreement shall be governed by the laws of the State of Texas and venue shall be in Cameron County, Texas.
- i. The contractor will use BND's Quality Assurance Program, from TxDOT's QAP template, for this project.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year written above.

Brownsville Navigation District

By: _____
Eduardo A. Campirano
Brownsville Navigation District Director

Attested By:

Ariel Chavez
Brownsville Navigation District
Port of Brownsville Engineering Director

Sworn to and subscribed
before me this _____
day of _____, 20____.

Notary Public

My commission expires:

CONTRACTOR:

Business Name

Address

by: _____
Title

(Affix Corporate Seal Here)

EVIDENCE OF CORPORATE AUTHORITY

I, _____, hereby certify that I am Secretary of _____, a Corporation existing under the laws of the State of _____, and that the following resolution was adopted at a meeting of the Board of Directors of the said Corporation duly called and held on the _____ day of _____, 20____, and that the same remains in full force and effect:

(Here insert resolution)

I further certify that _____ is a corporation duly organized and in good standing in the State of its creation, and is fully authorized to do business in the State of Texas and is in full conformity with the Laws of the State of Texas.

IN WITNESS WHEREOF, I have hereto appended my signature and the seal of the said Corporation on this the _____ day of _____, 20_____.

Secretary

SEAL

The preceding attached form SMS.4901 must be returned by the "Apparent Low Bidder" no later than 5 calendar days after bid opening as per special provision 000-394L section 2.3.3. The commitment form(s) is subject to the award and receipt of a signed contract from the Brownsville Navigation District for the subject project.



Disadvantaged Business Enterprise (DBE) Program Commitment Agreement Form

Form SMS.4901
(Rev. 06/08)
Page 1 of 1

This commitment is subject to the award and receipt of a signed contract from the Texas Department of Transportation for the subject project.

| Project #: | | County: | | Contract-CSJ: | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------------|----------------------------|----------------------|----------------|
| Items of work to be performed (attach a list of work items if more room is required): | | | | | |
| Bid Item # | Item Description | Unit of Measure | Unit Price | Quantity | Total Per Item |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| Total | | | | | |
| The contractor certifies by signature on this agreement that subcontracts will be executed between the prime contractor and the DBE subcontractors as listed on the agreement form. If a DBE Subcontractor is unable to perform the work as listed on this agreement form, the prime contractor will follow the substitution/replacement approval process as outlined in the Contract DBE Special Provision. | | | | | |
| IMPORTANT: The signatures of the prime contractor and the DBE, and the total commitment amount must always be on the same page. | | | | | |
| Prime Contractor: | | | Name/Title (please print): | | |
| Address: | | | Signature: | | |
| Phone: | Fax: | | | | |
| E-mail: | | | Date: | | |
| DBE: | | | Name/Title (please print): | | |
| Vendor No.: | | | Signature: | | |
| Address: | | | | | |
| Phone: | Fax: | | Date: | | |
| E-mail: | | | | | |
| Subcontractor (if the DBE will be a second tier sub): | | | Name/Title (please print): | | |
| Address: | | | Signature: | | |
| Phone: | Fax: | | | | |
| E-mail: | | | Date: | | |

The Texas Department of Transportation maintains the information collected through this form. With few exceptions, you are entitled on request to be informed about the information that we collect about you. Under §§552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under §559.004 of the Government Code, you are also entitled to have us correct information about you that is incorrect.

To ensure prompt and efficient handling of your project file we are requesting that all commitments to be presented to the Office of Civil Rights, using this basic format.

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

PERFORMANCE BOND

STATE OF TEXAS

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS: That _____

_____ of the City of _____

County of _____, and State of _____, as principal,
and

authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly
bound unto Brownsville Navigation District in the penal sum of

_____ Dollars

(\$_____) for the payment whereof, the said Principal and Surety bind themselves, their
heirs, administrators, executors, successors, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with Brownsville Navigation District, dated the _____ day of _____, 20 (the "Contract"), to which the said Agreement, along with the Contract Documents referenced therein are hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform said Agreement and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by the Agreement agreed and covenanted by the Principal to be observed and performed, and according to the true intent and meaning of said Agreement and the Contract Documents hereto annexed, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein.

SURETY, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work performed thereunder, or to the Contract Documents referenced therein, shall in anyway affect the obligations on this bond, and it does hereby waive notice of such change, extension of time, alteration or addition to the terms on the Agreement, or to the work to be performed thereunder.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 20____.

PRINCIPAL

SURETY

SIGNATURE

SIGNATURE

NAME & TITLE

NAME & TITLE

ADDRESS

ADDRESS

(_____) _____
PHONE NUMBER

(_____) _____
PHONE NUMBER

The name and address of the Resident Agency of Surety is:

(_____) _____
PHONE NUMBER

SIGNATURE OF LICENSED LOCAL
RECORDING AGENT appointed to countersign
on behalf of Surety (Required by Art. 21.09 of the
Insurance Code)

I, _____, having executed Bonds
SIGNATURE

for _____ do hereby affirm I have
NAME OF SURETY

verified that said Surety is now certified with authority from either: (a) the Secretary of the Treasury of the United States if the project funding includes Federal monies; or (b) the State of Texas if none of the project funding is from Federal sources; and further, said Surety is in no way limited or restricted from furnishing Bond in the State of Texas for the amount and under conditions stated herein.

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

PAYMENT BOND

STATE OF TEXAS

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS: That _____

_____ of the City of _____

County of _____, and State of _____, as Principal
(hereinafter referred to as the "Principal"), and

authorized under the laws of the State of Texas to act as Surety on bonds for principals (hereinafter referred to as the "Surety"), are held and firmly bound unto Brownsville Navigation District, (hereinafter referred to as the "Authority"), in the penal sum of

_____ Dollars

(\$_____) for the payment whereof, the said Principal and Surety bind themselves, their heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Authority, dated the _____ day of _____, 20_____, to _____

_____ (hereinafter referred to as the "Contract"), which said Contract and the Contract Documents incorporated therein are hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the Work provided for in said Contract, then, this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein.

SURETY, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work performed there under, or to the other Contract Documents accompanying the same, shall in anyway affect its obligation on this bond, and it does hereby waive notice of such change, extension of time, alteration or addition to the terms of the Contract, or to the work to be performed thereunder or to the other Contract Documents accompanying the same.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 20____.

PRINCIPAL

SURETY

SIGNATURE

SIGNATURE

NAME & TITLE

NAME & TITLE

ADDRESS

ADDRESS

(_____) _____
PHONE NUMBER

(_____) _____
PHONE NUMBER

The name and address of the Resident Agency of Surety is:

(_____) _____
PHONE NUMBER

SIGNATURE OF LICENSED LOCAL
RECORDING AGENT appointed to countersign
on behalf of Surety (Required by Art. 21.09 of the
Insurance Code)

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

WARRANTY BOND

STATE OF TEXAS

COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS, that the _____,
a _____, as "Principal" and _____, as "Surety" or as "Co-Sureties",
authorized under the laws of the State of Texas to act as Surety on bonds for principals are held and firmly
bound unto Brownsville Navigation District, (hereinafter referred to as the "Authority"), in the penal sum of
_____ Dollars
(\$ _____) for the payment whereof, the said Principal and Surety bind themselves, their
heirs, administrators, executors, successors and assigns, jointly and severally, by these presents:

WHEREAS, the Principal has entered into a certain written contract with Brownsville Navigation District, dated the _____ day of _____, 20____, to

_____ (hereinafter referred to as the "Contract"), which said Agreement, along with the Contract Documents referenced therein are hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal shall promptly and faithfully perform all of its warranty obligations under the Contract Documents, as they may be amended or supplemented, including without limitation the fulfillment of all Warranties, and payment of claims, subcontractors, suppliers, materialmen and mechanics, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect, it being expressly understood and agreed that the liability of Surety for any and all claims hereunder shall in no event exceed the Bonded Sum.

The following terms and conditions shall apply with respect to this bond:

1. The Contract Documents are incorporated by reference herein.
2. Surety's obligations under this Bond shall include the Principal's obligation to pay its subcontractors, suppliers, materialmen and mechanics for warranty-related work or supply.
3. The guarantees contained herein shall survive one year after the final completion of the

construction called for in the Contract Documents.

4. Whenever Principal shall be, and is declared by the Brownsville Navigation District and or representatives to be, in default with respect to its warranty obligations under the Contract Documents, provided that the Brownsville Navigation District is not then in material default thereunder, Surety shall promptly take one of the following actions with the consent of the Brownsville Navigation District:
 - a. arrange for Principal to perform and complete the warranty obligations of this Agreement;
 - b. complete the Warranty Work in accordance with the terms and conditions of the Contract Documents then in effect, through its agents or through independent contractors;
 - c. obtain bids or negotiated proposals from qualified contractors acceptable to the Brownsville Navigation District for a contract for performance and completion of the Warranty Work (as defined in the Agreement), through a procurement process approved by the Brownsville Navigation District, arrange for a contract to be prepared for execution by the Brownsville Navigation District and the contractor selected with the Brownsville Navigation District's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Agreement; or
 - d. waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances, (i) after investigation, determine the amount for which it may be liable to the Brownsville Navigation District and, as soon as practicable after the amount is determined, tender payment therefore to the Brownsville Navigation District, or (ii) deny liability in whole or in part and notify the Brownsville Navigation District citing reasons therefore.
5. If Surety does not proceed as provided in Paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Brownsville Navigation District to Surety demanding that Surety perform its obligations under this Bond, and the Brownsville Navigation District shall be entitled to enforce any remedy available to the Brownsville Navigation District. If Surety proceeds as provided in Subparagraph 4.d, and the Brownsville Navigation District refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice the Brownsville Navigation District shall be entitled to enforce any remedy available to the Brownsville Navigation District.
6. After the Brownsville Navigation District has terminated the Principal's right to complete the Agreement, and if Surety elects to act under Subparagraph 4.a, 4.b, or 4.c above, then the responsibilities of Surety to the Brownsville Navigation District

shall not be greater than those of the Principal under the Agreement, and the responsibilities of the Brownsville Navigation District to Surety shall not be greater than those of the Brownsville Navigation District under the Agreement. To the limit of the Bonded Sum, but subject to commitment of the unpaid balance to mitigation costs and damages on the Agreement, Surety is obligated without duplication for:

- a. the responsibilities of the Principal for correction of defective work; and
- b. actual damages, including additional legal, design professional and delay costs resulting from Principal's default, and resulting from the actions or failure to act of Surety under Paragraph 4.
- c. Liquidated Damages under the Agreement.

7. No alteration, modification or supplement to the Warranty provisions of the Contract Documents or the nature of the work to be performed thereunder, including without limitation any extension of time for performance, shall in any way affect the obligations of Surety under this bond. Surety waives notice of any alteration, modification, supplement or extension of time.

IN WITNESS WHEREOF, the said Principal and Surety have caused this bond to be executed and delivered this _____ day of _____, 20____.

PRINCIPAL

SURETY

SIGNATURE

SIGNATURE

NAME & TITLE

NAME & TITLE

ADDRESS

ADDRESS

(_____) _____
PHONE NUMBER

(_____) _____
PHONE NUMBER

The name and address of the Resident Agency of Surety is:

()
PHONE NUMBER

SIGNATURE OF LICENSED LOCAL
RECORDING AGENT appointed to countersign
on behalf of Surety (Required by Art. 21.09 of the
Insurance Code)

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

RECEIPT OF ADDENDA

I/We hereby acknowledge receipt of the following addenda and have made the necessary revisions to the Contractor's Proposal, plans, and specifications, etc., and agree that these addenda are included in the Contractor's Proposal.

| <u>Addenda #</u> | <u>Signature</u> | <u>Date</u> |
|------------------|------------------|-------------|
| 1. | _____ | _____ |
| 2. | _____ | _____ |
| 3. | _____ | _____ |
| 4. | _____ | _____ |
| 5. | _____ | _____ |
| 6. | _____ | _____ |

I understand that failure to confirm Receipt of Addenda may result in the bid not being accepted.

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

Addendum Acknowledgement Page

I/We hereby acknowledge receipt of the following addenda and have made the necessary revisions to the Contractor's Proposal, plans, and specifications, etc., and agree that these addenda are included in the Contractor's Proposal.

Addenda Numbers Received

(Check the box next to each addendum received)

- | | |
|-----------------------------------------|------------------------------------------|
| <input type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6 |
| <input type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7 |
| <input type="checkbox"/> Addendum No. 3 | <input type="checkbox"/> Addendum No. 8 |
| <input type="checkbox"/> Addendum No. 4 | <input type="checkbox"/> Addendum No. 9 |
| <input type="checkbox"/> Addendum No. 5 | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm Receipt of Addenda shall/will result in the bid being nonresponsive.

Company

Authorized Signature

Date

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BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

ENGINEER SEAL

Control 0921-06-288

Project: South Port Connector

Highway: South Port Connector

County: CAMERON

The enclosed Texas Department of Transportation Specifications, Special Specifications, Special Provisions, General Notes and Specification Data in this document have been selected by me, or under my responsible supervision as being applicable to this project. Alteration of a sealed document without proper notification to the responsible engineer is an offense under the Texas Engineering Practice Act.



The seal appearing on
this document was
authorized by
FRANK H. CHAPA
P.E. 128020, on

May 17, 20 19

Frank H. Chapa

THIS SHEET INTENTIONALLY LEFT BLANK

CAMERON COUNTY REGIONAL MOBILITY AUTHORITY

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

GENERAL NOTES:

General Requirements and Covenants to Items 1 thru 9:

Provide on a weekly basis a list of equipment, including idle equipment, utilized on the project that week.

The use of prison produced materials is prohibited on the project.

The use of publicly owned equipment is prohibited on the project.

The Contractor must comply with all Occupational Safety and Health Administration (OSHA) Standards.

In the event of a called evacuation, emergencies, impeding adverse weather or as directed, do not perform any work without written authorization. The District reserves the right to suspend all work in support of evacuations or emergencies occurring from other parts of the state. Any work performed, other than work directed by the Department, is unauthorized work in accordance with Item 5.

Sweep, clean and remove any construction waste, surplus materials or debris from the roadway and R.O.W. at the end of each day unless otherwise approved. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

Asphalt application season will be established in accordance with Item 316.4.4 Adverse Weather Conditions or as directed by the Engineer.

Cut existing pavement using a saw or other approved method to ensure a neat transverse and/or longitudinal line to assure a smooth tie-in with new pavement. Cut a minimum depth of the final lift thickness. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

Promptly pick up and properly dispose of paper and other materials used for pavement joints.

All pavement markings shall be in accordance with the latest edition of the Texas MUTCD.

ITEM 5: Control of the Work

Questions regarding the plan work limits should be brought to the Engineer's attention prior to commencing work. Measuring equipment will be in working condition and calibrated to the manufacturer's specifications.

Field verify all dimensions and notify Engineer prior to initiating any work.

Verify the locations of utilities, underground or overhead, shown within the limits of the R.O.W. Adhere to OSHA Standards when working within the vicinity of overhead power lines. Coordinate with the utility companies and notify the Engineer of any possible conflicts. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

The 1-800 call services for utility locations do not include TxDOT facilities. Contact the Pharr District Signal Section (956-702-6225) for coordination with TxDOT underground lines.

Notify the Engineer immediately of utility conflicts in accordance with Item 5.6. Refer to Item 4.5 for consideration of differing site conditions.

The responsibility for the construction surveying on this contract will be in accordance with Article 5.9.3, "Method C". Existing alignment shall be used for horizontal control.

Contractor will mark Stations every 100 feet.

Before any operations begin, the Contractor will be responsible for noting and recording the locations and configuration of all existing pavement markings for use in the placing of the final permanent pavement markings. All roadways are to be striped as existing, unless shown otherwise in the plans, standards, or as directed by the Engineer.

Prior to contract letting, bidders may obtain a free computerized transfer of files (from the Engineer's office) that contains the earthwork information. If copies of the actual cross-sections in addition to, or instead of, the electronic files are requested, they will be available at the Engineer's office for borrowing by copying companies for the purpose of making copies for the bidder at the bidder's expense.

The Contractor shall maintain and preserve the integrity of all "existing survey markers" by avoiding the disturbance of such markers; which include all control points (horizontal and/or vertical), stakes, marks, and right-of-way markers. The Contractor will repair all disturbed control points, stakes, marks, and right-of-way markers. The cost for any, and all repairs to the "existing survey markers", will be deducted from money due or to become due to the Contractor.

ITEM 7: Legal Relations and Responsibilities

No significant traffic generator events identified.

404 Permit Requirements:

The Contractor shall note that discharge of permanent or temporary fill material into the waters of the United States (U.S.), including jurisdictional wetlands, as necessary for construction, will require specific approval from the U.S. Army Corps of Engineers (USACE) under section 404 of the Clean Water Act.

Brownsville Navigation District (BND) will obtain the appropriate nationwide or individual permit(s) when necessary as dictated by project specific conditions and the potential to affect USACE jurisdictional areas to address the work detailed in the plans. The Contractor may review the permitted plans at the office of the Area Engineer in charge of construction. BND will hold the Contractor responsible for following all conditions of the approved permit. If the Contractor cannot work within the limits or scope of this permit(s), then it becomes the Contractor's entire responsibility to consult with the USACE on the need for changes or amendments to the conditions of the existing permit(s) as originally obtained by BND. However, the Contractor may request BND to assist in this process by providing complete and specific revised details for BND review and submittal to the USACE. For off project right of way coordination, the Contractor or his agent, shall handle all activities directly with the USACE.

It is essential that any impacts to USACE jurisdictional waters of the U.S., including jurisdictional wetlands, be the minimum necessary to complete the proposed work. If the Contractor needs further explanation of the conditions of the permit, including means of compliance, they may contact the Pharr District Environmental Coordinator.

Project Specific Locations (PSL's) Coordination

The Contractor shall not initiate activities in a project specific location (PSL) associated with a U.S. Army Corps of Engineers (USACE) permit area that has not been previously evaluated by the USACE as part of the permitting for this project. Such activities include, but are not limited to, haul roads, equipment staging areas, borrow and disposal sites. Associated defined here includes materials delivered to, or from the PSL. The permit area includes all waters of the U.S., or associated wetlands, affected by activities associated with this project. Special restrictions may be required for such work. The Contractor shall be responsible for any, and all consultations with the USACE regarding activities, including project specific locations (PSLs) that have not been previously evaluated by the USACE.

The Contractor shall provide the department with a copy of all consultation(s), or approval(s), from the USACE prior to initiating activities.

The Contractor may proceed with activities in PSLs that do not affect a USACE permit area if a self determination has been made that the PSL is non-jurisdictional or proper USACE clearances have been obtained in jurisdictional areas, or have been previously evaluated by the USACE as part of the permit review of this project. The Contractor is solely responsible for documenting any determination(s) that their activities do not affect a USACE permit area. The Contractor shall maintain copies of their determination(s) for review by the department or any regulatory agency.

The total disturbed area for this project is 36 acres. The disturbed area for all project locations in the Contract, and the Contractor project specific locations (PSLs) within 1 mile of the project limits for the Contract, will further establish the authorization requirements for storm water discharges. The Department will obtain an authorization to discharge storm water from the Texas Commission of Environmental Quality (TCEQ) for the construction activities shown on the plans. The Contractor is to obtain required authorization from TCEQ for Contractor PSLs for construction support activities on or off the R.O.W. When the total area disturbed in the Contract, and PSLs within 1 mile of the project limits exceeds 5 acres, provide a copy of the Contractor NOI for PSLs on the R.O.W. to the Engineer and to the local government that operates a separate storm sewer system.

Establish uniform perennial vegetative coverage with a density of at least 70% of the native background vegetative cover to achieve final stabilization.

For all pits and quarries, comply with the "Texas Aggregate Quarry and Pit Safety Act."

In order to expedite the approval process for PSLs, or to eliminate or minimize potential impacts to project progress, initiate coordination efforts with the USACE **within 30 days from the date of "Authorization to Begin Work"**. If this is not done, the Contractor waives the right to request any contract time considerations if project progress is impacted and PSLs approval is still pending.

Requests submitted to the BND will be evaluated on this basis, and will require documentation showing substantial early coordination efforts to expedite the approval process as herein stated. The request shall include a detailed chronological summary status with dates of coordination activities with the resource agencies, including those occurring after the initial coordination, to be reviewed and confirmed by the district's environmental section.

ITEM 8: Prosecution and Progress

Liquidated damages per Working Day for this project have been set at \$1,425.00 per day.

Where road closures or detours around structures are necessary to accomplish proposed work, the removal of existing structures and/or cutting of existing pavement will not be permitted until all pre-cast members for the proposed structure have been cast, tested, and approved for use.

Upon issuance of written authorization to begin work, all of Item 100 work that is in conflict with utilities, "Preparing Right of Way" will commence unless otherwise directed by the Engineer. Contractor shall only perform Prep R.O.W. on the first Phase of construction as much as possible. Item 100 work shall be completed before work begins on other items, unless otherwise authorized by the Engineer. Item 100 will be charged in accordance with Article 8.3.1.4. Standard Workweek.

Prepare the progress schedule using the Critical Path Method (CPM). Submit (2) two 11"x17" hard copies and an electronic file of the original or updated progress schedule. Submit the original progress schedule seven (7) days before the Preconstruction Conference.

Submit an updated progress schedule as directed to show proposed major changes, changes affecting compliance with the contract requirements, or changes affecting the critical path/controlling item of work.

Working days will be computed and charged in accordance with Article 8.3.1.4. Standard Work Week.

Work above traffic is not allowed.

Nighttime work is not permitted unless approved by the Engineer.

Notify the Engineer at least 48 hours in advance of weekend work.

ITEM 100: Preparing Right of Way

Coordinate all R.O.W. preparation activities with the project's Storm Water Pollution Prevention Plan (SW3P) and Environmental Permit Issues, and Commitments Sheet (EPIC) or as approved.

Preparation of R.O.W. will be done in accordance with the construction phasing shown on the Traffic Control Plans. Performance of this item will not be allowed outside of the project's current construction phase without prior approval by the Engineer. Clearing & grubbing shall be executed in accordance with the District Clearing and Grubbing detail sheets.

Note medium to heavy brush from STA 6+75.00 to STA 26+43.00. Remove and dispose of all obstructions shown and not specifically shown in the plans. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

ITEM 110: Excavation

In all excavated areas, broom the existing base or subgrade to remove any loose material. This work is considered subsidiary to this item.

Before excavation and embankment operations begin, windrow all topsoil (approx. 4 inches) to be reused on side slopes. This work is subsidiary to Item 110, "Excavation" and Item 134, "Backfill".

ITEM 132: Embankment

Embankment (DENS CONT) shall be Type C with a max. PI of 35. Material used as embankment material in the top two feet below the bottom of Flexible Base shall meet the following requirements based on preliminary tests and such other tests found necessary by the Engineer.

1. The material shall be such as to produce a well-bonded embankment and shall have a minimum PI of 12 and a maximum PI of 35.

It is the Contractor's responsibility to advise the Engineer of the location of the source sufficiently in advance to avoid delay. The Engineer may sample and test project materials at any time before compaction throughout the duration of the project to assure specification compliance.

ITEM 134: Backfilling Pavement Edges

Areas to be backfilled shall extend approximately 3-ft out from the edges of the proposed overlay. Final slopes shall be uniform and smooth. The 100-foot station payment includes backfilling of both sides.

Backfill Ty A shall not contain particles more than two inches in size and shall have a minimum PI of 10 and a maximum PI of 20.

Any additional backfill material necessary due to pre-existing edge conditions or to replace existing fill removed during blading operations will not be paid for directly, but will be subsidiary to this bid item.

ITEM 150: Blading

When directed, fill and grade low areas outside the embankment areas to drain.

ITEM 160: Topsoil

Use topsoil as needed and directed by the Engineer for select problem areas. Unless otherwise approved by the Engineer, use topsoil from approved sources outside the R.O.W. as per standard specifications. Existing topsoil is to be salvaged and retained for re-use on the project as topsoil.

ITEM 164: Seeding for Erosion Control

Restore and seed areas not shown in the plans disturbed by the Contractor's operations. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

During drill seeding operations, application methods shall be in accordance with the method shown in the Standard Specification Book.

SS-1 Tacking Agent shall be a ratio of 2:1, two (Emulsion) to one (water) and applied at a rate of 0.05 gallons per square yard. The SS-1 Tacking Agent required for Drill Seed operations, will not be paid for directly, but will be subsidiary to Item 164 "Drill Seeding." Watering shall not be used with the Drill Seed Method. A biodegradable tacking agent may be used in lieu of the SS-1 tacking agent in accordance with the manufacturer's recommendations when approved by the engineer.

Cool Season or Warm Season Grasses shall be included as part of Item 164 (See Table 3 and/or Table 4 in the Standard Specification Manual for dates and seed type).

Seed mixture shall be as specified under Item 164.

The following is a list of seed types that have been found to grow in High Salt Areas and are to be used on South Port Connector Road:

| | |
|----------------|---------------|
| Rhode Grass | 2.0 lbs/Acre |
| Bermuda Grass | 1.2 lbs/Acre |
| Alkali Sacaton | 1.9 lbs./Acre |
| Blue Panic | 2.0 lbs/Acre |

Notify the Engineer of the unavailability of any seed mix. Make changes to the seed mix as approved.

ITEM 166: Fertilizer

Fertilize all areas of the project to be seeded or sodded. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

Fertilizer rate is based on a rate of 100 Lbs. of Nitrogen per acre. The Nitrogen-Phosphorous-Potassium (NPK) ratio shall include a minimum of 5 percent phosphorous and 5 percent potassium. Fertilizer shall be homogenized.

ITEM 168: Vegetative Watering

Distribute water to only those areas shown in the plans or as directed. Excessive overspray will not be permitted.

Water all areas of the project to be seeded or sodded every two (2) days for 90 days or as directed. Apply water in a manner to ensure adequate moisture but not to erode the soil in place. During periods of adequate moisture, mechanical watering may not be required as approved. Upon final stabilization, the Engineer may require to continue watering as specified for a period not to exceed 30 days.

ITEM 247: Flexible Base A

Flexible Base Type A will be composed of argillaceous Limestone and may contain stone, conglomerate, gravel, sand or granular materials.

Flexible Base (TY A GR 1-2) shall conform to the following requirements:

| Retained on Sq. Sieve | Percent Retained |
|------------------------------|--------------------------------|
| 2-1/2" | 0 |
| 1-3/4" | 0-10 |
| 7/8" | 10-35 |
| 3/8" | 30-65 |
| No. 4 | 40-75 |
| No. 40 | 65-90 |
| Max. PI: | 10 |
| Max. Wet Ball PI: | 10 |
| Wet Ball Mill Max Amount: | 40 |
| Min. Comp. Strength PSI: | 175 at 15 PSI lateral pressure |
| Triaxial Test | Tex-117-E |

The Wet Ball Test (Tex-116-E) shall be run and the Plasticity Index of the material passing the No. 40 sieve shall be determined (Wet Ball PI).

The percent of density as determined by Compaction Ratio (Tex-113-E) for the new Flexible Base shall be a minimum of 98%.

The Contractor's attention is called to the fact that certain existing and/or proposed structures may be within the limits of the Flexible Base. It shall be the Contractor's responsibility to perform construction operations without damage to these structures.

For water added under Item 247, the sulfate content will not exceed 3000-ppm and the chloride content will not exceed 3000-ppm.

When requested, stake with blue tops, at 100-foot intervals, the lines and grade shown in the plans.

ITEM 260: Lime Treatment (Road Mixed)

The Contractor's attention is called to the fact that certain existing and/or proposed structures are within the limits of the lime-treated Subgrade. Unless otherwise directed by the Engineer, these structures shall be installed before the final rolling of this Subgrade. It shall be the Contractor's responsibility to perform the proper lime treating operation without damage to these structures.

The slurry method of applying lime will be required, except when the lime is to be added to naturally wet materials as directed by the Engineer.

For this project, the Engineer will direct a random number of lime trucks to be check weighed.

The percent of density as determined by Tex-121-E for the new and salvage Flexible Base shall be a minimum of 98% for all courses.

Proof roll all constructed lime treated subgrade and bases courses in accordance with Item 216, "Proof Rolling." Correct soft spots as directed. Correction of soft spots in the subgrade or base courses will be at the Contractor's expense.

ITEM 275: Cement Treatment (Road-Mixed)

The Contractor's attention is called to the fact that certain existing and/or proposed structures are within the limits of the cement-treated Subgrade. Unless otherwise directed by the Engineer, these structures shall be installed before the final rolling of this Subgrade. It shall be the Contractor's responsibility to perform the proper cement treating operation without damage to these structures.

The percent of density as determined by Tex-121-E for the new and salvage Flexible Base shall be a minimum of 98% for all courses.

Proof roll all constructed cement treated subgrade and bases courses in accordance with Item 216, "Proof Rolling." Correct soft spots as directed. Correction of soft spots in the subgrade or base courses will be at the Contractor's expense.

ITEM 310: Prime Coat

The Contractor shall exercise diligence in the application of asphalt by the use of flagging and rolling procedures to keep from spraying or splattering the traveling public with asphaltic material.

All existing flexible base, which may become exposed by the milling operation, shall be primed at the rate of 0.2 Gal/SY.

Do not apply subsequent courses over the initial prime coat any earlier than the day after the prime coat was applied, unless otherwise authorized or directed by the Engineer.

ITEM 340: Dense-Graded Hot-Mix Asphalt Small Quantity

The use of Recycled Asphalt Shingles (RAS) will not be allowed.

Provide aggregate with a minimum surface aggregate classification (SAC) of "B" unless otherwise shown. SAC requirements apply to aggregates used on all final roadway surfaces, including shoulders.

Department-owned RAP generated through required work on the Contract is available for the Contractor's use.

Any RAP remaining from the contract is to remain with the Contractor.
Use crushed gravel screenings with or in lieu of stone screenings.

Use a cut-off chute when placing hot-mix asphalt on narrow width locations unless approved.
The laboratory-molded density for this project will be 97% in accordance with test method TEXS-207-F.

Contractor will present a contingency plan to be approved by the Engineer in the event of a HMAC facility breakdown prior to pavement operations. No pavement drop-off's of any depth will be allowed when opened to traffic unless specifically noted in the plans for a particular location.

Construct longitudinal joints with a joint maker providing a maximum one (1) inch vertical edge (1/2 inch desirable) with an adjacent 6:1 taper. Construct the outside edge with a 6:1 taper, or backfill within the same day.

Unless otherwise approved by the Engineer, a tack coat will be placed on all lifts in accordance to 341.4.7.2 Tack Coat. A non-tracking tack coat shall be used. This work will not be paid for directly, but will be considered subsidiary to Item 341.

ITEM 400: Excavation and Backfill for Structures

If the Contractor elects to cut pavement (existing/detour) for structural work beyond that required by the construction phasing shown in the plans and approved by the Engineer, it shall be restored at the Contractor's expense and backfilled to its original condition or better in accordance with Item 400.

Unless shown otherwise in the plans, use a 1-ft depth for Item 400 Structural Excavation (Special) for gravel bedding needed below drainage structures with unstable material.

Item 404: Driving Piling

Difficult Driving

If it is necessary to advance the piling through a strong or stiff layer where refusal is possible, a pile penetration note may be required. A typical note may read, "The contractor's attention is drawn to the hard material in the soil profile, jetting and/or pilot holes may be necessary to advance the piling to the required penetration depth."

Dynamic Monitoring

Dynamic monitoring of a pile during driving can be accomplished using a Pile Driving Analyzer (PDA) testing system. PDA testing measures the strain and acceleration in the piles as a result of the impact of the hammer. PDA testing of a pile can help to determine the stresses in the pile

during and monitor the pile for damage or integrity. The capacity of the pile and the time dependent changes in capacity (if a restrike is undertaken) can be obtained if the PDA testing data is used with the Case Pile Wave Analysis Program (CAPWAP).

Not all piling will require dynamic monitoring. However, for critical structures, projects with a large number of piling, or in difficult soil conditions PDA testing should be considered for use. Consult with the Geotechnical Branch to determine if a specific project might be considered as a candidate for PDA testing.

ITEM 420: Concrete Substructures

Pay bent concrete as plan quantity.

Promptly apply an ordinary surface finish to all concrete surfaces once meeting curing requirements.

Place longitudinal construction joints at the lane line for bridge approach slabs. These construction joints will be subsidiary to Item 420.

ITEM 421: Hydraulic Cement Concrete

Provide Sulfate Resistant Concrete for all concrete piling and drilled shafts.

Provide equipment at the batch plant for determining the free moisture and/or absorption of aggregates in accordance with applicable TXDOT Test.

Provide the following items for concrete batch inspection in accordance with specifications outlined in DMS-10101, "Computer Equipment":

- (1) One Desktop Microcomputer or One Laptop Microcomputer
- (2) One Integrated Printer/Scanner/Copier/Fax Unit
- (3) Contractor-Furnished Software
- (4) Hardware

Submit to the Engineer for approval the project locations for all Portland Cement concrete washout areas prior to starting any concrete work.

Use membrane curing, Type 2, for concrete curb, gutter and combined curb and gutter, concrete medians, directional islands and sidewalks.

ITEM 427: Surface Finishes for Concrete

Provide surface finishes for concrete as follows:

- (1) Bridge overpass and underpass structures – Surface Area I, opaque sealer coating (color to be determined by the Engineer).

- (2) Bridge waterway crossings and bridge class box culvert structures – Surface Area II, opaque sealer coating (color to be determined by the Engineer).

Concrete traffic barrier/railing (roadway and bridge), and retaining wall coping - opaque sealer coating (color to be determined by the Engineer) to all exposed surfaces.

ITEM 432: Riprap

Provide Class “A” concrete minimum for riprap aprons placed around all box culvert and pipe safety end treatments. Provide ¼-inch thick dummy joints at least every 15-ft for riprap aprons placed around box and pipe culverts.

Do not use fiber reinforced concrete riprap on side slopes equal to or steeper than 6:1 unless approved by the Engineer.

ITEM 464: Reinforced Concrete Pipe

Use tongue and groove pipe where the RCP extends into the lime treated subgrade. The 4-foot depth restriction for heavy equipment passage over pipe structures is voided. The Contractor will be responsible for any construction damage to these facilities.

Do not use mortar joints.

All reinforced concrete pipe shall include rubber gaskets unless shown otherwise on the plans or directed by the Engineer.

The work performed for concrete collars will not be measured or paid for directly, but will be subsidiary to pertinent Items.

ITEM 467: Safety End Treatment

Place safety end treatments with a uniform slope.

Reinforce concrete riprap with 4x4 – W2.9 x W2.9 welded wire fabric or with No. 3 reinforcing bars spaced at a maximum of 12 inch in each direction.

The work performed for concrete collars will not be measured or paid for directly, but will be subsidiary to pertinent Items.

All Type II SET’s shall have riprap, Class “A” minimum, aprons as shown on the plans. The Contractor may submit an alternate precast SET design for approval by the Engineer.

The use of precast Type II safety end treatments with integrally cast riprap aprons is allowed as approved. All safety end treatments shall include riprap to the dimensions shown on PSET-RR. This riprap shall be subsidiary to Item 467.

ITEM 502: Barricades, Signs, and Traffic Handling

Furnish additional barricades, signs, and traffic handling as directed. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

Traffic control for daytime lane closures shall be in accordance with TCP 1 Series Standards.

Traffic control shall include temporary rumble strips in accordance with WZ (RS)-16.

When advanced warning flashing arrow panels are specified, furnish one (1) standby unit in good condition at the job site for immediate use.

The Contractor's Responsible Person (CRP) or his representative(s) shall be located within one hour of traveling time to the project site. The Contractor shall notify the Engineer in writing of the name, physical address, and telephone number of this employee or these employees. The Engineer shall furnish this information to local law enforcement officials.

Maintain traffic control devices by taking corrective action as soon as possible.

Attach stop/slow paddle to a staff with a minimum length of 6 feet to the bottom of the sign.

Shadow vehicles equipped with Truck-Mounted Attenuators are required.

The use of a pilot vehicle in conjunction with flaggers will be permitted. If used, provide positive and unrestricted communication between the driver of the pilot vehicle and the flaggers. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

Replace/relocate all regulatory signs removed due to construction operations with the same sign on fixed support(s) immediately upon its removal. First obtain the Engineer's approval before removing any regulatory roadway signs. Required flaggers are to be available to direct traffic during sign intermediate down time.

Relocate any Directional Sign Assemblies removed during construction operations immediately upon their removal.

These signs shall be relocated to a location in accordance with the latest version of the "Texas Manual on Uniform Traffic Control Devices". In no case will a sign be removed without a replacement sign and support(s) being readily available and a location established. Removal and relocation of these signs required for traffic control will not be paid for directly, but shall be considered subsidiary to Item 502.

From the beginning to the end of the project, all traffic control devices need to be in acceptable condition as per the Texas Quality Guidelines for Work Zone Traffic Control Devices.

The Contractor Force Account “Safety Contingency” that has been established for this project is intended to be utilized for work zone enhancements to improve the effectiveness of the Traffic Control Plan that could not be foreseen in the project planning and design stage. These enhancements will be mutually agreed upon by the Engineer and the Contractor’s Responsible Person based on weekly, or more frequent, traffic management reviews on the project. The “Safety Contingency” is not intended to be used in lieu of bid items established by the contract. The Engineer may not choose to use existing bid items if it does not slow the implementation of enhancement.

All items marked as optional on all traffic control standards shall be required unless otherwise approved by the Engineer.

Trail vehicle shall be required on all mobile traffic control operations.

ITEM 504: Field Office and Laboratory

Furnish (1) Field Office (Type C).

Provide one (1) Type D Structure (Asphalt Mix Laboratory) modified by the following:

Laboratory room: The other room of this building will be used as a laboratory and will include access to a bathroom facility from the interior. The laboratory and bathroom facility will have the walls, ceiling, and floor insulated such that the air temperature can be maintained at 76 degrees Fahrenheit at all times.

Furnish for the Department's use in the asphalt laboratory one (1) desktop computer.

Apply for and secure permits necessary for the buildings, and pay all utility meter deposits and service bills. The work performed will not be measured or paid for directly, but will be subsidiary to pertinent Items.

Provide two (2) sets of keys for all facilities.

Maintain all mechanical, electrical and plumbing facilities at all times.

Furnish and install adequate equipment, outlets, lighting, air condition, heating, and ventilation as approved. Arrange and install outlets as directed with no less than 1 outlet per wall. Portable toilets will not be allowed.

Provide two (2) standard size office desks, four (4) office chairs, two (2) bookcases, and two (2) filing cabinets as approved. Provide solar screens, blinds, or shades.

Provide high speed internet connectivity, a printer/fax/scan/copier, and one (1) phone line and two (2) phones.

Provide hot water or a hot water dispenser capable of generating one (1) gallon of water at 140 degrees Fahrenheit with acceptable water pressure.

Use support blocks for stability and tied down portable structures according to applicable zoning requirements or as directed.

Provide Safety Equipment as follows:

- (1) ONE EYE WASH STATION
- (2) ONE FIRE EXTINGUISHER
- (3) ONE FIRST AID KIT

Provide janitorial services as needed.

Provide doors with a minimum width of 36 inches and 80 inches in height. Secure all exterior openings with bars.

Furnish, for the Department's use in the asphalt laboratory, one (1) desktop computer.

Asphalt content will be measured by Ignition Method. Provide electrical service for the asphalt content by Ignition Method.

ITEM 506: Temporary Erosion, Sedimentation, and Environmental Controls

Designate in writing a Contractor Responsible Person (CRP) for implementing, maintaining, and reviewing environmental requirements.

Temporary sediment control fence is to be used around the stockpile location(s) and/or as directed by the Engineer. This will not be paid for directly but shall be subsidiary to pertinent Items.

Biodegradable erosion control logs and/or silt fence will be checked and cleared of debris or sediment, as well as maintained, by the Contractor at least once a week. Biodegradable erosion control logs will also be checked and cleared of any debris or sediment after ½" rain event or more. These tasks will be considered subsidiary to Item 506.

The Contractor Force Account "Erosion Control Maintenance" that has been established for this project is intended to be utilized for work zone Best Management Practice (BMP) maintenance, to improve the effectiveness of the Environmental Controls that may need maintenance attention and/or require replacement while the project is still under the construction stage. These procedures will be mutually agreed upon by the Engineer and the Contractor's Responsible Person based on weekly or more frequent BMP management reviews on the project. The "Erosion Control Maintenance" is not intended to be used in lieu of bid items established by the contract.

ITEM 540: Metal Beam Guard Fence

The optional terminal anchor post with the terminal connector will be required as shown on the Metal Beam Guard Fence Standard.

Galvanize the rail elements supplied for this project using a Type II Zinc Coating.

ITEM 544: Guardrail End Treatments

Label "end treatment type" on backside of unit at time of installation.

ITEM 550: Chain Link Fence (Gate)

The Contractor shall supply gate shop drawings for engineer's review and approval before gate is ordered. The shop drawings shall be submitted to the Engineer no later than 3 weeks after the BND and the Contractor's Contract have been executed.

ITEM 644: Small Roadside Sign Assemblies

All signs shall be installed as shown in the plans and in accordance with the current edition of the "Texas Manual on Uniform Traffic Control Devices" and the "Sign Crew Field Book" (SCFB).

All signs shall be erected according to the locations shown on the signing layout sheets except that a sign may be shifted in order to secure a more desirable location. All sign locations will be staked as shown in the plans and as approved. It is the intent of the plans to erect all roadside traffic signs with the sign edge a minimum of 6 feet from the edge of the shoulder, or if none, 12 feet from the edge of the travel lane. In curb and gutter sections the sign edge shall be a minimum of 2 feet from the face of the curb.

For this project, aluminum type sign blanks as provided for under Item 636 will be required for all proposed signing installed under Item 644. Aluminum sign blanks less than 7.5 square feet shall be 0.08 inch thick, sign blanks 7.5 to 15 square feet shall be 0.100 inch thick and sign blanks greater than 15 square feet shall be 0.125 inch thick.

All excess excavation shall be spread uniformly inside the right of way as directed and shall be included in the price of these Items.

Sign types which design details are not shown on the plans shall conform with the latest edition of the Department's "Standard Highway Sign Design for Texas" Manual.

Signs shown to be removed shall include the complete sign installation and separate the sign post at the concrete foundation. The concrete foundation shall be disposed in accordance with this Bid Item. Except for concrete foundations, all removed sign panels, sign posts, and hardware shall remain then property of the Department. All removed sign installations shall be completely disassembled. All salvageable sections of sign panels shall be recycled by TxDOT. The

removed sign material will be required to be hauled to the maintenance yard closest to the project. No signs shall be removed without prior approval.

ITEM 658: Delineator and Object Marker Assemblies

Delineator assemblies shall be installed 8 feet from the edge of the shoulder unless restricted by some obstruction, in which case, the delineator assembly shall be placed between 2 and 8 feet from the edge of the shoulder.

Bi-directional object markers shall be in accordance with the D&OM standard sheets. The Contractor is directed to the standards when instructed where and how to install the object markers.

ITEM 666: Retro-reflectorized Pavement Markings

All permanent pavement markings for this project under this Item shall be 0.100 inches (100 mil) thick thermoplastic.

Any permanent pavement markings or non-removal work zone pavement markings lacking reflectivity in accordance with the requirements of Tex 828-B, or that fail to meet minimum retro reflectivity requirements for longitudinal pavement markings when required, will be addressed per the requirements of the specification. The roadway will be re-stripped at no additional compensation.

Before the roadways are overlaid, the location and configuration of all existing pavement markings shall be recorded for use in installing the final permanent pavement marking. All roadways shall be striped as existing, unless otherwise noted in the plans.

The beads used on this project shall meet the requirements of Departmental Materials Specification DMS-8290, Glass Traffic Beads Texas Type II & III. Use a 50% Type II/ 50% Type III mix utilizing a double drop system with Type III beads dropped first.

Pavement surface preparation for markings and markers will not be paid for directly, but shall be considered subsidiary to Item 666.

Prior to any striping operations, an on-site coordination meeting between all the parties involved will be required to review striping details and requirements to ensure quality work.

The beads used on this project shall meet the requirements of Departmental Materials Specification DMS-8290, Glass Traffic Beads Texas Type II & III. Use a 50% Type II/ 50% Type III mix utilizing a double drop system with Type III beads dropped first.

ITEM 677: Eliminating Existing Pavement Markings and Markers

Asphalt and aggregate types and grades shall be as approved in writing when a surface treatment is used to eliminate existing pavement markings.

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BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT

CONTRACT NO. 0921-06-288

SOUTH PORT CONNECTOR

DISADVANTAGED BUSINESS ENTERPRISES REQUIREMENTS

CONTROL: 0921-06-288
PROJECT: SOUTH PORT CONNECTOR
COUNTY: CAMERON

The following goal for disadvantaged business enterprises is established:

DBE 4%

Certification of DBE Goal Attainment

By signing the proposal, the Bidder certifies that the above DBE goal will be met by obtaining commitments equal to or exceeding the DBE percentage or that the Bidder will provide a good faith effort to substantiate the attempt to meet the goal.

Failure to comply commitments to meet the stated goal or provide a satisfactory good faith effort will be considered a breach of the requirements of the proposal. As a result, the Bid Guaranty or Bid Bond of the bidder will become property of the Brownsville Navigation District and the bidder will be excluded for rebidding on the project when it is re-advertised.

CHILD SUPPORT STATEMENT

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

State of Texas Child Support Business Ownership Form

County: Cameron

Project Name: South Port Connector

TxDOT CSJ: 0921-06-288

LG Project Number: _____

Business Entity Submitting Bid: _____

Section 231.006, Family Code, requires a bid for a contract paid from state funds to include the names and social security number of individuals owning 25% or more of the business entity submitting the bid.

1. In the spaces below please provide the names and social security number of individuals owning 25% or more of the business.

| Name | Social Security Number |
|-------|------------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

2. Please check the box below if no individual owns 25% or more of the business.

(☐) No individual own 25% or more of the business.

Except as provided by Section 231.302(d), Family Code, a social security number is confidential and may be disclosed only for the purpose of responding to a request for information from an agency operating under the provisions of Part A and D to Title IV of the Federal Social Security Act (42 USC Section 601-617 and 651-699).

Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

The information collected on this form will be maintained by BND. With few exceptions, you are entitled on request to be informed about the information collected about you. Under Sections 552.021 and 552.023 of the Texas Government Code, you also are entitled to receive and review the information. Under Section 559.004 of the Government Code, you are also entitled to have information about you corrected that you believe is incorrect.

Signature

Date

Printed Name

IF THIS PROJECT IS A JOINT VENTURE,

ALL PARTIES TO THE JOINT VENTURE MUST PROVIDE A COMPLETED FORM.

BROWNSVILLE NAVIGATION DISTRICT

SOUTH PORT CONNECTOR PROJECT CONTRACT NO. 0921-06-288

SPECIAL PROVISIONS

PREFACE:

The "Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges" of the Texas Department of Transportation, 2014, as amended and augmented by the Supplemental Specifications following, shall govern the performance of the Contract. These specifications hereby are made a part of the Contract as fully and with the same effect as if set forth at length herein.

Attention is directed to the fact that any other documents printed by the Texas Department of Transportation modifying or supplementing said "Standard Specifications", such as Standard Supplemental Specifications, Special Provisions (by the Department), Notice to Bidders, etc., do not form a part of this Contract nor govern its performance, unless specifically so-stated in the Supplemental Specifications herein contained.

References to "Proposal" have been changed to "Bid" in the County's documents for this contract, including many standard TxDOT terms such as "Examination of Site of Work and Bid [Proposal]". This shall be accounted for when working contract documents prepared by the County with those standards prepared by TxDOT.

References made to specific section numbers in these Special Provisions, or in any of the various documents which constitute the complete Contract Documents, shall, unless otherwise denoted, be construed as referenced to the corresponding section of the "Standard Specifications" issued by the Texas Department of Transportation in 2014.

BROWNSVILLE NAVIGATION DISTRICT

GOVERNING SPECIFICATIONS AND SPECIAL PROVISIONS

ALL SPECIFICATIONS AND SPECIAL PROVISIONS APPLICABLE TO THIS PROJECT
ARE IDENTIFIED AS FOLLOWS:

STANDARD SPECIFICATIONS:
ADOPTED BY THE TEXAS DEPARTMENT OF TRANSPORTATION NOVEMBER 1, 2014.
STANDARD SPECIFICATIONS
ARE INCORPORATED INTO THE CONTRACT BY REFERENCE.

ITEMS 1 TO 9 INCL., GENERAL REQUIREMENTS AND COVENANTS

ITEM 100 PREPARING RIGHT OF WAY (103)

ITEM 110 EXCAVATION (132)

ITEM 132 EMBANKMENT (100)(160)(204)(210)(216)(260)(400)

ITEM 134 BACKFILLING PAVEMENT EDGES (162)(166)(168)(300)(314)

ITEM 150 BLADING

ITEM 160 TOPSOIL (168)

ITEM 164 SEEDING FOR EROSION CONTROL (162)(166)(168)

ITEM 168 VEGETATIVE WATERING

ITEM 247 FLEXIBLE BASE (105)(204)(210)(216)(520)

ITEM 260 LIME TREATMENT (ROAD-MIXED) (105)(132)(204)(210)(216)(247)(300)(310)(520)

ITEM 275 CEMENT TREATMENT (ROAD-MIXED) (132)(204)(210)(216)(247)(300)(310)(520)

ITEM 310 PRIME COAT (300)(316)

ITEM 340 DENSE GRADED HOT-MIX ASPHALT (SMALL QUANTITY) (300)(301)(320)(520)(585)

ITEM 360 CONCRETE PAVEMENT (421)(422)(438)(440)(529)(585)

ITEM 400 EXCAVATION AND BACKFILL FOR STRUCTURES (110)(132)(401)(402)(403)(416)(420)(421)(423)

ITEM 409 PRESTRESSED CONCRETE PILING (404)(405)(420)(421)(424)(425)(440)

ITEM 420 CONCRETE SUBSTRUCTURES (400)(404)(421)(422)(426)(427)(440)(441)(448)

ITEM 422 CONCRETE SUPERSTRUCTURES (420)(421)(424)(438)(440)(448)(454)(780)

ITEM 425 PRECAST PRESTRESSED CONCRETE STRUCTURAL MEMBERS (409)

(420)(421)(424)(426)(427)(434)(440)(442)(445)(448)

ITEM 428 CONCRETE SURFACE TREATMENT (427)

ITEM 432 RIPRAP (247)(420)(421)(431)(440)

ITEM 450 RAILING (420)(421)(422)(424)(440)(441)(442)(445)(446)(448)(540)

ITEM 454 BRIDGE EXPANSION JOINTS (429)(442)(785)

ITEM 464 REINFORCED CONCRETE PIPE (400)(402)(403)(467)(476)

ITEM 467 SAFETY END TREATMENT (400)(420)(421)(432)(440)(442)(445)(460)(464)

ITEM 500 MOBILIZATION

ITEM 502 BARRICADES, SIGNS, AND TRAFFIC HANDLING

ITEM 506 TEMPORARY EROSION, SEDIMENTATION, AND ENVIRONMENTAL CONTROLS (161)(432) (556)

ITEM 540 METAL BEAM GUARD FENCE (421)(441)(445)(529)

ITEM 544 GUARDRAIL END TREATMENTS

ITEM 550 CHAIN LINK FENCE (421)(445)

ITEM 644 SMALL ROADSIDE SIGN ASSEMBLIES (421)(440)(441)(442)(445)
(636)(643)(656)

ITEM 658 DELINEATOR AND OBJECT MARKER ASSEMBLIES (445)

ITEM 666 RETROREFLECTORIZED PAVEMENT MARKINGS (316)(502)(662)(677)(678)

ITEM 672 RAISED PAVEMENT MARKERS (677)(678)

ITEM 677 ELIMINATING EXISTING PAVEMENT MARKINGS AND MARKERS (300)
(302)(316)

ITEM 685 ROADSIDE FLASHING BEACON ASSEMBLIES (441)(442)(445)(449)(610)
(620)(621)(624)(628)(656)(682)(684)(687)

ITEM 6056 PERFORMED IN-LANE (TRANS) RUMBLE STRIPS

BROWNSVILLE NAVIGATION DISTRICT

SPECIAL PROVISIONS:

SPECIAL PROVISIONS WILL GOVERN AND TAKE PRECEDENCE OVER THE SPECIFICATIONS ENUMERATED HEREON WHEREVER IN CONFLICT THEREWITH.

SPECIAL PROVISION "IMPORTANT NOTICE TO CONTRACTORS" (FHWA1273)

WAGE RATES

SPECIAL PROVISION "SCHEDULE OF LIQUIDATED DAMAGES" (000---001L)

SPECIAL PROVISION "NONDISCRIMINATION" (000---002L)

SPECIAL PROVISION "CERTIFICATION OF NONDISCRIMINATION IN EMPLOYMENT (000---003L)

SPECIAL PROVISION "NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL
EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)" (000---004L)

SPECIAL PROVISION "STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION
CONTRACT SPECIFICATIONS" (000---005L)

SPECIAL PROVISION "DISADVANTAGED BUSINESS ENTERPRISE IN FEDERAL AID CONTRACTS" (000---394L)

SPECIAL PROVISION TO ITEM 2 (002---011L)

SPECIAL PROVISION TO ITEM 7 (007---001L)

SPECIAL PROVISION TO ITEM 506 (506---001L)

GENERAL: THE ABOVE-LISTED SPECIFICATION ITEMS ARE THOSE UNDER WHICH

----- PAYMENT IS TO BE MADE. THESE, TOGETHER WITH SUCH OTHER
PERTINENT ITEMS, IF ANY, AS MAY BE REFERRED TO IN THE ABOVE LISTED
SPECIFICATION ITEMS AND INCLUDING THE SPECIAL
PROVISIONS LISTED ABOVE, CONSTITUTE THE COMPLETE SPECIFICATIONS
FOR THIS PROJECT

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.

a. 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.

b. 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.

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

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

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

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

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

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

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

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

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. 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.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

The wage rates listed are those predetermined by the Secretary of Labor and State Statute to be the minimum wages paid. To determine the applicable wage rate zone, a list entitled "TEXAS COUNTIES IDENTIFIED BY WAGE RATE ZONES" is provided in the contract. Any wage rate that is not listed must be submitted to the Engineer for approval. IMPORTANT NOTICE FOR STATE PROJECTS; only the controlling wage rate zone applies to the contract. Effective 01-05-2018.

| CLASS. # | CLASSIFICATION DESCRIPTION | ZONE TX07 1/5/18 | ZONE TX08 1/5/18 | ZONE TX11 1/5/18 | ZONE TX12 1/5/18 | ZONE TX14 1/5/18 | ZONE TX16 1/5/18 | ZONE TX18 1/5/18 | ZONE TX34 1/5/18 | ZONE TX35 1/5/18 | ZONE TX37 1/5/18 | ZONE TX38 1/5/18 | ZONE TX40 1/5/18 | ZONE TX41 1/5/18 | ZONE TX54 1/5/18 | ZONE TX56 1/5/18 | ZONE TX63 1/5/18 |
|----------|------------------------------------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| 1428 | Agricultural Tractor Operator | | | | | | \$12.69 | | | | | \$12.35 | | | \$11.75 | | |
| 1300 | Asphalt Distributor Operator | \$14.87 | \$13.48 | \$13.88 | \$15.72 | \$15.58 | \$15.55 | \$15.72 | \$13.28 | \$15.32 | \$15.62 | \$14.36 | \$14.25 | \$14.03 | \$13.75 | \$14.06 | \$14.40 |
| 1303 | Asphalt Paving Machine Operator | \$13.40 | \$12.25 | \$12.35 | \$13.87 | \$14.05 | \$14.36 | \$14.20 | \$13.26 | \$13.99 | \$14.68 | \$12.92 | \$13.44 | \$12.53 | \$14.00 | \$14.32 | \$12.99 |
| 1106 | Asphalt Raker | \$12.28 | \$10.61 | \$12.02 | \$14.21 | \$11.65 | \$12.12 | \$11.64 | \$11.44 | \$12.69 | \$12.05 | \$11.34 | \$11.67 | \$11.40 | \$12.59 | \$12.36 | \$11.78 |
| 1112 | Batching Plant Operator, Asphalt | | | | | | | | | | | | | | | | |
| 1115 | Batching Plant Operator, Concrete | | | | | | | | | | | | | | | | |
| 1214 | Blaster | | | | | | | | | | | | | | | | |
| 1615 | Boom Truck Operator | | | | | | \$18.36 | | | | | | | | | | |
| 1444 | Boring Machine Operator | | | | | | | | | | | | | | | | |
| 1305 | Broom or Sweeper Operator | \$11.21 | \$10.33 | \$10.08 | \$11.99 | | \$11.04 | \$11.62 | | \$11.74 | \$11.41 | \$10.30 | | \$10.23 | \$10.60 | \$12.68 | \$11.05 |
| 1144 | Communications Cable Installer | | | | | | | | | | | | | | | | |
| 1124 | Concrete Finisher, Paving and Structures | \$13.55 | \$12.46 | \$13.16 | \$12.85 | \$12.64 | \$12.56 | \$12.77 | \$12.44 | \$14.12 | \$13.04 | \$13.38 | \$12.64 | \$12.80 | \$12.79 | \$12.98 | \$13.32 |
| 1318 | Concrete Pavement Finishing Machine Operator | | | | \$16.05 | | \$15.48 | | | \$16.05 | | \$19.31 | | | | \$13.07 | |
| 1315 | Concrete Paving, Curing, Float, Texturing Machine Operator | | | | | | | | | | | \$16.34 | | | | \$11.71 | |
| 1333 | Concrete Saw Operator | | | | \$14.67 | | | | | \$14.48 | \$17.33 | | | | | \$13.99 | |
| 1399 | Concrete/Gunite Pump Operator | | | | | | | | | | | | | | | | |
| 1344 | Crane Operator, Hydraulic 80 tons or less | | | | \$18.22 | | \$18.36 | | | \$18.12 | \$18.04 | \$20.21 | | | \$18.63 | \$13.86 | |
| 1345 | Crane Operator, Hydraulic Over 80 Tons | | | | | | | | | | | | | | | | |
| 1342 | Crane Operator, Lattice Boom 80 Tons or Less | \$16.82 | \$14.39 | \$13.85 | \$17.27 | | \$15.87 | | | \$17.27 | | \$14.67 | | | \$16.42 | \$14.97 | \$13.87 |
| 1343 | Crane Operator, Lattice Boom Over 80 Tons | | | | \$20.52 | | \$19.38 | | | \$20.52 | | \$17.49 | | | \$25.13 | \$15.80 | |
| 1306 | Crawler Tractor Operator | \$13.96 | \$16.63 | \$13.62 | \$14.26 | | \$15.67 | | | \$14.07 | \$13.15 | \$13.38 | | | \$14.60 | \$13.68 | \$13.50 |
| 1351 | Crusher or Screen Plant Operator | | | | | | | | | | | | | | | | |
| 1446 | Directional Drilling Locator | | | | | | \$11.67 | | | | | | | | | | |
| 1445 | Directional Drilling Operator | | | | \$20.32 | | \$17.24 | | | | | | | | | | |
| 1139 | Electrician | \$20.96 | | \$19.87 | \$19.80 | | \$26.35 | | \$20.27 | \$19.80 | | \$20.92 | | | | \$27.11 | \$19.87 |
| 1347 | Excavator Operator, 50,000 pounds or less | \$13.46 | \$12.56 | \$13.67 | \$17.19 | | \$12.88 | \$14.38 | \$13.49 | \$17.19 | | \$13.88 | | | \$14.09 | \$12.71 | \$14.42 |
| 1348 | Excavator Operator, Over 50,000 pounds | | \$15.23 | \$13.52 | \$17.04 | | \$17.71 | | | \$16.99 | \$18.80 | \$16.22 | | | | \$14.53 | \$13.52 |
| 1150 | Flagger | \$9.30 | \$9.10 | \$8.50 | \$10.28 | \$8.81 | \$9.45 | \$8.70 | | \$10.06 | \$9.71 | \$9.03 | \$8.81 | \$9.08 | \$9.90 | \$10.33 | \$8.10 |
| 1151 | Form Builder/Setter, Structures | \$13.52 | \$12.30 | \$13.38 | \$12.91 | \$12.71 | \$12.87 | \$12.38 | \$12.26 | \$13.84 | \$12.98 | \$13.07 | \$13.61 | \$12.82 | \$14.73 | \$12.23 | \$12.25 |
| 1160 | Form Setter, Paving & Curb | \$12.36 | \$12.16 | \$13.93 | \$11.83 | \$10.71 | \$12.94 | | | \$13.16 | \$12.54 | \$11.33 | \$10.69 | | \$13.33 | \$12.34 | \$13.93 |
| 1360 | Foundation Drill Operator, Crawler Mounted | | | | \$17.99 | | | | | \$17.99 | | | | | | \$17.43 | |
| 1363 | Foundation Drill Operator, Truck Mounted | | \$16.86 | \$22.05 | \$21.51 | | \$16.93 | | | \$21.07 | \$20.20 | \$20.76 | | \$17.54 | \$21.39 | \$15.89 | \$22.05 |
| 1369 | Front End Loader Operator, 3 CY or Less | \$12.28 | \$13.49 | \$13.40 | \$13.85 | | \$13.04 | \$13.15 | \$13.29 | \$13.69 | \$12.64 | \$12.89 | | | \$13.51 | \$13.32 | \$12.17 |
| 1372 | Front End Loader Operator, Over 3 CY | \$12.77 | \$13.69 | \$12.33 | \$14.96 | | \$13.21 | \$12.86 | \$13.57 | \$14.72 | \$13.75 | \$12.32 | | | \$13.19 | \$13.17 | \$13.02 |
| 1329 | Joint Sealer | | | | | | | | | | | | | | | | |
| 1172 | Laborer, Common | \$10.30 | \$9.86 | \$10.08 | \$10.51 | \$10.71 | \$10.50 | \$10.24 | \$10.58 | \$10.72 | \$10.45 | \$10.30 | \$10.25 | \$10.03 | \$10.54 | \$11.02 | \$10.15 |
| 1175 | Laborer, Utility | \$11.80 | \$11.53 | \$12.70 | \$12.17 | \$11.81 | \$12.27 | \$12.11 | \$11.33 | \$12.32 | \$11.80 | \$11.53 | \$11.23 | \$11.50 | \$11.95 | \$11.73 | \$12.37 |
| 1346 | Loader/Backhoe Operator | \$14.18 | \$12.77 | \$12.97 | \$15.68 | | \$14.12 | | | \$15.18 | \$13.58 | \$12.87 | | \$13.21 | \$14.13 | \$14.29 | \$12.90 |

| CLASS. # | CLASSIFICATION DESCRIPTION | ZONE TX07 1/5/18 | ZONE TX08 1/5/18 | ZONE TX11 1/5/18 | ZONE TX12 1/5/18 | ZONE TX14 1/5/18 | ZONE TX16 1/5/18 | ZONE TX18 1/5/18 | ZONE TX34 1/5/18 | ZONE TX35 1/5/18 | ZONE TX37 1/5/18 | ZONE TX38 1/5/18 | ZONE TX40 1/5/18 | ZONE TX41 1/5/18 | ZONE TX54 1/5/18 | ZONE TX56 1/5/18 | ZONE TX63 1/5/18 |
|----------|-----------------------------------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| 1187 | Mechanic | \$20.14 | \$15.47 | \$17.47 | \$17.74 | \$17.00 | \$17.10 | | | \$17.68 | \$18.94 | \$18.58 | \$17.00 | \$16.61 | \$18.46 | \$16.96 | \$17.47 |
| 1380 | Milling Machine Operator | \$15.54 | \$14.64 | \$12.22 | \$14.29 | | \$14.18 | | | \$14.32 | \$14.35 | \$12.86 | | | \$14.75 | \$13.53 | \$12.80 |
| 1390 | Motor Grader Operator, Fine Grade | \$17.49 | \$16.52 | \$16.88 | \$17.12 | \$18.37 | \$18.51 | \$16.69 | \$16.13 | \$17.19 | \$18.35 | \$17.07 | \$17.74 | \$17.47 | \$17.08 | \$15.69 | \$20.01 |
| 1393 | Motor Grader Operator, Rough | \$16.15 | \$14.62 | \$15.83 | \$16.20 | \$17.07 | \$14.63 | \$18.50 | | \$16.02 | \$16.44 | \$15.12 | \$16.85 | \$14.47 | \$17.39 | \$14.23 | \$15.53 |
| 1413 | Off Road Hauler | | | \$10.08 | \$12.26 | | \$11.88 | | | \$12.25 | | \$12.23 | | | \$13.00 | \$14.60 | |
| 1196 | Painter, Structures | | | | | \$21.29 | \$18.34 | | | | | | \$21.29 | | | \$18.62 | |
| 1396 | Pavement Marking Machine Operator | \$16.42 | | \$13.10 | \$13.55 | | \$19.17 | \$12.01 | | \$13.63 | \$14.60 | \$13.17 | | \$16.65 | \$10.54 | \$11.18 | \$13.10 |
| 1443 | Percussion or Rotary Drill Operator | | | | | | | | | | | | | | | | |
| 1202 | Piledriver | | | | | | | | | | | | | | | \$14.95 | |
| 1205 | Pipelayer | | \$11.87 | \$14.64 | \$13.17 | \$11.17 | \$12.79 | | \$11.37 | \$13.24 | \$12.66 | \$13.24 | \$11.17 | \$11.67 | | \$12.12 | \$14.64 |
| 1384 | Reclaimer/Pulverizer Operator | \$12.85 | | | \$11.90 | | \$12.88 | | | \$11.01 | | \$10.46 | | | | | |
| 1500 | Reinforcing Steel Worker | \$13.50 | \$14.07 | \$17.53 | \$16.17 | | \$14.00 | | | \$16.18 | \$12.74 | \$15.83 | | \$17.10 | | \$15.15 | \$17.72 |
| 1402 | Roller Operator, Asphalt | \$10.95 | | \$11.96 | \$13.29 | | \$12.78 | \$11.61 | | \$13.08 | \$12.36 | \$11.68 | | | \$11.71 | \$11.95 | \$11.50 |
| 1405 | Roller Operator, Other | \$10.36 | | \$10.44 | \$11.82 | | \$10.50 | \$11.64 | | \$11.51 | \$10.59 | \$10.30 | | \$12.04 | \$12.85 | \$11.57 | \$10.66 |
| 1411 | Scraper Operator | \$10.61 | \$11.07 | \$10.85 | \$12.88 | | \$12.27 | | \$11.12 | \$12.96 | \$11.88 | \$12.43 | | \$11.22 | \$13.95 | \$13.47 | \$10.89 |
| 1417 | Self-Propelled Hammer Operator | | | | | | | | | | | | | | | | |
| 1194 | Servicer | \$13.98 | \$12.34 | \$14.11 | \$14.74 | | \$14.51 | \$15.56 | \$13.44 | \$14.58 | \$14.31 | \$13.83 | | \$12.43 | \$13.72 | \$13.97 | \$14.11 |
| 1513 | Sign Erector | | | | | | | | | | | | | | | | |
| 1708 | Slurry Seal or Micro-Surfacing Machine Operator | | | | | | | | | | | | | | | | |
| 1341 | Small Slipform Machine Operator | | | | | | | | | \$15.96 | | | | | | | |
| 1515 | Spreader Box Operator | \$12.60 | | \$13.12 | \$14.71 | | \$14.04 | | | \$14.73 | \$13.84 | \$13.68 | | \$13.45 | \$11.83 | \$13.58 | \$14.05 |
| 1705 | Structural Steel Welder | | | | | | | | | | | | | | | \$12.85 | |
| 1509 | Structural Steel Worker | | | | | | \$19.29 | | | | | | | | | \$14.39 | |
| 1339 | Subgrade Trimmer | | | | | | | | | | | | | | | | |
| 1143 | Telecommunication Technician | | | | | | | | | | | | | | | | |
| 1145 | Traffic Signal/Light Pole Worker | | | | | | \$16.00 | | | | | | | | | | |
| 1440 | Trenching Machine Operator, Heavy | | | | | | \$18.48 | | | | | | | | | | |
| 1437 | Trenching Machine Operator, Light | | | | | | | | | | | | | | | | |
| 1609 | Truck Driver Lowboy-Float | \$14.46 | \$13.63 | \$13.41 | \$15.00 | \$15.93 | \$15.66 | | | \$16.24 | \$16.39 | \$14.30 | \$16.62 | \$15.63 | \$14.28 | \$16.03 | \$13.41 |
| 1612 | Truck Driver Transit-Mix | | | | \$14.14 | | | | | \$14.14 | | | | | | | |
| 1600 | Truck Driver, Single Axle | \$12.74 | \$10.82 | \$10.75 | \$13.04 | \$11.61 | \$11.79 | \$13.53 | \$13.16 | \$12.31 | \$13.40 | \$10.30 | \$11.61 | | \$11.97 | \$11.46 | \$10.75 |
| 1606 | Truck Driver, Single or Tandem Axle Dump Truck | \$11.33 | \$14.53 | \$11.95 | \$12.95 | | \$11.68 | | \$14.06 | \$12.62 | \$11.45 | \$12.28 | | \$13.08 | \$11.68 | \$11.48 | \$11.10 |
| 1607 | Truck Driver, Tandem Axle Tractor with Semi Trailer | \$12.49 | \$12.12 | \$12.50 | \$13.42 | | \$12.81 | \$13.16 | | \$12.86 | \$16.22 | \$12.50 | | | \$13.80 | \$12.27 | \$12.50 |
| 1441 | Tunneling Machine Operator, Heavy | | | | | | | | | | | | | | | | |
| 1442 | Tunneling Machine Operator, Light | | | | | | | | | | | | | | | | |
| 1706 | Welder | | \$14.02 | | \$14.86 | | \$15.97 | | \$13.74 | \$14.84 | | | | | \$13.78 | | |
| 1520 | Work Zone Barricade Servicer | \$10.30 | \$12.88 | \$11.46 | \$11.70 | \$11.57 | \$11.85 | \$10.77 | | \$11.68 | \$12.20 | \$11.22 | \$11.51 | \$12.96 | \$10.54 | \$11.67 | \$11.76 |

Notes:

Any worker employed on this project shall be paid at the rate of one and one half (1-1/2) times the regular rate for every hour worked in excess of forty (40) hours per week.

The titles and descriptions for the classifications listed here are further detailed in the AGC of Texas' *Standard Job Classifications and Descriptions for Highway, Heavy, Utilities, and Industrial Construction in Texas* . AGC will make it available on its Web site for any contractor.

**TEXAS COUNTIES IDENTIFIED BY
WAGE RATE ZONES: 7, 8, 11, 12, 14, 16, 18, 34, 35, 37, 38, 40, 41, 54, 56, 63**

| County Name | Zone | County Name | Zone | County Name | Zone | County Name | Zone |
|---------------|------|-------------|------|-------------|------|---------------|------|
| Anderson | 38 | Donley | 54 | Karnes | 37 | Reagan | 54 |
| Andrews | 54 | Duval | 41 | Kaufman | 35 | Real | 54 |
| Angelina | 38 | Eastland | 54 | Kendall | 16 | Red River | 38 |
| Aransas | 40 | Ector | 7 | Kenedy | 41 | Reeves | 18 |
| Archer | 35 | Edwards | 18 | Kent | 54 | Refugio | 37 |
| Armstrong | 7 | El Paso | 34 | Kerr | 37 | Roberts | 54 |
| Atascosa | 16 | Ellis | 35 | Kimble | 54 | Robertson | 16 |
| Austin | 56 | Erath | 38 | King | 54 | Rockwall | 35 |
| Bailey | 54 | Falls | 38 | Kinney | 18 | Runnels | 54 |
| Bandera | 16 | Fannin | 38 | Kleberg | 37 | Rusk | 11 |
| Bastrop | 16 | Fayette | 37 | Knox | 54 | Sabine | 38 |
| Baylor | 54 | Fisher | 54 | Lamar | 38 | San Augustine | 38 |
| Bee | 37 | Floyd | 54 | Lamb | 54 | San Jacinto | 56 |
| Bell | 16 | Foard | 54 | Lampasas | 16 | San Patricio | 40 |
| Bexar | 16 | Fort Bend | 56 | LaSalle | 41 | San Saba | 54 |
| Blanco | 37 | Franklin | 38 | Lavaca | 37 | Schleicher | 54 |
| Borden | 54 | Freestone | 38 | Lee | 37 | Scurry | 54 |
| Bosque | 38 | Frio | 37 | Leon | 38 | Shackelford | 54 |
| Bowie | 11 | Gaines | 54 | Liberty | 56 | Shelby | 38 |
| Brazoria | 56 | Galveston | 56 | Limestone | 38 | Sherman | 54 |
| Brazos | 16 | Garza | 54 | Lipscomb | 54 | Smith | 11 |
| Brewster | 18 | Gillespie | 37 | Live Oak | 37 | Somervell | 38 |
| Briscoe | 54 | Glasscock | 54 | Llano | 37 | Starr | 41 |
| Brooks | 41 | Goliad | 40 | Loving | 54 | Stephens | 54 |
| Brown | 54 | Gonzales | 37 | Lubbock | 7 | Sterling | 54 |
| Burleson | 16 | Gray | 54 | Lynn | 54 | Stonewall | 54 |
| Burnet | 37 | Grayson | 35 | Madison | 38 | Sutton | 18 |
| Caldwell | 16 | Gregg | 11 | Marion | 38 | Swisher | 54 |
| Calhoun | 40 | Grimes | 38 | Martin | 54 | Tarrant | 35 |
| Callahan | 35 | Guadalupe | 16 | Mason | 37 | Taylor | 7 |
| Cameron | 8 | Hale | 54 | Matagorda | 37 | Terrell | 18 |
| Camp | 38 | Hall | 54 | Maverick | 41 | Terry | 54 |
| Carson | 7 | Hamilton | 38 | McCulloch | 54 | Throckmorton | 54 |
| Cass | 38 | Hansford | 54 | McLennan | 16 | Titus | 38 |
| Castro | 54 | Hardeman | 54 | McMullen | 41 | Tom Green | 7 |
| Chambers | 56 | Hardin | 56 | Medina | 16 | Travis | 16 |
| Cherokee | 38 | Harris | 56 | Menard | 54 | Trinity | 38 |
| Childress | 54 | Harrison | 63 | Midland | 7 | Tyler | 38 |
| Clay | 35 | Hartley | 54 | Milam | 38 | Upshur | 11 |
| Cochran | 54 | Haskell | 54 | Mills | 54 | Upton | 54 |
| Coke | 54 | Hays | 16 | Mitchell | 54 | Uvalde | 41 |
| Coleman | 54 | Hemphill | 54 | Montague | 54 | Val Verde | 18 |
| Collin | 35 | Henderson | 38 | Montgomery | 56 | Van Zandt | 38 |
| Collingsworth | 54 | Hidalgo | 8 | Moore | 54 | Victoria | 14 |
| Colorado | 37 | Hill | 38 | Morris | 38 | Walker | 38 |
| Comal | 16 | Hockley | 54 | Motley | 54 | Waller | 56 |
| Comanche | 54 | Hood | 38 | Nacogdoches | 38 | Ward | 54 |
| Concho | 54 | Hopkins | 38 | Navarro | 38 | Washington | 38 |
| Cooke | 54 | Houston | 38 | Newton | 38 | Webb | 8 |
| Coryell | 16 | Howard | 54 | Nolan | 54 | Wharton | 37 |
| Cottle | 54 | Hudspeth | 18 | Nueces | 40 | Wheeler | 54 |
| Crane | 54 | Hunt | 35 | Ochiltree | 54 | Wichita | 12 |
| Crockett | 18 | Hutchinson | 54 | Oldham | 54 | Wilbarger | 54 |
| Crosby | 7 | Irion | 7 | Orange | 56 | Willacy | 41 |
| Culberson | 18 | Jack | 38 | Palo Pinto | 38 | Williamson | 16 |
| Dallam | 54 | Jackson | 37 | Panola | 38 | Wilson | 16 |
| Dallas | 35 | Jasper | 38 | Parker | 35 | Winkler | 54 |
| Dawson | 54 | Jeff Davis | 18 | Parmer | 54 | Wise | 35 |
| Deaf Smith | 54 | Jefferson | 56 | Pecos | 18 | Wood | 38 |
| Delta | 35 | Jim Hogg | 41 | Polk | 38 | Yoakum | 54 |
| Denton | 35 | Jim Wells | 37 | Potter | 7 | Young | 54 |
| DeWitt | 37 | Johnson | 35 | Presidio | 18 | Zapata | 41 |
| Dickens | 54 | Jones | 35 | Rains | 38 | Zavala | 41 |
| Dimmit | 41 | | | Randall | 7 | | |

Introduction

Local Government General Requirements

For all projects with State or Federal funds, and/or all projects on the State Highway System regardless of funding source, a Local Government must either adopt the latest TxDOT Standard Specifications, Special Specifications, and required Special Provisions or request TxDOT written approval of alternate, equivalent specifications. TxDOT's *"2014 Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges"* are the latest TxDOT Standard Specifications. These "General Requirements" along with additional requirements specified by the particular local government, are intended as a template for Item 1-9 in TxDOT's Standard Specifications on projects let by a local government that is on the State Highway System or includes reimbursement to the local government using FHWA or TxDOT funds.

This document is intended to be used as a template that allows the local government to modify Item 1-9 to meet their particular needs while assuring that all local, state, and federal statutory requirements are addressed. As this document modifies a TxDOT publication, there may be a question about terminology. In general, the "Owner" or the "Engineer" references the local government or their representatives (Consulting Engineers, etc.) Reference to "Department" or "Engineer" in the construction and maintenance specifications refers to the local government except when it is referencing a TxDOT specification, manual, material specification, Material Producers List or test method.

Foreword

OUTLINE OF SPECIFICATIONS

Each specification is outlined by articles and sections. The basic articles required for a specification are:

1. DESCRIPTION
2. MATERIALS
3. EQUIPMENT
4. CONSTRUCTION OR WORK METHODS
5. MEASUREMENT
6. PAYMENT

Some articles are not used in every item. Measurement and Payment articles are combined when the work described is subsidiary to bid items of the Contract.

HIERARCHY OF ORGANIZATIONAL ELEMENTS

Here “XXX” represents the item number. The hierarchy of organizational elements available below the item level is as follows:

XXX.1., Article
XXX.1.1., Section
XXX.1.1.1., Section
XXX.1.1.1.1., Section
XXX.1.1.1.1.1., Section
XXX.1.1.1.1.1.1., Section

The term section is used for all breaks below the article.

Items 1L–9L

Local Government General Requirements and Covenants

Item 1L

Abbreviations and Definitions

1. APPLICABILITY

Wherever the following terms are used in these specifications or other Contract documents, the intent and meaning will be interpreted as shown below.

2. ABBREVIATIONS

| | |
|--------|------------------------------------------------------------------------|
| AAR | Association of American Railroads |
| AASHTO | American Association of State Highway and Transportation Officials |
| ACI | American Concrete Institute |
| ACPA | American Concrete Pipe Association |
| AI | Asphalt Institute |
| AIA | American Institute of Architects |
| AISC | American Institute of Steel Construction |
| AISI | American Iron and Steel Institute |
| AITC | American Institute of Timber Construction |
| ALSC | American Lumber Standard Committee, Inc. |
| AMRL | AASHTO Materials Reference Laboratory |
| ANLA | American Nursery and Landscape Association |
| ANSI | American National Standards Institute |
| APA | The Engineered Wood Association |
| API | American Petroleum Institute |
| APWA | American Public Works Association |
| AREMA | American Railway Engineering and Maintenance-of-Way Association |
| ASBI | American Segmental Bridge Institute |
| ASCE | American Society of Civil Engineers |
| ASLA | American Society of Landscape Architects |
| ASME | American Society of Mechanical Engineers |
| ASNT | American Society for Nondestructive Testing |
| ASTM | American Society for Testing and Materials |
| AWC | American Wood Council |
| AWG | American Wire Gage |
| AWPA | American Wood Protection Association |
| AWPI | American Wood Preservers Institute |
| AWS | American Welding Society |
| AWWA | American Water Works Association |
| BMP | Best Management Practices |
| CFR | Code of Federal Regulations |
| CMP | Corrugated Metal Pipe |
| COE | U.S. Army Corps of Engineers |
| CRSI | Concrete Reinforcing Steel Institute |
| DBE | Disadvantaged Business Enterprise |
| DMS | Departmental Material Specification |
| EIA | Electronic Industries Alliance |
| EPA | United States Environmental Protection Agency |
| FHWA | Federal Highway Administration, U.S. Department of Transportation |
| FSS | Federal Specifications and Standards (General Services Administration) |
| GSA | United States General Services Administration |
| HUB | Historically Underutilized Business |
| ICEA | Insulated Cable Engineers Association |
| IEEE | Institute of Electrical and Electronics Engineers |
| IESNA | Illuminating Engineering Society of North America |

| | |
|--------|-----------------------------------------------------------------------|
| IMSA | International Municipal Signal Association |
| ISO | International Organization for Standardization |
| ITS | Intelligent Transportation System |
| ITE | Institute of Transportation Engineers |
| LG | Local Government |
| LRFD | Load and Resistance Factor Design |
| MASH | Manual for Assessing Safety Hardware |
| MPL | Material Producer List (TxDOT document) |
| NCHRP | National Cooperative Highway Research Program |
| NCR | Nonconformance Report (TxDOT form) |
| NEC | National Electrical Code (Published by NFPA) |
| NEMA | National Electrical Manufacturers Association |
| NEPA | National Environmental Policy Act |
| NESC | National Electrical Safety Code |
| NFPA | National Fire Protection Association |
| NIST | National Institute of Standards and Technology |
| NRM | Nonhazardous Recyclable Material |
| NRMCA | National Ready Mixed Concrete Association |
| NSBA | National Steel Bridge Alliance |
| NTPEP | National Transportation Product Evaluation Program |
| OSHA | Occupational Safety & Health Administration, U.S. Department of Labor |
| PCA | Portland Cement Association |
| PCI | Precast/Prestressed Concrete Institute |
| PE | Professional Engineer |
| PPI | Plastics Pipe Institute |
| PS&E | Plans, Specifications, and Estimates |
| PSL | Project-Specific Location |
| PTI | Post-Tension Institute |
| QA | Quality Assurance |
| QC | Quality Control |
| RCP | Reinforced Concrete Pipe |
| RPLS | Registered Public Land Surveyor |
| RRC | Railroad Commission of Texas |
| SBE | Small Business Enterprise |
| SFPA | Southern Forest Products Association |
| SI | International System of Units |
| SPIB | Southern Pine Inspection Bureau |
| SSPC | The Society for Protective Coatings |
| TAC | Texas Administrative Code |
| TCEQ | Texas Commission on Environmental Quality |
| TDLR | Texas Department of Licensing and Regulation |
| TGC | Texas Government Code |
| TMUTCD | Texas Manual on Uniform Traffic Control Devices |
| TxDOT | Texas Department of Transportation |
| UL | Underwriters Laboratory, Inc. |
| USC | United States Code |
| WRI | Wire Reinforcement Institute |
| WWPA | Western Wood Products Association |

3. DEFINITIONS

- 3.1. **Abrasive Blasting.** Spraying blasts of pressurized air combined with abrasive media.
- 3.2. **Actual Cost.** Contractor's actual cost to provide labor, material, equipment, and project overhead necessary for the work.
- 3.3. **Addendum.** Change in bid documents developed between advertising and bid submittal deadline.

- 3.4. **Additive Alternate.** A bid item contained in the bid documents that is not a regular item or a replacement alternate bid item. The additive alternate items include work that may be added to the base bid work.
- 3.5. **Deductive Alternate.** A bid item contained in the bid documents that is not a regular item or a replacement alternate bid item. The deductive alternate items include work that may be deducted from the base bid work.
- 3.6. **Advertisement.** The public announcement required by law inviting bids for work to be performed or materials to be furnished.
- 3.7. **Affiliates.** Two or more firms are affiliated if they share common officers, directors, or stockholders; a family member of an officer, director, or stockholder of one firm serves in a similar capacity in another of the firms; an individual who has an interest in, or controls a part of, one firm either directly or indirectly also has an interest in, or controls a part of, another of the firms; the firms are so closely connected or associated that one of the firms, either directly or indirectly, controls or has the power to control another firm; one firm controls or has the power to control another of the firms; or the firms are closely allied through an established course of dealings, including, but not limited to, the lending of financial assistance.
- 3.8. **Air Blasting.** Spraying blasts of pressurized air free of oil and moisture.
- 3.9. **Air Temperature.** The temperature measured in degrees Fahrenheit (°F) in the shade, not in the direct rays of the sun, and away from artificial heat.
- 3.10. **Anticipated Profit.** Profit for work not performed.
- 3.11. **Apparent Low Bidder.** The Bidder determined to have the numerically lowest total bid as a result of the tabulation of bids by the Owner.
- 3.12. **Architect of Record.** A person registered as an architect or licensed as a landscape architect, in accordance with State law, exercising overall responsibility for the design or a significant portion of the design and performs certain Contract administration responsibilities as described in the Contract; or a firm employed by the Owner to provide professional architectural services.
- 3.13. **Arterial Highway.** A highway used primarily for through traffic and usually on a continuous route.
- 3.14. **Notice of Award.** The Owner's acceptance of a Contractor's bid for a proposed Contract that authorizes the Owner to enter into a Contract.
- 3.15. **Base Bid.** The total bid amount without additive alternates.
- 3.16. **Bid.** The offer from the Bidder for performing the work described in the bid documents, submitted on the prescribed bid form, considering addenda issued and giving unit bid prices for performing the work described in the bid documents.
- 3.17. **Bid Bond.** The security executed by the Contractor and the Surety furnished to the Owner to guarantee payment of liquidated damages if the Contractor fails to enter into an awarded Contract.
- 3.18. **Bid Documents.** The complete set of documents necessary for a Bidder to submit a bid. The documents may include plans, specifications, special specifications, special provisions, addenda, and the prescribed form a Bidder is to submit as the Bid. Other terms used may include general conditions, proposal, instructions to bidders, and construction specifications.
- 3.19. **Bid Error.** A mathematical mistake made by a Bidder in the unit price entered into the bid documents.
- 3.20. **Bid Form.** The portion of the bid documents that a prospective Bidder must submit to the Owner for their bid to be considered.

- 3.21. **Bidder.** An individual, partnership, limited liability company, corporation, or joint venture submitting a bid for a proposed Contract.
- 3.22. **Blast Cleaning.** Using one of the blasting methods, including, but not limited to, water blasting, low-pressure water blasting, high-pressure water blasting, abrasive blasting, water-abrasive blasting, shot blasting, slurry blasting, water injected abrasive blasting, and brush blasting.
- 3.23. **Bridge.** A structure, including supports, erected over a depression or an obstruction (e.g., water, a highway, or a railway) having a roadway or track for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 ft. between faces of abutments, spring lines of arches, or extreme ends of the openings for multiple box culverts.
- 3.24. **Brush Blasting.** Sweeping lightly with an abrasive blast to remove loose material.
- 3.25. **Building Contract.** A Contract entered under State law for the construction or maintenance of an Owner building or appurtenance facilities. Building Contracts are considered to be construction Contracts.
- 3.26. **Certificate of Insurance.** A form approved by the Owner covering insurance requirements stated in the Contract.
- 3.27. **Change Order.** Written order to the Contractor detailing changes to the specified work, item quantities or any other modification to the Contract.
- 3.28. **Concrete Construction Joint.** A joint formed by placing plastic concrete in direct contact with concrete that has attained its initial set.
- 3.29. **Concrete Repair Manual.** TxDOT manual specifying methods and procedures for concrete repair as an extension of the standard specifications.
- 3.30. **ConcreteWorks®.** TxDOT-owned software for concrete heat analysis. Software is available on the TxDOT's website.
- 3.31. **Construction Contract.** A Contract entered under State law for the construction, reconstruction, or maintenance of a segment of the Owner's transportation system.
- 3.32. **Consultant.** The licensed professional engineer or engineering firm, or the architect or architectural firm, registered in the State of Texas and under Contract to the Owner to perform professional services. The consultant may be the Engineer or architect of record or may provide services through and be subcontracted to the Engineer or architect of record.
- 3.33. **Contract.** The agreement between the Owner and the Contractor establishing the obligations of the parties for furnishing of materials and performance of the work prescribed in the Contract documents.
- 3.34. **Contract Documents.** Elements of the Contract, including, but not limited to, the plans, specifications incorporated by reference, special provisions, special specifications, Contract bonds, change orders, addendums, and supplemental agreements.
- 3.35. **Contract Time.** The number of days specified for completion of the work, including authorized additional working days.
- 3.36. **Contractor.** The individual, partnership, limited liability company, corporation, or joint venture and all principals and representatives with which the Contract is made by the Owner.
- 3.37. **Controlled Access Highway.** Any highway to or from which access is denied or controlled, in whole or in part, from or to abutting land or intersecting streets, roads, highways, alleys, or other public or private ways.

- 3.38. **Control of Access.** The condition in which the right to access of owners or occupants of abutting land or other persons in connection with a highway is fully or partially controlled by public authority.
- 3.39. **Control Point.** An established point shown on the plans to provide vertical and horizontal references for geometric control for construction.
- 3.40. **Cross-Sections.** Graphic representations of the original ground and the proposed facility, at right angles to the centerline or base line.
- 3.41. **Culvert.** Any buried structure providing an opening under a roadway for drainage or other purposes. Culverts may also be classified as bridges. (See Section 1.3.23., "Bridge.")
- 3.42. **Cycle.** The activity necessary for performing the specified work within the right of way project limits once.
- 3.43. **Daily Road-User Cost.** Damages based on the estimated daily cost of inconvenience to the traveling public resulting from the work.
- 3.44. **Date of Written Authorization.** Date of the written Notice to Proceed authorizing the Contractor to begin work.
- 3.45. **Debar (Debarment).** Action taken by the Owner, State, or federal government pursuant to regulation that prohibits a person or company from entering into a Contract, or from participating as a subcontractor, or supplier of materials or equipment used in a highway improvement Contract as defined in local, state, or federal law.
- 3.46. **Detour.** A temporary traffic route around a closed portion of a road.
- 3.47. **Department.** When used in the context of the party with whom the Contractor has a Construction Contract, Department refers to Owner. When used in other contexts such as technical specifications, refers to the Texas Department of Transportation.
- 3.48. **Departmental Material Specifications.** Reference specifications for various materials published by TxDOT's Construction Division with a DMS-XXXXX numbering system.
- 3.49. **Direct Traffic Culvert.** Concrete box culvert whose top slab is used as the final riding surface or is to have an overlay or other riding surface treatment.
- 3.50. **Disadvantaged Business Enterprise.** A small business certified through the Texas Unified Certification Program in accordance with 49 CFR Part 26, that is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of a publicly owned business, in which is at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the individuals who own it.
- 3.51. **Divided Highway.** A highway with separate roadways intended to move traffic in opposite directions.
- 3.52. **Easement.** A real property right acquired by one party to use land belonging to another party for a specified purpose.
- 3.53. **Engineer.** The Professional Engineer licensed in Texas who represents the interests of the Owner.
- 3.54. **Entity.** Political subdivision for which the project is designed and constructed. Either a Municipality (City) or a County or other entity organized under the authority of State of Texas statutes. May also be referred to as an **Owner**.
- 3.55. **Expressway.** A divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections.

- 3.56. **Family Member.** A family member of an individual is the individual's parent, parent's spouse, step-parent, step-parent's spouse, sibling, sibling's spouse, spouse, child, child's spouse, spouse's child, spouse's child's spouse, grandchild, grandparent, uncle, uncle's spouse, aunt, aunt's spouse, first cousin, or first cousin's spouse.
- 3.57. **Force Account.** Payment for directed work based on the actual cost of labor, equipment, and materials furnished with markups for project overhead and profit.
- 3.58. **Freeway.** An expressway with full control of access.
- 3.59. **Frontage Road.** A local street or road auxiliary to and located along an arterial highway for service to abutting property and adjacent areas and for control of access (sometimes known as a service road, access road, or insulator road).
- 3.60. **Hazardous Materials or Waste.** Hazardous materials or waste include, but are not limited to, explosives, compressed gas, flammable liquids, flammable solids, combustible liquids, oxidizers, poisons, radioactive materials, corrosives, etiologic agents, and other material classified as hazardous by 40 CFR 261, or applicable state and federal regulations.
- 3.61. **High-Pressure Water Blasting.** Water blasting with pressures between 5,000 and 10,000 psi.
- 3.62. **Highway, Street, or Road.** General terms denoting a public way for purposes of vehicular travel, including the entire area within the right of way. Recommended usage in urban areas is highway or street; in rural areas, highway or road.
- 3.63. **Historically Underutilized Business.** A corporation, sole proprietorship, partnership, or joint venture formed for the purpose of making a profit certified by the Texas Comptroller of Public Accounts, and 51% owned by one or more persons who are economically disadvantaged because of their identification as members of certain groups, including African Americans, Hispanic Americans, Asian-Pacific Americans, Native Americans, or women, and have a proportionate interest and demonstrate active participation in the control, operation, and management of the business' affairs. Individuals meeting the HUB definition are required to be residents of the State of Texas. Businesses that do not have their primary headquarters in the State of Texas are not eligible for HUB certification.
- 3.64. **Incentive/Disincentive Provisions.** An adjustment to the Contract price of a predetermined amount for each day the work is completed ahead of or behind the specified milestone, phase, or Contract completion dates. The amount of the incentive/disincentive is determined based on estimated costs for engineering, traffic control, delays to the motorists, and other items involved in the Contract.
- 3.65. **Independent Assurance Tests.** Tests used to evaluate the sampling and testing techniques and equipment used in the acceptance program. The tests are performed by the Owner or the Owner's representative and are not used for acceptance purposes.
- 3.66. **Inspector.** The person assigned by the Owner to inspect any or all parts of the work and the materials used for compliance with the Contract.
- 3.67. **Intelligent Transportation System.** An integrated system that uses video and other electronic detection devices to monitor traffic flows.
- 3.68. **Intersection.** The general area where 2 or more highways, streets, or roads join or cross, including the roadway and roadside facilities for traffic movements within it.
- 3.69. **Island.** An area within a roadway from which vehicular traffic is intended to be excluded, together with any area at the approach occupied by protective deflecting or warning devices.

- 3.70. **Joint Venture.** Any combination of individuals, partnerships, limited liability companies, or corporations submitting a single bid form.
- 3.71. **Lane Rental.** A method to assess the Contractor daily or hourly rental fees for each lane, shoulder, or combination of lanes and shoulders taken out of service.
- 3.72. **Letting.** The receipt, opening, tabulation, and determination of the apparent low Bidder.
- 3.73. **Letting Official.** The Owner representative empowered by the Owner to officially receive bids and close the receipt of bids at a letting.
- 3.74. **Licensed Professional Engineer.** A person who has been duly licensed by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas; also referred to as a Professional Engineer.
- 3.75. **Limits of Construction.** An area with established boundaries, identified within the highway right of way and easements, where the Contractor is permitted to perform the work.
- 3.76. **Local Street or Road.** A street or road primarily for access to residence, business, or other abutting property.
- 3.77. **Low-Pressure Water Blasting.** Water blasting with pressures between 3,000 and 5,000 psi.
- 3.78. **Major Item.** An item of work included in the Contract that has a total cost equal to or greater than 5% of the original Contract or \$100,000 whichever is less. A major item at the time of bid will remain a major item. An item not originally a major item does not become one through the course of the Contract.
- 3.79. **Material Producer List.** TxDOT-maintained list of approved products. Referenced as "Department's MPL".
- 3.80. **Materially Unbalanced Bid.** A bid that generates a reasonable doubt that award to the Bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Owner.
- 3.81. **Mathematically Unbalanced Bid.** A bid containing bid prices that do not reflect reasonable actual costs plus a reasonable proportionate share of the Bidder's anticipated profit, overhead costs, and other indirect costs.
- 3.82. **Median.** The portion of a divided highway separating the traffic lanes in opposite directions.
- 3.83. **Milestone Date.** The date that a specific portion of the work is to be completed, before the completion date for all work under the Contract.
- 3.84. **Monolithic Concrete Placement.** The placement of plastic concrete in such manner and sequence to prevent a construction joint.
- 3.85. **National Holidays.** January 1, the last Monday in May, July 4, the first Monday in September, the fourth Thursday in November, and December 24 or December 25.
- 3.86. **Nonhazardous Recyclable Material.** A material recovered or diverted from the nonhazardous waste stream for the purposes of reuse or recycling in the manufacture of products that may otherwise be produced using raw or virgin materials.
- 3.87. **Nonresident Bidder.** A Bidder whose principal place of business is not in Texas. This includes a Bidder whose ultimate parent company or majority owner does not have its principal place of business in Texas.
- 3.88. **Nonresponsive Bid.** A bid that does not meet the criteria for acceptance contained in the bid documents.

- 3.89. **Non-Site-Specific Contracts.** Contracts in which a geographic region is specified for the work and for which work orders, with or without plans, further detail the limits and work to be performed.
- 3.90. **Notice to Proceed,** Written notification to the Contractor authorizing work to begin.
- 3.91. **Notification.** Either written or oral instruction to the Contractor concerning the work. Voice mail is oral notification.
- 3.92. **Owner,** Political subdivision for whom the project is designed and constructed. Either a Municipality (City), a County or other entity organized under the authority of State of Texas statutes. May also be referred to as an **Entity.**
- 3.93. **Pavement.** That part of the roadway having a constructed surface for the use of vehicular traffic.
- 3.94. **Pavement Structure.** Combination of surface course and base course placed on a subgrade to support the traffic load and distribute it to the roadbed.
- 3.94.1. **Surface Course.** Pavement structure layers designed to accommodate the traffic load. The top layer resists skidding, traffic abrasion, and the disintegrating effects of climate and is sometimes called the wearing course.
- 3.94.2. **Base Course.** One or more layers of specified material thickness placed on a subgrade to support a surface course.
- 3.94.3. **Subgrade.** The top surface of a roadbed upon which the pavement structure, shoulders, and curbs are constructed.
- 3.94.4. **Subgrade Treatment.** Modifying or stabilizing material in the subgrade.
- 3.95. **Payment Bond.** The security executed by the Contractor and the Surety, furnished to the Owner to guarantee payment of all legal debts of the Contractor pertaining to the Contract.
- 3.96. **Performance Bond.** The security executed by the Contractor and the Surety, furnished to the Owner to guarantee the completion of the work in accordance with the terms of the Contract.
- 3.97. **Plans.** The approved drawings, including true reproductions of the drawings that show the location, character, dimensions, and details of the work and are a part of the Contract.
- 3.98. **Power of Attorney for Surety Bonds.** An instrument under corporate seal appointing an attorney-in-fact to act on behalf of a Surety in signing bonds.
- 3.99. **Qualification.** The process for determining a Contractor's eligibility to be awarded a construction contract
- 3.100. **Prequalification.** The process for determining a Contractor's eligibility to bid work.
- 3.101. **Prequalification Statement.** The forms on which required information is furnished concerning the Contractor's ability to perform and finance the work.
- 3.102. **Prequalified Contractor.** A contractor that is approved to bid on TxDOT contracts by satisfying their Prequalification Process.
- 3.103. **Post Qualification.** The owner will determine if contractors are qualified to bid on the project after bids are open. The bid documents will identify the minimum requirements that contractor must meet to be qualified for the project. Unqualified contractors' bids will be considered non-responsive and not accepted.

- 3.104. **Project-Specific Location.** A material source, plant, waste site, parking area, storage area, field office, staging area, haul road, or other similar location either outside the project limits or within the project limits but not specifically addressed in the Contract.
- 3.105. **Proposal Guaranty.** The security furnished by the Bidder as a guarantee that the Bidder will enter into a Contract if awarded the work.
- 3.106. **Quality Assurance.** Sampling, testing, inspection, and other activities conducted by the Engineer to determine payment and make acceptance decisions.
- 3.107. **Quality Control.** Sampling, testing, and other process control activities conducted by the Contractor to monitor production and placement operations.
- 3.108. **Ramp.** A section of highway for the primary purpose of making connections with other highways.
- 3.109. **Referee Tests.** Tests requested to resolve differences between Contractor and Owner test results. The referee laboratory is the Owners .
- 3.110. **Regular Item.** A bid item contained in the bid documents and not designated as an additive alternate or replacement alternate bid item.
- 3.111. **Rental Rate Blue Book for Construction Equipment.** Publication containing equipment rental rates.
- 3.112. **Replacement Alternate.** A bid item identified on the bid documents that a Bidder may substitute for a specific regular item of work.
- 3.113. **Responsive Bid.** A bid that meets all requirements of the advertisement and the bid documents for acceptance.
- 3.114. **Right of Way.** A general term denoting land or property devoted to transportation purposes.
- 3.115. **Roadbed.** The graded portion of a highway prepared as foundation for the pavement structure and shoulders. On divided highways, the depressed median type and the raised median type highways are considered to have 2 roadbeds. Highways with a flush median are considered to have 1 roadbed. Frontage roads are considered separate roadbeds.
- 3.116. **Road Master.** A railroad maintenance official in charge of a division of railway.
- 3.117. **Roadside.** The areas between the outside edges of the shoulders and the right of way boundaries. Unpaved median areas between inside shoulders of divided highways and areas within interchanges are included.
- 3.118. **Roadway.** The portion of the highway (including shoulders) used by the traveling public.
- 3.119. **Sandblasting, Dry.** Spraying blasts of pressurized air combined with sand.
- 3.120. **Sandblasting, Wet.** Spraying blasts of pressurized water combined with sand.
- 3.121. **Shoulder.** That portion of the roadway contiguous with the traffic lanes for accommodation of stopped vehicles for emergency use or for lateral support of base and surface courses.
- 3.122. **Shot Blasting.** Spraying blasts of pressurized air combined with metal shot.
- 3.123. **Sidewalk.** Portion of the right of way constructed exclusively for pedestrian use.
- 3.124. **Slurry Blasting.** Spraying blasts of pressurized air combined with a mixture of water and abrasive media.

- 3.125. **Special Provisions.** Additions or revisions to these standard specifications or special specifications.
- 3.126. **Special Specifications.** Supplemental specifications applicable to the Contract not covered by these standard specifications.
- 3.127. **Specifications.** Directives or requirements issued or made pertaining to the method and manner of performing the work or to quantities and qualities of materials to be furnished under the Contract. References to DMSs, ASTM or AASHTO specifications, or TxDOT bulletins and manuals, imply the latest standard or tentative standard in effect on the date of the bid. The Owner will consider incorporation of subsequent changes to these documents in accordance with Item 4L, "Scope of Work."
- 3.128. **Small Business Enterprise.** A firm (including affiliates) whose annual gross receipts do not exceed the U.S. Small Business Administration's size standards for 4 consecutive years.
- 3.129. **State.** The State of Texas.
- 3.130. **State Holiday.** A holiday authorized by the State Legislature excluding optional state holidays and not listed in Section 1.3.85., "National Holidays." A list of state holidays can be found on the TxDOT's website.
- 3.131. **Station.** A unit of measurement consisting of 100 horizontal feet.
- 3.132. **Subcontract.** The agreement between the Contractor and subcontractor establishing the obligations of the parties for furnishing of materials and performance of the work prescribed in the Contract documents.
- 3.133. **Subcontractor.** An individual, partnership, limited liability company, corporation, or any combination thereof that the Contractor sublets, or proposes to sublet, any portion of a Contract, excluding a material supplier, a hauling firm hauling only from a commercial source to the project, truck owner-operator, wholly-owned subsidiary, or specialty-type businesses such as security companies and rental companies.
- 3.134. **Subsidiary.** Materials, labor, or other elements that because of their nature or quantity have not been identified as a separate item and are included within the items on which they necessarily depend.
- 3.135. **Substructure.** The part of the structure below the bridge seats, but not including bearings, drilled shafts, or piling. Parapets, back walls, wing walls of the abutments, and drainage structures are considered parts of the substructure.
- 3.136. **Superintendent.** The representative of the Contractor who is available at all times and able to receive instructions from the Owner or authorized Owner representatives and to act for the Contractor.
- 3.137. **Superstructure.** The part of the structure above the bridge seats or above the springing lines of arches and including the bearings. Flatwork construction may be considered superstructure.
- 3.138. **Supplemental Agreement.** Written agreement entered into between the Contractor and the Owner and approved by the Surety, covering alterations and changes in the Contract. A supplemental agreement is used by the Owner whenever the modifications include assignment of the Contract from one party to another or other cases as desired by the Owner.
- 3.139. **Surety.** The corporate body or bodies authorized to do business in Texas bound with and for the Contractor for the faithful performance of the work covered by the Contract and for the payment for all labor and material supplied in the prosecution of the work.
- 3.140. **Surplus Materials.** Any debris or material related to the Contract but not incorporated into the work.
- 3.141. **Suspension.** Action taken by the Owner, State, or federal government pursuant to regulation that prohibits a person or company from entering into a Contract, or from participating as a subcontractor, or supplier of materials or equipment used in a contract

- 3.142. **Tex –XXX-X.** TxDOT material test methods found on TxDOT's Construction Division Web Site.
- 3.143. **Traffic Lane.** The strip of roadway intended to accommodate the forward movement of a single line of vehicles.
- 3.144. **Traveled Way.** The portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.
- 3.145. **Truck Owner-Operator.** An individual who owns and operates 1 truck for hire.
- 3.146. **UT-Bridge.** TxDOT-owned software for steel girder erection. Software is available on TxDOT's website.
- 3.147. **UT-Lift.** TxDOT-owned software for steel girder erection. Software is available on TxDOT's website.
- 3.148. **Utility.** Privately, publicly, or cooperatively owned lines, facilities, and systems for producing, transmitting, or distributing communications, power, heat, gas, oil, water, waste, or storm water that are not connected with the highway drainage, signal systems, or other products that directly or indirectly serve the public; the utility company.
- 3.149. **Verification Tests.** Tests used to verify accuracy of QC and QA and mixture design testing.
- 3.150. **Water-Abrasive Blasting.** Spraying blasts of pressurized water combined with abrasive media.
- 3.151. **Water Blasting.** Spraying blasts of pressurized water of at least 3,000 psi.
- 3.152. **Water-Injected Abrasive Blasting.** Abrasive blasting with water injected into the abrasive/air stream at the nozzle.
- 3.153. **Wholly-Owned Subsidiary.** A legal entity owned entirely by the Contractor or subcontractor.
- 3.154. **Work.** The furnishing of all labor, materials, equipment, and other incidentals necessary for the successful completion of the Contract.
- 3.155. **Written Notice.** Written notice is considered to have been duly given if delivered in person to the individual or member to whom it is intended or if sent by regular, registered, or certified mail and delivered to the last known business address; sent by facsimile to the last known phone number; or sent by e-mail to the last known address. The date of the letter will serve as the beginning day of notice. Unclaimed mail or failure to provide current mailing address will not be considered a failure to provide written notice.

Item 2L

Instructions to Bidders

1. INTRODUCTION

Instructions to the Contractor in these specifications are generally written in active voice, imperative mood. The subject of imperative sentences is understood to be "the Contractor." The Owner's responsibilities are generally written in passive voice, indicative mood. Phrases such as "as approved," "unless otherwise approved," "upon approval," "as directed," "as verified," "as ordered," and "as determined" refer to actions of the Engineer unless otherwise stated, and it is understood that the directions, orders, or instructions to which they relate are within the limitations of and authorized by the Contract.

2. ELIGIBILITY OF BIDDERS

Bidders on this project must be prequalified through TxDOT. Refer to TxDOT's web site for prequalification requirements. Assure prequalification documents are submitted to TxDOT at least 14 days before bid opening. Comply with all technical prequalification requirements in the bid documents.

3. ISSUING BID DOCUMENTS

Bid Documents may be obtained at _____.

Copies will be available in CD format at no cost.

At the time Bid Documents are obtained, Bidder must provide a working e-mail address, so as to receive any addenda or clarification issued by the Owner.

The Owner will not issue bid documents if one or more of the following apply:

- the Bidder is prohibited from rebidding a specific project due to a bid error on the original bid documents,
- the Bidder failed to enter into a Contract on the original award,
- the Bidder was defaulted or terminated on the original Contract, unless the Owner terminated for convenience, or
- the Bidder or a subsidiary or affiliate of the Bidder has received compensation from the Owner to participate in the preparation of the plans or specifications on which the bid or Contract is based.

4. INTERPRETING ESTIMATED QUANTITIES

The quantities listed in the bid documents are approximate and will be used for the comparison of bids. Payments will be made for actual quantities of work performed in accordance with the Contract.

5. EXAMINING DOCUMENTS AND WORK LOCATIONS

Examine the bid documents and specified work locations before submitting a bid for the work. Submitting a bid will be considered evidence that the Bidder has performed this examination. Borings, soil profiles, water elevations, and underground utilities shown on the plans were obtained for the use of the Owner in the preparation of plans. This information is provided for the Bidder's information only and the Owner makes no representation as to the accuracy of the data. Be aware of the difficulty of accurately classifying all material encountered in making foundation investigations, the possible erosion of stream channels and banks after survey data have been obtained, and the unreliability of water elevations other than for the date recorded.

Oral explanations, instructions, or consideration for Contractor-proposed changes in the bid documents given during the bidding process are not binding. Only requirements included in the bid documents and Owner-issued addenda are binding. Request explanations of documents at least five(5) days prior to the bid opening.

Immediately notify the Owner of any error, omission, or ambiguity discovered in any part of the bid documents. The Owner will issue addenda when appropriate.

6. PREPARING THE BID

Prepare the bid form furnished by the Owner. Informational bid forms printed from the Owner's website will not be accepted.

Specify a unit price in dollars and cents for each regular item, additive alternate item, deductive alternate item or replacement alternate item for which an estimated quantity is given.

When "Working Days" is an item, submit the number of working days to be used to complete the Contract or phases of the Contract.

The Owner will not accept an incomplete bid. A bid that has one or more of the deficiencies listed below is considered incomplete:

- the bid form was not signed,
- all certifications were not acknowledged,
- a regular item, additive alternate item or deductive alternate item is left blank,
- a regular item and the corresponding replacement alternate item are left blank,
- the bid form submitted had the incorrect number of items, or
- all addenda were not acknowledged.

7. NONRESPONSIVE BID

The Owner will not accept a nonresponsive bid. A bid that has one or more of the deficiencies listed below is considered nonresponsive:

- The bid was not in the hands of the Letting Official at the time and location specified in the advertisement.
- A bid was submitted for the same project by a Bidder or Bidders and one or more of its partners or affiliates.
- The Bidder failed to acknowledge receipt of all addenda issued.
- The bid form was signed by a person who was not authorized to bind the Bidder or Bidders.
- The bid guaranty did not comply with the requirements contained in this Item.
- The bid was in a form other than the official bid form issued by the Owner.
- The Bidder modified the bid in a manner that altered the conditions or requirements for work as stated in the bid documents.
- The Bidder bid more than the maximum or less than the minimum number of allowable working days when working days was an item.
- The Bidder did not attend a specified mandatory pre-bid conference.
- The Bidder did not meet the requirements of the technical qualification.
- The Bidder did not include a signed State of Texas Child Support Business Ownership Form.
- The bidder is not prequalified by TxDOT
- The bidder does not meet the Owner's qualification requirements.

8. SUBMITTAL OF BIDS

8.1. **Electronic Bids.** When electronic bidding is available, the Bidder is responsible for taking the appropriate measures to submit a bid. These measures include, but are not limited to, acquiring hardware, software, and Internet connectivity needed for submitting a bid via the Owner's bidding system.

8.1.1. **Bid Form.** Use the electronic bid form in the Owner's bidding system. When regular bid items have corresponding replacement alternate items, select the bid item or group of items to be used for the bid tabulation. Acknowledge all addenda listed in the Owner's bidding system.

The electronic bid form may not contain the special provisions, special specifications, general notes, and other Contract documents. These documents are included by reference.

8.1.2. **Bid Guaranty.** Provide a bid guaranty in the amount indicated on the bid form. Use an electronic bid bond. Guaranty checks or printed bid bonds will not be accepted.

Use the most current version of the electronic bond accepted by the Owner. For a joint venture, the bond must be in the name of all joint venture participants. Enter the bond authorization code into the Owner's bidding system.

It is the Bidder's responsibility to ensure the electronic bid bond is issued in the name or names of the Bidder or Bidders.

8.1.3. **Submittal of Bid.** Submit the bid using the Owner's bidding system.

8.1.4. **Revising the Bid Form.** Make desired changes as allowed by the Owner's bidding system up until the time and date set for the opening of bids. The last bid submitted will be used for tabulation purposes.

8.1.5. **Withdrawing a Bid.** Submit an electronic or written request to withdraw a bid before the time and date set for the opening. The Owner will not accept oral requests. An electronic request must be made using the Owner's bidding system.

A written request must be signed and submitted to the Letting Official with proof of identification. The request must be made by a person authorized to bind the Bidder or Bidders. In the case of joint venture, the Owner will accept a request from any person authorized to bind a party to the joint venture. The Owner may require written delegation of authority to withdraw a bid when the individual sent to withdraw the bid is not authorized to bind the Bidder or Bidders.

8.2. **Printed Bid.**

8.2.1. **Bid Form.** Mark all entries in ink. As an alternative to hand writing the unit prices in the bid form, submit a typed bid form. A typed bid form must contain the information in the format shown on the "Example of Bid Prices Submitted by Computer Printout" in the bid form.

When regular bid items have corresponding replacement alternate items, select the bid item or group of items to be used for the bid tabulation. Acknowledge all addenda by checking the appropriate box on the addendum acknowledgement page. Provide the complete and correct name of the Bidder submitting the bid. A person authorized to bind the Bidder must sign the bid form. In the case of a joint venture, provide the complete and correct name of all Bidders submitting the bid. In the case of a joint venture, the person signing the bid form must be authorized to bind all joint venture participants.

If a bid form contains both regular items for domestic steel or iron materials and replacement alternate items for foreign steel or iron materials, the Bidder must either:

- submit unit bid prices for domestic items only, or
- submit unit bid prices for both the domestic and foreign items.

- 8.2.2. **Bid Guaranty.** Provide a bid guaranty in the amount indicated on the bid documents. Use either a guaranty check or a printed bid bond. An electronic bid bond may be used as the guaranty. Ensure the electronic bid bond meets the requirements of Section 2.8.1.2., "Bid Guaranty," and submit the electronic bid bond with the printed bid.
- 8.2.3. **Guaranty Check.** Make the check payable to the Owner. The check must be a cashier's check, money order, or teller's check drawn by or on a state or national bank, or a state or federally chartered credit union (collectively referred to as "bank"). The check must be dated on or before the date of the bid opening. Postdated checks will not be accepted. The type of check or money order must be indicated on the face of the instrument, except in the case of a teller's check, and the instrument must be no more than 90 days old. A check must be made payable at or through the institution issuing the instrument; be drawn by a bank and on a bank; or be payable at or through a bank. The Owner will not accept personal checks, certified checks, or other types of money orders.
- 8.2.4. **Bid Bond.** Use the bid bond form provided by the Owner. Submit the bid bond with the powers of attorney attached and in the amount specified. The bond must be dated on or before the date of the bid opening, bear the impressed seal of the Surety, and be signed by the Bidder or Bidders and an authorized individual of the Surety. As an alternative for joint venture Bidders, each of the Bidders may submit a separate bid bond completed as outlined in this section. Bid bonds will only be accepted from Sureties authorized to execute a bond under and in accordance with State law.
- 8.2.5. **Submittal of Bid.** Place the completed bid form and the bid guaranty in a sealed envelope marked to indicate the contents.
- When submitting by mail or delivery service, place the envelope in another sealed envelope and address as indicated in the official advertisement or in the bid documents. It is the Bidder's responsibility to ensure that the sealed bid arrives at the location described on or before the time and date set for the bid opening. To be accepted, the bid must be in the hands of the Letting Official by that time of opening regardless of the method chosen for delivery.
- 8.2.6. **Revising the Bid Form.** Make desired changes to the bid form in ink and submit the bid to the Letting Official. The Owner will not make revisions to a bid on behalf of a Bidder.
- 8.2.7. **Withdrawing a Bid.** Submit a written request to withdraw a bid before the time and date set for the opening. The Owner will not accept oral requests. A written request must be signed and submitted to the Letting Official with proof of identification. The request must be made by a person authorized to bind the Bidder or Bidders. In the case of joint venture, the Owner will accept a request from any person authorized to bind a party to the joint venture. The Owner may require written delegation of authority to withdraw a bid when the individual sent to withdraw the bid is not authorized to bind the Bidder or Bidders.

9. OPENING AND READING OF BIDS

At the time, date, and location specified in the official advertisement, the Owner will publicly open and read bids.

10. TABULATING BIDS

- 10.1. **Official Total Bid Amount.** The Owner will sum the products of the quantities and the unit prices bid in the bid form to determine the official total bid amount, except as provided in Section 2.11., "Consideration of Unit Prices." The official total bid amount is the basis for determining the apparent low Bidder. The total bid amounts will be compared and the results made public.
- 10.2. **Rounding of Unit Prices.** The Owner will round off all unit bids involving fractional parts of a cent to the nearest one-tenth cent (\$0.001) in determining the amount of the bid as well as computing the amount due for payment of each item under the Contract. For rounding purposes, entries of five-hundredths of a cent

(\$0.0005) or more will be rounded up to the next highest tenth of a cent, while entries less than five-hundredths of a cent will be rounded down to the next lowest tenth of a cent.

10.3. **Interpretation of Unit Prices.** The Owner will make a documented determination of the unit bid price if a unit bid price is illegible or conflicting in the case of replacement alternate items. The Owner's determination will be final.

10.4. **Consideration of Unit Prices.**

10.4.1. **A + B Bidding.** The official total bid amount will be determined by the summation of the Contract amount and the time element. The Owner will use the following formula to make the calculation:

$$A + B1 + B2 + BX + \dots + BT$$

The Contract amount, equal to A in the formula, is determined by the summation of the products of the approximate quantities shown in the bid and the unit bid prices bid. The time element, equal to B1, B2, BX (when phases are included as bid components), and BT (substantial completion of the project when included as a bid component), of the bid is determined by multiplying the number of working days bid to substantially complete the project, or phases, by the daily road-user cost (RUC) provided on the bid documents. When partial days are bid they will be rounded up to the nearest whole day.

The formula above determines the low Bidder and establishes the Contract time.

10.4.2. **"Buy America."** Comply with Buy America in accordance with Section 6.1.1.. For a Bidder who proposes to use foreign steel or iron materials to be considered the apparent low Bidder, their total bid must be at least 25% lower than the next lowest bid if that bid proposes to use domestic steel or iron materials.

This requirement does not apply to minimal use of steel or iron materials provided that the total cost of all foreign source items used in the project, as delivered to the project site, is less than \$2,500 or one-tenth-of-one-percent (1/10 of 1%) of the Contract amount, whichever is greater

11. **CONSIDERATION OF BID ERRORS.**

The Owner will consider a claim of a bid error by the apparent low Bidder if the following requirements have been met:

- Submit written notification to the Owner within 5 business days after the date the bid is opened.
- Identify the items of work involved and include bidding documentation. The Owner may request clarification of submitted documentation.

The Owner will evaluate the claim of an error by the apparent low Bidder by considering the following:

- The bid error relates to a material item of work.
- The bid error amount is a significant portion of the total bid.
- The bid error occurred despite the exercise of ordinary care.
- The delay of the proposed work will not impact cost and safety to the public.

Acceptance of the bid error claim by the Owner will result in the rejection of the bid of the apparent low bidder and the Owner may consider the second responsive bid. The erring Contractor will not be allowed to bid the project if it is relet. Rejection of bids due to the Contractor's bid error may result in the application of sanctions by the Owner.

12. **TIE BIDS**

If the official total bid amount for 2 or more Bidders is equal and those bids are the lowest submitted, each tie Bidder will be given an opportunity to withdraw their bid. If 2 or more tie Bidders do not withdraw their bids, the low Bidder will be determined by a coin toss. If all tie Bidders request to withdraw their bids, no

withdrawals will be allowed and the low Bidder will be determined by a coin toss. The Letting Official will preside over the proceedings for the coin toss.

Item 3L

Award and Execution of Contract

1. AWARD OF CONTRACT

The Owner will award, reject, or defer the Contract within 30 days after the opening of the bid. The Owner reserves the right to reject any or all bids and to waive technicalities in the best interest of the Owner.

- 1.1. **Award.** The Owner will award the Contract to the low Bidder as determined by Article 2.11., "Tabulating Bids." The Owner may award a Contract to the second lowest Bidder when the following requirements have been met:

- The low Bidder withdraws its bid.
- The low Bidder fails to enter into a contract with the Owner after Award
- The second low Bidder's unit bid prices are reasonable.

- 1.2. **Rejection.** The Owner will reject the Contract if:

- Collusion may have existed among the Bidders. Collusion participants will not be allowed to bid future bids for the same Contract.
- The low bid is mathematically and materially unbalanced. The Bidder will not be allowed to bid future bids for the same Contract.
- The lowest bid is higher than the Owner's estimate and re-advertising for bids may result in a lower bid.
- Rejection of the Contract is in the best interest of the Owner.

- 1.3. **Deferral.** The Owner may defer the award or rejection of the Contract when deferral is in the best interest of the Owner.

2. RESCINDING OF AWARD

The Owner reserves the right to cancel the award of any Contract before Contract execution with no compensation due when the cancellation is in the best interest of the Owner. The Owner will return the bid guaranty to the Contractor.

3. DISADVANTAGED BUSINESS ENTERPRISE (DBE)/HISTORICALLY UNDERUTILIZED BUSINESS/SMALL BUSINESS ENTERPRISE (SBE)

Submit all DBE/HUB/SBE information in the time frame specified when required by the bid documents.

4. EXECUTION OF CONTRACT

Provide the following within 15 days after written notification of award of the Contract:

- 4.1. **Contract.** Executed by Contractor and Surety.

- 4.2. **Bonds.** Executed performance bond and payment bond in the full amount of the Contract price with powers of attorney. Provide bonds in accordance with Table 1. Furnish the payment and performance bonds as a guaranty for the protection of the claimants and the Owner for labor and materials and the faithful performance of the work.

Table 1
Bonding Requirements

| Contract Amount | Required Bonds |
|------------------------|-------------------------|
| Less than \$25,000 | None |
| \$25,000 to \$100,000 | Payment |
| More than \$100,000 | Performance and Payment |

- 4.3. **Insurance.** Submit a Certificate of Insurance showing coverages in accordance with Contract requirements.

Insurances must cover the contracted work for the duration of the Contract and must remain in effect until final acceptance. Failure to obtain and maintain insurance for the contracted work may result in suspension of work or default of the Contract. If the insurance expires and coverage lapses for any reason, stop all work until the Owner receives an acceptable Certificate of Insurance.

Provide the Owner with a Certificate of Insurance verifying the types and amounts of coverage shown in Table 2. The Certificate of Insurance must be in a form approved by the Owner. Any Certificate of Insurance provided must be available for public inspection.

Table 2
Insurance Requirements

| Type of Insurance | Amount of Coverage |
|-------------------------------------------------------------------------------|---------------------------------------------------|
| Commercial General Liability Insurance | Not Less Than: \$600,000 each occurrence |
| Business Automobile Policy | Not Less Than: \$600,000 combined single limit |
| Workers' Compensation | Not Less Than: Statutory |
| All Risk Builder's Risk Insurance (For building-facilities Contracts only) | 100% of Contract Price |

By signing the Contract, the Contractor certifies compliance with all applicable laws, rules, and regulations pertaining to workers' compensation insurance. This certification includes all subcontractors. Pay all deductibles stated in the policy. Subcontractors must meet the requirements of Table 2 either through their own coverage or through the Contractor's coverage.

The Workers' Compensation policy must include a waiver of subrogation endorsement in favor of the Owner.

For building-facilities Contracts, provide All Risk Builder's Risk Insurance to protect the Owner against loss by storm, fire or extended coverage perils on work and materials intended for use on the project including the adjacent structure. Name the Owner under the Lost Payable Clause.

For Contracts with railroad requirements, see project-specific details for additional insurance requirements.

Provide a substitute Surety on the Contract bonds in the original full Contract amount within 15 days of notification if the Surety is declared bankrupt or insolvent, the Surety's underwriting limitation drops below the Contract amount or the Surety's right to do business is terminated by the Owner. The substitute Surety must be authorized by the laws of the State and acceptable to the Owner. Work will be suspended until a substitute Surety is provided. Working day charges will be suspended for 15 days or until an acceptable Surety is provided, whichever is sooner.

The work performed under this section will not be measured or paid for directly but will be subsidiary to pertinent items.

- 4.4. **Railroad Documents.** Provide all required documents for satisfaction of railroad requirements for projects that have work which involves railroad right of way.

5. FAILURE TO ENTER CONTRACT

If the Contractor fails to comply with all of the requirements in Article 3.4., "Execution of Contract," the bid guaranty will become the property of the Owner, not as a penalty, but as liquidated damages. The Contractor forfeiting the bid guaranty will not be considered in future bids for the same work unless there has been a substantial change in design of the work.

6. APPROVAL AND EXECUTION OF CONTRACT

The Contract will be approved and signed under authority of the Owner.

7. RETURN OF BID GUARANTY

The bid guaranty check of the low Bidder will be retained until after the Contract has been rejected or awarded and executed. Bid bonds will not be returned.

8. BEGINNING OF WORK

Do not begin work until authorized in writing by the Owner.

When callout work is required, provide a method of contact available from 8 A.M. until 5 P.M. every work day and 24 hr. a day, 7 days a week for projects with emergency mobilization, unless otherwise shown on the plans. The time of notice will be the transmission time of the notice sent, provided orally, or provided in person by the Owner's representative.

Verify all quantities of materials shown on the plans before ordering.

For projects with alternate bid items, the work order will identify the base bid work and additive or deductive alternate work to be performed. The Owner makes no guarantee that the additive or deductive alternate work will be required.

9. ASSIGNMENT OF CONTRACT

Do not assign, sell, transfer, or otherwise dispose of the Contract or any portion rights, title, or interest (including claims) without the approval of the Owner or designated representative. The Owner must deem any proposed assignment justified and legally acceptable before the assignment can take place.

10. EXCLUDED PARTIES

The Contractor certifies by signing the Contract that the Contractor will not enter into any subcontract with a subcontractor that is debarred or suspended by the Owner or by any state or federal agency.

Item 4L

Scope of Work

1. **CONTRACT INTENT**

The intent of the Contract is to describe the completed work to be performed. Furnish materials, supplies, tools, equipment, labor, and other incidentals necessary for the proper prosecution and completion of the work in accordance with Contract documents.

2. **PRECONSTRUCTION CONFERENCE**

Before starting work, schedule and attend a preconstruction conference with the Owner. Failure to schedule and attend a preconstruction conference is not grounds for delaying the beginning of working day charges.

Work with the Owner to resolve all issues during the course of the Contract. Refer to Article 4.7., "Dispute or Claims Procedure," for all unresolved issues.

3. **PARTNERING**

The intent of this Article is to promote an environment of trust, mutual respect, integrity, and fair-dealing between the Owner and the Contractor.

Informal partnering does not make use of a facilitator, while formal partnering uses the services of a facilitator (internal or external).

3.1. **Procedures for Partnering Meetings and Format.** Informal partnering is required, unless formal partnering is mutually agreed to instead of the informal partnering.

3.2. **Facilitators.** The facilitator is to act as a neutral party seeking to initiate cooperative working relationships. This individual must have the technical knowledge and ability to lead and guide discussions. Choose either an internal or external facilitator. The facilitator must be acceptable to the Engineer.

3.2.1. **Internal Facilitators.** An Owner or Contractor internal (staff) facilitator may be selected as the facilitator at no additional cost to either party.

3.2.2. **External Facilitators.** A private firm or individual that is independent of the Contractor and the Owner may be selected as the facilitator. Submit the facilitator's name and estimated fees for approval before contracting with the facilitator.

3.3. **Meetings and Arrangements.** Coordinate with the Engineer for meeting dates and times, locations including third party facilities, and other needs and appurtenances, including, but not limited to, audio or visual equipment. Make all meeting arrangements for formal partnering. Use Owner facilities or facilities in the vicinity of the project if available. Submit the estimated meeting costs for approval before finalizing arrangements.

Coordinate facilitator discussions before the partnering meeting to allow the facilitator time to prepare an appropriate agenda. Prepare a list of attendees with job titles and include critical Contractor, subcontractor, and supplier staff in the list. Provide the facilitator the list of attendees and invite the attendees listed.

The Owner will invite and provide a list of attendees that includes, but is not limited to, Owner, TxDOT, other local governments, law enforcement, railroad, and utility representatives.

Participate in additional partnering meetings as mutually agreed.

- 3.4. **Payment.** Expenses for labor, Contractor equipment, or overhead will not be allowed. Markups as prescribed in Article 9.7., "Payment for Extra Work and Force Account Method," will not be allowed.

Informal partnering will be conducted with each party responsible for their own costs.

For formal partnering using internal facilitators, the Contractor will be responsible for arrangements and for expenses incurred by its internal facilitator, including, but not limited to, meals, travel, and lodging. Owner facilitators, if available, may be used at no additional cost.

For formal partnering using external facilitators, submit an invoice to the Engineer for reimbursement. The Owner will reimburse the Contractor for half of the eligible expenses as approved. For external facilitators not approved by the Owner but used at the Contractor's option, the Contractor will be responsible for all costs of the external facilitator.

For meeting facilities and appurtenances, submit an invoice to the Engineer for reimbursement. The Owner will reimburse the Contractor for half of the eligible expenses as approved.

4. CHANGES IN THE WORK

The Engineer reserves the right to make changes in the work including addition, reduction, or elimination of quantities and alterations needed to complete the Contract. Perform the work as altered. These changes will not invalidate the Contract nor release the Surety. The Contractor is responsible for notifying the sureties of any changes to the Contract.

If the changes in quantities or the alterations do not significantly change the character of the work under the Contract, the altered work will be paid for at the Contract unit price. If the changes in quantities or the alterations significantly change the character of the work, the Contract will be amended by a change order. If no unit prices exist, this will be considered extra work and the Contract will be amended by a change order. Provide cost justification as requested, in an acceptable format. Payment will not be made for anticipated profits on work that is eliminated.

Agree on the scope of work and the basis of payment for the change order before beginning the work. If there is no agreement, the Engineer may order the work to proceed under Article 9.7., "Payment for Extra Work and Force Account Method," or by making an interim adjustment to the Contract. In the case of an adjustment, the Engineer will consider modifying the compensation after the work is performed.

A significant change in the character of the work occurs when:

- the character of the work for any item as altered differs materially in kind or nature from that in the Contract or
- a major item of work varies by more or less than 25% from the original Contract quantity.

When the quantity of work to be done under any major item of the Contract is more than 125% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price on the portion of the work that is above 125%.

When the quantity of work to be done under any major item of the Contract is less than 75% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price. When mutually agreed, the unit price may be adjusted by multiplying the Contract unit price by the factor in Table 1. If an adjusted unit price cannot be agreed upon, the Engineer may determine the unit price by multiplying the Contract unit price by the factor in Table 1.

Table 1
Quantity-Based Price Adjustment Factors

| % of Original Quantity | Factor |
|-------------------------------|---------------|
| ≥ 50 and < 75 | 1.05 |
| ≥ 25 and < 50 | 1.15 |
| < 25 | 1.25 |

If the changes require additional working days to complete the Contract, Contract working days will be adjusted in accordance with Item 8, "Prosecution and Progress."

5. DIFFERING SITE CONDITIONS

During the progress of the work, differing subsurface or latent physical conditions may be encountered at the site. The 2 types of differing site conditions are defined as:

- those that differ materially from those indicated in the Contract and
- unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract.

Notify the Engineer in writing when differing site conditions are encountered. The Engineer will notify the Contractor when the Owner discovers differing site conditions. Unless directed otherwise, do not work on the affected items and leave the site undisturbed. The Engineer will investigate the conditions and determine whether differing site conditions exist. If the differing site conditions cause an increase or decrease in the cost or number of working days specified for the performance of the Contract, the Engineer will make adjustments, excluding the loss of anticipated profits, in accordance with the Contract. Additional compensation will be made only if the required written notice has been provided.

6. REQUESTS FOR ADDITIONAL COMPENSATION

Notify the Engineer in writing of any intent to request additional compensation once there is knowledge of the basis for the request. An assessment of damages is not required to be part of this notice but is desirable. The intent of the written notice requirement is to provide the Owner an opportunity to evaluate the request and to keep an accurate account of the actual costs that may arise. Minimize impacts and costs.

If written notice is not given, the Contractor waives the right to additional compensation unless the circumstances could have reasonably prevented the Contractor from knowing the cost impact before performing the work. Notice of the request and the documentation of the costs will not be construed as proof or substantiation of the validity of the request. Submit the request in enough detail to enable the Owner to determine the basis for entitlement, adjustment in the number of working days specified in the Contract, and compensation.

The Owner will not consider fees and interest on requests for additional compensation. Fees include, but are not limited to: preparation, attorney, printing, shipping, and various other fees.

Damages occur when impacts that are the responsibility of the Owner result in additional costs to the Contractor that could not have been reasonably anticipated at the time of letting. Costs of performing additional work are not considered damages. For Contractor damages, the intent is to reimburse the Contractor for actual expenses arising out of a compensable impact. No profit or markups, other than labor burden, will be allowed. For damages, labor burden will be reimbursed at 35% unless the Contractor can justify higher actual cost. Justification for a higher percentage must be in accordance with the methodology provided by the Owner, submitted separately for project overhead labor and direct labor, and determined and submitted by a Certified Public Accountant (CPA). Submit CPA-prepared labor burden rates directly to the Owner.

If the Contractor requests compensation for delay damages and the delay is determined to be compensable, then standby equipment costs and project overhead compensation will be based on the duration of the compensable delay and will be limited as follows:

- 6.1. **Standby Equipment Costs.** Payment will be made in accordance with Section 9.7.1.4.3., “Standby Equipment Costs.”
- 6.2. **Project Overhead.** Project overhead is defined as the administrative and supervisory expenses incurred at the work locations. When delay to project completion occurs, reimbursement for project overhead for the Contractor will be made using the following options:
- reimbursed at 6% (computed as daily cost by dividing 6% of the original Contract amount by the number of original Contract work days), or
 - actual documented costs for the impacted period.
- Project overhead for delays impacting subcontractors will be determined from actual documented costs submitted by the Contractor.
- Time extensions and suspensions alone will not be justification for reimbursement for project overhead.
- 6.3. **Home Office Overhead.** The Owner will not compensate the Contractor for home office overhead.

7. DISPUTE OR CLAIMS PROCEDURE

The dispute resolution policy promotes a cooperative attitude between the Engineer and Contractor. Emphasis is placed on resolving issues while they are still current, at the project office, and in an informal manner. Open sharing of information is encouraged by all parties involved so the information provided completely and accurately reflects the issues and facts. If information is not shared, decisions may be limited to relying on the documentation that is available for review.

The Owners's goal is to have a dispute settled by the Engineer before elevating it as a claim.

If a dispute cannot be resolved, initiate the Contract claim procedure by filing a Contract claim after the completion of the Contract or when required for orderly performance of the Contract. Submit the claim to the Owner in accordance with state law.

For a claim resulting from enforcement of a warranty period, file the claim no later than one year after expiration of the warranty period. For all other claims, file the claim no later than the date the Owner issues notice to the Contractor that they are in default, the date the Owner terminates the Contract, or one year after the date of final acceptance of the Contract. It is the Contractor's responsibility to submit requests in a timely manner.

Item 5L

Control of the Work

1. AUTHORITY OF ENGINEER

The Engineer has the authority to observe, test, inspect, approve, and accept the work on behalf of the Owner. The Engineer decides all questions about the quality and acceptability of materials, work performed, work progress, Contract interpretations, and acceptable Contract fulfillment. The Engineer has the authority to enforce and make effective these decisions.

The Engineer acts as a referee in all questions arising under the terms of the Contract. The Engineer's decisions will be final and binding.

2. PLANS AND WORKING DRAWINGS

When required, provide working drawings to supplement the plans with all necessary details not included on the Contract plans. Prepare and furnish working drawings in a timely manner and obtain approval, if required, before the beginning of the associated work. For all working drawing submittal requirements, the Engineer may allow electronic and other alternative submission procedures. Have a licensed professional engineer sign, seal, and date the working drawings as indicated in Table 1.

Prepare working drawings using United States standard measures in the English language. The routing of submittals for review and approval will be established at the preconstruction conference. The Contractor is responsible for the accuracy, coordination, and conformity of the various components and details of the working drawings. Owner approval of the Contractor's working drawings will not relieve the Contractor of any responsibility under the Contract. The work performed under this article will not be measured or paid for directly but will be subsidiary to pertinent items.

Table 1
Signature and Approval Requirements for Working Drawings

| Working Drawings For | | Requires Licensed Professional Engineer's Signature, Seal, and Date | Requires Owner Approval |
|------------------------------------------------------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------|-------------------------|
| 1. Alternate or optional designs submitted by Contractor | | Yes | Yes |
| 2. Supplementary shop and fabrication drawings for structural Items | | No unless required on the plans | See applicable Item |
| 3. Contractor-proposed temporary facilities that affect the public safety, not included on the plans | | Yes | Yes |
| 4. Form and falsework details | Bridges, retaining walls, and other major structures | Yes unless otherwise shown on the plans | No ¹ |
| | Minor structures | No unless otherwise shown on the plans | No |
| 5. Erection drawings | | Yes | No ^{1,2} |
| 6. Contractor-proposed major modifications to traffic control plan | | Yes | Yes |

1. The Engineer may require that the Contractor have a licensed professional engineer certify that the temporary works are constructed according to the sealed drawings.
2. Approval is required for items spanning over live traffic or where safety of the traveling public is affected, in the opinion of the Engineer.

3. CONFORMITY WITH PLANS, SPECIFICATIONS, AND SPECIAL PROVISIONS

Furnish materials and perform work in reasonably close conformity with the lines, grades, cross-sections, dimensions, details, gradations, physical and chemical characteristics of materials, and other requirements shown in the Contract (including additional plans for non-site-specific work). Reasonably close conformity limits will be as defined in the respective items of the Contract or, if not defined, as determined by the Engineer. Obtain approval before deviating from the plans and approved working drawings. Do not perform work beyond the lines and grades shown on the plans or any extra work without the Engineer's approval. Work performed beyond the lines and grades shown on the plans or any extra work performed without approval is considered unauthorized and excluded from pay consideration. The Owner will not pay for material rejected due to improper fabrication, excess quantity, or any other reasons within the Contractor's control.

3.1. **Acceptance of Defective or Unauthorized Work.** When work fails to meet Contract requirements, but is adequate to serve the design purpose, the Engineer will decide the extent to which the work will be accepted and remain in place. The Engineer will document the basis of acceptance by a letter and may adjust the Contract price.

3.2. **Correction of Defective or Unauthorized Work.** When work fails to meet Contract requirements and is inadequate to serve the design purpose it will be considered defective. Correct, or remove and replace, the work at the Contractor's expense, as directed.

The Engineer has the authority to correct or to remove and replace defective or unauthorized work. The cost may be deducted from any money due or to become due to the Contractor.

4. COORDINATION OF PLANS, SPECIFICATIONS, AND SPECIAL PROVISIONS

The specifications, accompanying plans (including additional plans for non-site-specific work), special provisions, change orders, and supplemental agreements are intended to work together and be interpreted as a whole.

Numerical dimensions govern over scaled dimensions. Special provisions govern over plans (including general notes), which govern over standard specifications and special specifications. Job-specific plan sheets govern over standard plan sheets.

However, in the case of conflict between plans (including general notes) and specifications regarding responsibilities for hazardous materials and traffic control in Items 1L through 9L and Item 502, "Barricades, Signs, and Traffic Handling," special provisions govern over standard specifications and special specifications, which govern over the plans.

Notify the Engineer promptly of any omissions, errors, or discrepancies discovered so that necessary corrections and interpretations can be made. Failure to promptly notify the Engineer will constitute a waiver of all claims for misunderstandings or ambiguities that result from the errors, omissions, or discrepancies discovered.

5. COOPERATION OF CONTRACTOR

Cooperate with the Engineer. Respond promptly to instructions from the Engineer. Provide all information necessary to administer the Contract.

Designate in writing a competent, English-speaking Superintendent employed by the Contractor. The Superintendent must be experienced with the work being performed and capable of reading and understanding the Contract. Ensure the Superintendent is available at all times and able to receive instructions from the Engineer or authorized Owner representatives and to act for the Contractor. The Engineer may suspend work without suspending working day charges if a Superintendent is not available or does not meet the above criteria.

At the written request of the Engineer, immediately remove from the project any employee or representative of the Contractor or a subcontractor who, in the opinion of the Engineer, does not perform work in a proper and skillful manner or who is disrespectful, intemperate, disorderly, uncooperative, or otherwise objectionable. Do not reinstate these individuals without the written consent of the Engineer.

Furnish suitable machinery, equipment, and construction forces for the proper prosecution of the work. Provide adequate lighting to address quality requirements and inspection of nighttime work.

The Engineer may suspend the work without suspending working day charges until the Contractor complies with this requirement. All work associated with fulfilling this requirement is subsidiary to the various items of the Contract and no direct compensation will be made.

6. COOPERATING WITH UTILITIES

Use established safety practices when working near utilities. Consult with the appropriate utilities before beginning work. Notify the Engineer immediately of utility conflicts. The Engineer will decide whether to adjust utilities or adjust the work to eliminate or lessen the conflict. Unless otherwise shown on the plans, the Engineer will make necessary arrangements with the utility owner when utility adjustments are required.

Use work procedures that protect utilities or appurtenances that remain in place during construction. Cooperate with utilities to remove and rearrange utilities to avoid service interruption or duplicate work by the utilities. Allow utilities access to the right of way.

Immediately notify the appropriate utility of service interruptions resulting from damage due to construction activities. Cooperate with utilities until service is restored. Maintain access to active fire hydrants at all times unless approved by the Engineer.

7. COOPERATION BETWEEN CONTRACTORS

Cooperate and coordinate with other Contractors working within the limits or adjacent to the limits.

8. COOPERATION WITH RAILROADS

Plan and prosecute portions of the work involving a railway to avoid interference with or hindrance to the railroad company.

If the work is on railroad right of way, do not interfere with the operation of the railroad company's trains or other property.

8.1. **Project-Specific Information.** Refer to project-specific plan sheets in the Contract for specific information concerning the work to be completed by both the Contractor and the railroad within railroad right of way; railroad right of way locations impacted by construction; percentage of Contract work at each location; train movements at each location; and requirements for railroad insurance, flagging, and Right of Entry (ROE) Agreements.

8.2. **Right of Entry Agreement (if required).** The process for obtaining a fully executed ROE Agreement will be as follows:

- The Owner will send the unexecuted ROE Agreement to the Contractor with the unexecuted construction Contract.
- Partially execute the ROE Agreement and return it to the Department with the required insurance attached.
- The Owner will coordinate with the railroad company regarding the further execution of the ROE Agreement and associated fees. The Owner will pay any ROE Agreement fees directly to the railroad company.

- Once the Owner has received the fully-executed ROE Agreement from the railroad company, the Owner will forward the fully-executed ROE Agreement to the Contractor.

9. CONSTRUCTION SURVEYING

Use Method A unless otherwise specified in the Contract. Upon request, the Engineer will allow the Contractor to copy available earthwork cross-sections, computer printouts or data files, and other information necessary to establish and control work. Maintain the integrity of control points. Preserve all control points, stakes, marks, and right of way markers. Assume cost and responsibility of replacing disturbed control points, stakes, marks, and right of way markers damaged by the Contractor's or its subcontractor operations. If the Owner repairs disturbed control points, stakes, marks, or right of way markers, the cost of repair may be deducted from money due or to become due to the Contractor. Replace right of way markers under the direction of a RPLS. This work will be subsidiary to pertinent items.

The Engineer reserves the right to make measurements and surveys to determine the accuracy of the work and determine pay quantities. The Engineer's measurements and surveys do not relieve the Contractor's responsibility for accuracy of work. Allow the Engineer adequate time to verify the surveying.

- 9.1. **Method A.** The Engineer will set control points for establishing lines, slopes, grades, and centerlines and for providing both vertical and horizontal control. At a minimum, provide a controlling pair of monument points at both the beginning and end of construction project for projects less than 2 miles in length. For projects greater than 2 miles in length, monuments will be set in pairs of 2 at a minimum of 2 miles based on the overall length of the project. Use these control points as reference to perform the work.

Furnish materials, equipment, and qualified workforce necessary for the construction survey work. Place construction points, stakes, and marks at intervals sufficient to control work to established tolerances. Place construction stakes at intervals of no more than 100 ft., or as directed. Place stakes and marks so as not to interfere with normal maintenance operations.

- 9.2. **Method B.** The Engineer will set adequate control points, stakes, and marks to establish lines, slopes, grades, and centerlines. Furnish additional work, stakes, materials, and templates necessary for marking and maintaining points and lines.
- 9.3. **Method C.** Set adequate control points, stakes, and marks to establish lines, slopes, grades, and centerlines.

10. INSPECTION

Inspectors are authorized representatives of the Engineer. Inspectors are authorized to examine all work performed and materials furnished, including preparation, fabrication, and material manufacture. Inspectors inform the Contractor of failures to meet Contract requirements. Inspectors may reject work or materials and may suspend work until any issues can be referred to and decided by the Engineer. Inspectors cannot alter, add, or waive Contract provisions, issue instructions contrary to the Contract, act as foremen for the Contractor, or interfere with the management of the work. Inspection, or lack of inspection, will not relieve the Contractor from obligation to provide materials or perform the work in accordance with the Contract.

Provide safe access to all parts of the work and provide information and assistance to the Engineer to allow a complete and detailed inspection. Give the Engineer sufficient notice to inspect the work. Work performed without suitable inspection, as determined by the Engineer, may be ordered removed and replaced at Contractor's expense. Remove or uncover portions of finished work as directed. Once inspected, restore work to Contract requirements. If the uncovered work is acceptable, the costs to uncover, remove, and replace or make good the parts removed will be paid for in accordance with Article 4.4., "Changes in the Work." If the work is unacceptable, assume all costs associated with repair or replacement, including the costs to uncover, remove, and replace or make good the parts removed.

When a government entity, utility, railroad company, or other entity accepts or pays a portion of the Contract, that organization's representatives may inspect the work but cannot direct the Contractor. The right of inspection does not make that entity a party to the Contract and does not interfere with the rights of the parties to the Contract.

11. FINAL CLEANUP

Upon completion of the work, remove litter, debris, objectionable material, temporary structures, excess materials, and equipment from the work locations. Clean and restore property damaged by the Contractor's operations during the prosecution of the work. Leave the work locations in a neat and presentable condition. This work will not be paid for directly but will be considered subsidiary to items of the Contract.

Remove from the right of way cofferdams, construction buildings, material and fabrication plants, temporary structures, excess materials, and debris resulting from construction. Where work is in a stream, remove debris to the ground line of the bed of the stream. Leave stream channels and rights of way in a neat and presentable condition. Clean structures to the flow line or the elevation of the outfall channel, whichever is higher. Dispose of all excess material in accordance with federal, state, and local regulations.

12. FINAL ACCEPTANCE

12.1. Final acceptance is made when all work is complete and the Engineer, in writing, accepts all work for the work locations in the Contract. Final acceptance relieves the Contractor from further Contract responsibilities.

12.1.1. **Work Completed.** Work completed must include work for vegetative establishment and maintenance, test, and performance periods and work to meet the requirements of Article 5.11., "Final Cleanup."

12.1.2. **Final Inspection.** After all work is complete, the Contractor will request a final inspection by the Engineer authorized to accept the work.

The final inspection will be made as soon as possible, and not later than 10 calendar days after the request. No working day charges will be made between the date of request and final inspection.

After the final inspection, if the work is satisfactory, the Engineer will notify the Contractor in writing of the final acceptance of the work. If the final inspection finds any work to be unsatisfactory, the Engineer will identify in writing all deficiencies in the work requiring correction. Correct the deficiencies identified. Working day charges will resume if these deficiencies are not corrected within 7 calendar days, unless otherwise approved. Upon correction, the Engineer will make an inspection to verify that all deficiencies were corrected satisfactorily. The Engineer will provide written notice of the final acceptance.

12.1.3. **Final Measurement.** Final measurements and pay quantity adjustments may be made after final acceptance.

12.1.4. **Removal of Traffic Control Devices.** Remove construction traffic control devices and advance warning signs upon final acceptance or as directed.

Item 6L

Control of Materials

1. SOURCE CONTROL

Use only materials that meet Contract requirements. Unless otherwise specified or approved, use new materials for the work. Secure the Engineer's approval of the proposed source of materials to be used before their delivery. Materials can be approved at a supply source or staging area but may be reinspected in accordance with Article 6.4., "Sampling, Testing, and Inspection."

1.1. **Buy America.** Comply with the latest provisions of Buy America as listed at 23 CFR 635.410. Use steel or iron materials manufactured in the United States except when:

- the cost of materials, including delivery, does not exceed 0.1% of the total Contract cost or \$2,500, whichever is greater;
- the Contract contains a replacement alternate item for a foreign source steel or iron product and the Contract is awarded based on the replacement alternate item; or
- the materials are temporarily installed.

Provide a notarized original of the TxDOT FORM D-9-USA-1 (or equivalent) with the proper attachments for verification of compliance.

Manufacturing is any process that modifies the chemical content, physical shape or size, or final finish of a product. Manufacturing begins with initial melting and mixing and continues through fabrication (cutting, drilling, welding, bending, etc.) and coating (paint, galvanizing, epoxy, etc.).

1.2. **Convict Produced Materials.** Materials produced by convict labor may only be incorporated in the work if such materials have been:

- produced by convicts who are on parole, supervised release, or probation from prison; or
- produced in a qualified prison facility.

A "qualified prison facility" means any prison facility in which convicts, during the 12-month period ending July 1, 1987, produced materials for use in federal-aid highway construction projects.

2. MATERIAL QUALITY

Correct or remove materials that fail to meet Contract requirements or that do not produce satisfactory results. Reimburse the Owner for cost incurred if additional sampling and testing is required by a change of source.

Materials not meeting Contract requirements will be rejected, unless the Engineer approves corrective actions. Upon rejection, immediately remove and replace rejected materials.

If the Contractor does not comply with this article, the Owner may have defective material removed and replaced. The cost of testing, removal, and replacement will be deducted from the estimate.

3. MANUFACTURER WARRANTIES

Transfer to the Owner warranties and guarantees required by the Contract or received as part of normal trade practice.

4. SAMPLING, TESTING, AND INSPECTION

Incorporate into the work only material that has been inspected, tested, and accepted by the Engineer. Remove, at the Contractor's expense, materials from the work locations that are used without prior testing and approval or written permission.

Unless otherwise mutually agreed, the material requirements and standard test methods in effect at the time the proposed Contract is advertised govern. Unless otherwise noted, the Engineer will perform testing at Owner's expense. In addition to facilities and equipment required by the Contract, furnish facilities and calibrated equipment required for tests to control the manufacture of construction items. If requested, provide a complete written statement of the origin, composition, and manufacture of materials.

All materials used are subject to inspection or testing at any time during preparation or use. Material which has been tested and approved at a supply source or staging area may be reinspected or tested before or during incorporation into the work, and rejected if it does not meet Contract requirements. Copies of test results are to be made available upon request. Do not use material that, after approval, becomes unfit for use.

Unless otherwise noted in the Contract, all testing must be performed within the United States and witnessed by the Engineer. If materials or processes require testing outside the contiguous 48 United States, reimburse the Owner for inspection expenses.

5. PLANT INSPECTION AND TESTING

The Engineer may, but is not obligated to, inspect materials at the acquisition or manufacturing source. Material samples will be obtained and tested for compliance with quality requirements.

If inspection is at the plant, meet the following conditions unless otherwise specified:

- Cooperate fully and assist the Engineer during the inspection.
- Ensure the Engineer has full access to all parts of the plant used to manufacture or produce materials.
- In accordance with pertinent items and the Contract, provide a facility at the plant for use by the Engineer as an office or laboratory.
- Provide and maintain adequate safety measures and restroom facilities.
- Furnish and calibrate scales, measuring devices, and other necessary equipment.

The Engineer may provide inspection for periods other than daylight hours if:

- continuous production of materials for Owner use is necessary due to the production volume being handled at the plant, and
- the lighting is adequate to allow satisfactory inspection.

6. STORAGE OF MATERIALS

Store and handle materials to preserve their quality and fitness for the work. Store materials so that they can be easily inspected and retested. Place materials under cover, on wooden platforms, or on other hard, clean surfaces as necessary or when directed.

Obtain approval to store materials on the right of way. Storage space off the right of way is at the Contractor's expense.

7. **OWNER-FURNISHED MATERIAL**

The Owner will supply materials as shown in the Contract documents. The cost of handling and placing materials supplied by the Owner will not be paid for directly but is subsidiary to the item in which they are used. Assume responsibility for materials upon receipt.

8. **USE OF MATERIALS FOUND ON THE RIGHT OF WAY**

Material found in the excavation areas and meeting the Owner's specifications may be used in the work. This material will be paid for at the Contract bid price for excavation and under the item for which the material is used.

Do not excavate or remove any material from within the right of way that is not within the limits of the excavation without written permission. If excavation is allowed within a right of way project-specific location (PSL), replace the removed material with suitable material at no cost to the Owner as directed.

9. **RECYCLED MATERIALS**

The Owner will not allow hazardous wastes, as defined in 30 TAC 335, proposed for recycling to be used on the project. Use nonhazardous recyclable materials (NRMs) only if the specification for the item does not disallow or restrict use. Determine if NRMs are regulated under 30 TAC 312, 330, 332, 334, or 335, and comply with all general prohibitions and requirements. Use NRMs in accordance with DMS-11000, "Evaluating and Using Nonhazardous Recyclable Materials Guidelines," and furnish all documentation required by that specification.

10. **HAZARDOUS MATERIALS**

Use materials that are free of hazardous materials as defined in Item 1L, "Abbreviations and Definitions."

Notify the Engineer immediately when a visual observation or odor indicates that materials in required material sources or on sites owned or controlled by the owner may contain hazardous materials. Except when the contract includes bid items for the contractor to remove hazardous materials, the Engineer is responsible for testing and removing or disposing of hazardous materials not introduced by the Contractor on sites owned or controlled by the Owner as indicated below.

The plans will indicate locations where paint on steel is suspected to contain hazardous materials and where regulated asbestos containing materials have been found. The Engineer may suspend work wholly or in part during the testing, removal, or disposition of hazardous materials on sites owned or controlled by the Owner, except in the case of when the contract includes removing and disposing of hazardous materials.

When a visual observation or odor indicates that materials delivered to the work locations by the Contractor may contain hazardous materials, have an approved commercial laboratory test the materials for contamination. Remove, remediate, and dispose of any of these materials found to be contaminated. Testing, removal, and disposition of hazardous materials introduced onto the work locations by the Contractor will be at the Contractor's expense. Working day charges will not be suspended and extensions of working days will not be granted for activities related to handling hazardous material delivered by the Contractor.

10.1. **Painted Steel Requirements.** Paint containing hazardous materials will be removed as shown on the plans.

10.1.1. **Paint Removed by Third Party.** The Owner may provide a third party to remove paint containing hazardous materials where paint must be removed to perform work or to allow dismantling of the steel.

10.1.2. **Paint Removed by the Contractor.** This work may only be performed by a firm or company with one of the following certifications:

- SSPC-QP2 certification for lead painting operations, or
- Certified Lead Firm by the Texas Department of State Health Services.

Maintain certification for the duration of the work. Provide copies of audits or certification if requested.

Comply with worker and public safety regulations, including, but not limited to, OSHA 29 CFR Parts 1910.1025, 1926.62, and 1926.63. Monitor permissible exposure limits in accordance with OSHA requirements.

Remove paint containing hazardous materials from designated areas shown on the plans or as directed. Comply with access limitations shown on the plans.

Provide power hand tools, equipped with high-efficiency particulate air filter vacuums to mechanically remove paint.

Contain, collect, store, transport, and dispose of all waste generated by cleaning operation in accordance with local, state, and federal requirements including 40 CFR 302. Properly characterize and dispose of all wastes. Manage any hazardous wastes in accordance with regulatory requirements and dispose in a facility authorized to accept such wastes. Provide copies of disposal manifests.

The work performed, materials furnished, equipment, labor, tools, and incidentals will be paid for in accordance with Item 446, "Field Cleaning and Painting Steel."

- 10.2. **Removal and Disposal of Painted Steel.** Painted steel will be disposed of at a steel recycling or smelting facility unless otherwise shown on the plans. If the paint contains hazardous materials, maintain and make available to the Engineer invoices and other records obtained from the facility showing the received weight of the steel and the facility name.

For steel that is dismantled by unbolting, no paint stripping will be required. Use care to not damage existing paint. When dismantling is performed using flame or saw-cutting methods to remove steel elements coated with paint containing hazardous materials, the plans will show stripping locations.

The work provided, materials furnished, equipment, labor, tools, and incidentals will be paid for in accordance with Item 496, "Removing Structures," and Item 497, "Sale of Salvagable Material."

- 10.3. **Asbestos Requirements.** The plans will indicate locations or elements where asbestos containing materials (ACM) have been found. At locations where previously unknown ACM has been found, the Owner will arrange for abatement by a third party. For work at these locations, notify the Engineer of proposed dates of demolition or removal of structural elements with ACM at least 60 days before work is to begin to allow the Owner enough time to abate the asbestos.

- 10.4. **Work Performed by a Third Party.** When the work for removal of paint or asbestos abatement is to be provided by a third party, coordinate and cooperate with the third party and the Owner. Continue other work detailed on the plans not directly involved in the paint removal or asbestos abatement work. Provide notice to the Owner regarding the progress of the work to allow the Owner enough time to schedule the third party work.

11. SURPLUS MATERIALS

Take ownership of surplus materials unless otherwise shown on the plans or as directed by the Engineer. Remove and dispose of materials in accordance with federal, state, and local regulations. If requested, provide an appropriate level of documentation to verify proper disposal. When materials are disposed of on private property, provide written authorization from the property owner for the use of the property for this purpose upon request.

Item 7L

Legal Relations and Responsibilities

1. SAFETY

- 1.1. **Point of Contact.** Designate a Contractor Safety Point of Contact (CSPOC). The Owner will assign an Owner employee for their point of contact designated as Owner's Safety Point of Contact OSPOC. The CSPOC will ensure that the Contractor's and Subcontractor's employees' use the appropriate personal protection equipment (hard hats, safety vests, protective toe footwear, etc.).

The CSPOC will ensure that crew leaders and foremen (including subcontractors) have attended the required training.

- 1.2. **Safety Preconstruction Meeting.** In cooperation with the Engineer, schedule and attend a safety preconstruction meeting (may be a part of the preconstruction conference in Article 4.2., "Preconstruction Conference." Attendees for this safety preconstruction meeting will be:

- the Contractor,
- subcontractors,
- Owner,
- local law enforcement, and
- other personnel that play an active role on the project.

- 1.3. **Public Safety and Convenience.** Ensure the safety and convenience of the public and property as provided in the Contract and as directed by the Engineer. Keep existing roadways open to traffic or construct and maintain detours and temporary structures for safe public travel. Manage construction to minimize disruption to traffic. Maintain the roadway in a good and passable condition, including proper drainage and provide for ingress and egress to adjacent property.

Store all equipment not in use in a manner and at locations that will not interfere with the safe passage of traffic.

Provide qualified flaggers in accordance with Item 502.2.2., "Flaggers," for the safety and convenience of the traveling public and workers, as directed.

If the Engineer determines that any of the requirements of this article have not been met, the Engineer may take any necessary corrective action. This will not change the legal responsibilities set forth in the Contract. The cost to the Owner for this work will be deducted from any money due or to become due to the Contractor.

- 1.4. **Use of Blue Warning Lights.** Texas Transportation Code 547.105 authorizes the use of warning lights to promote safety and provides an effective means of gaining the travelling public's attention as they drive in areas where construction crews are present. In order to influence the public to move over when high risk construction activities are taking place, minimize the utilization of blue warning lights. These lights must be used only while performing work on or near the travel lanes or shoulder where the travelling public encounters construction crews that are not protected by a standard work zone set up such as a lane closure, shoulder closure, or one-way traffic control. Refrain from leaving the warning lights engaged while travelling from one work location to another or while parked on the right of way away from the pavement or a work zone.

- 1.5. **Barricades, Warning and Detour Signs, and Traffic Handling.** Provide, install, move, replace, maintain, clean, and remove all traffic control devices in accordance with the traffic control devices specifications and as shown on the plans and as directed. If details are not shown on the plans, provide devices and work in accordance with the TMUTCD and as directed by the Engineer. When authorized or directed by the Engineer, provide additional signs or traffic control devices not required by the plans.

If an unexpected situation arises that causes the Contractor to believe that the traffic control should be changed, make all reasonable efforts to promptly contact the Engineer. Take prudent actions until the Engineer can be contacted.

The Engineer may authorize or direct in writing the removal or relocation of project limit advance warning signs. When project limit advance warning signs are removed before final acceptance, traffic control in accordance with the TMUTCD may be used for minor operations as approved. Removal or relocation of project limit advance warning signs does not imply final acceptance.

2. **LAWS TO BE OBSERVED**

Comply with all federal, state, and local laws, ordinances, and regulations that affect the performance of the work. Indemnify and save harmless the Owner and its representatives against any claim arising from violation by the Contractor of any law, ordinance, or regulation.

This Contract is between the Owner and the Contractor only. No person or entity may claim third-party beneficiary status under this Contract or any of its provisions, nor may any non-party sue for personal injuries or property damage under this Contract.

3. **PERMITS, LICENSES, AND TAXES**

Procure all permits and licenses; pay all charges, fees, and taxes; and give all notices necessary and incidental to the due and lawful prosecution of work, except for permits provided by the Owner and as specified in Article 7.6., "Preservation of Cultural and Natural Resources and the Environment."

4. **PATENTED DEVICES, MATERIAL, AND PROCESSES**

Indemnify and save harmless the Owner from any claims for infringement from the Contractor's use of any patented design, device, material, process, trademark, or copyright selected by the Contractor and used in connection with the work. Indemnify and save harmless the Owner against any costs, expenses, or damages that it may be obliged to pay, by reason of this infringement, at any time during the prosecution or after the completion of the work.

5. **PERSONAL LIABILITY OF PUBLIC OFFICIALS**

Owner employees are agents and representatives of the Owner and will incur no liability, personal or otherwise, in carrying out the provisions of the Contract or in exercising any power or authority granted under the Contract.

6. **PRESERVATION OF CULTURAL AND NATURAL RESOURCES AND THE ENVIRONMENT**

If the Contractor initiates changes to the Contract and the Owner approves the changes, the Contractor is responsible for obtaining clearances and coordinating with the appropriate regulatory agencies.

- 6.1. **Cultural Resources.** Cease all work immediately if a site, building, or location of historical, archeological, educational, or scientific interest is discovered within the right of way. The site, building, or location will be investigated and evaluated by the Owner.

- 6.2. **Texas Pollutant Discharge Elimination System (TPDES) Permits and Storm Water Pollution Prevention Plans (SWP3).** The Owner will file the Notice of Intent (NOI) and the Notice of Termination (NOT) for work shown on the plans in the right of way. Adhere to all requirements of the SWP3.
- 6.3. **Work in Waters of the United States.** For work in the right of way, the Owner will obtain any required Section 404 permits from the U.S. Army Corps of Engineers before work begins. Adhere to all agreements, mitigation plans, and standard best management practices required by the permit. When Contractor-initiated changes in the construction method changes the impacts to waters of the U.S., obtain new or revised Section 404 permits.
- 6.4. **Work in Navigable Waters of the United States.** For work in the right of way, the Owner will obtain any required Section 9 permits from the U.S. Coast Guard before work begins. Adhere to the stipulations of the permits and associated best management practices. When Contractor-initiated changes in the construction method changes the impacts to navigable waters of the U.S., obtain new or revised Section 9 permits.
- 6.5. **Work Over the Recharge or Contributing Zone of Protected Aquifers.** Make every reasonable effort to minimize the degradation of water quality resulting from impacts relating to work over the recharge or contributing zones of protected aquifers, as defined and delineated by the TCEQ. Use best management practices and perform work in accordance with Contract requirements.
- 6.6. **Project-Specific Locations.** For all project-specific locations (PSLs) on or off the right of way (material sources, waste sites, parking areas, storage areas, field offices, staging areas, haul roads, etc.), signing the Contract certifies compliance with all applicable laws, rules, and regulations pertaining to the preservation of cultural resources, natural resources, and the environment as issued by the following or other agencies:
- Occupational Safety and Health Administration,
 - Texas Commission on Environmental Quality,
 - Texas Department of Transportation,
 - Texas Historical Commission,
 - Texas Parks and Wildlife Department,
 - Texas Railroad Commission,
 - U.S. Army Corps of Engineers,
 - U.S. Department of Energy,
 - U.S. Department of Transportation,
 - U.S. Environmental Protection Agency,
 - U.S. Federal Emergency Management Agency, and
 - U.S. Fish and Wildlife Service.

All subcontractors must also comply with applicable environmental laws, rules, regulations, and requirements in the Contract. Maintain documentation of certification activities including environmental consultant reports, Contractor documentation on certification decisions and contacts, and correspondence with the resource agencies. Provide documentation upon request.

Obtain written approval from the Engineer for all PSLs in the right of way not specifically addressed on the plans. Prepare an SWP3 for all Contractor facilities, such as asphalt or concrete plants located within public right of way. Comply with all TCEQ permit requirements for portable facilities, such as concrete batch plants, rock crushers, asphalt plants, etc. Address all environmental issues, such as Section 404 permits, wetland delineation, endangered species consultation requirements, or archeological and historic site impacts. Obtain all permits and clearances in advance.

7. AGRICULTURAL IRRIGATION

Regulate the sequence of work and make provisions as necessary to provide for agricultural irrigation or drainage during the work. Meet with the Irrigation District or land owner to determine the proper time and sequence when irrigation demands will permit shutting-off water flows to perform work.

Unless otherwise provided on the plans, the work performed under this article will not be measured or paid for directly but will be subsidiary to pertinent items.

8. SANITARY PROVISIONS

Provide and maintain adequate, neat, and sanitary toilet accommodations for employees, including Owner employees, in compliance with the requirements and regulations of the Texas Department of Health or other authorities with jurisdiction.

9. ABATEMENT AND MITIGATION OF EXCESSIVE OR UNNECESSARY NOISE

Minimize noise throughout all phases of the Contract. Exercise particular and special efforts to avoid the creation of unnecessary noise impact on adjacent noise sensitive receptors in the placement of non-mobile equipment such as air compressors, generators, pumps, etc. Place mobile and stationary equipment to cause the least disruption of normal adjacent activities.

All equipment associated with the work must be equipped with components to suppress excessive noise and these components must be maintained in their original operating condition considering normal depreciation. Noise-attenuation devices installed by the manufacturer such as mufflers, engine covers, insulation, etc. must not be removed nor rendered ineffectual nor be permitted to remain off the equipment while the equipment is in use.

10. USING EXPLOSIVES

Do not endanger life or property. The contractor is required to submit a written Blasting Plan if required by the plans or requested by the Engineer. The Owner retains the right to reject the blasting plan. Store all explosives securely and clearly mark all storage places with "DANGER – EXPLOSIVES." Store, handle, and use explosives and highly flammable material in compliance with federal, state, and local laws, ordinances, and regulations. Assume liability for property damage, injury, or death resulting from the use of explosives.

Give at least a 48-hr. advance notice to the appropriate Road Master before doing any blasting work involving the use of electric blasting caps within 200 ft. of any railroad track.

11. RESPONSIBILITY FOR HAZARDOUS MATERIALS

Indemnify and save harmless the Owner and its agents and employees from all suits, actions, or claims and from all liability and damages for any injury or damage to any person or property arising from the generation or disposition of hazardous materials introduced by the Contractor on any work done by the Contractor on Owner-owned or controlled sites. Indemnify and save harmless the Owner and its representatives from any liability or responsibility arising out of the Contractor's generation or disposition of any hazardous materials obtained, processed, stored, shipped, etc., on sites not owned or controlled by the Owner. Reimburse the Owner for all payments, fees, or restitution the Owner is required to make as a result of the Contractor's actions.

12. ASBESTOS CONTAINING MATERIAL

In Texas, the Department of State Health Services (DSHS), Asbestos Programs Branch, is responsible for administering the requirements of the National Emissions Standards for Hazardous Air Pollutants, 40 CFR, Subpart M (NESHAP) and the Texas Asbestos Health Protection Rules (TAHPR). Based on EPA guidance and regulatory background information, bridges are considered to be a regulated "facility" under NESHAP. Therefore, federal standards for demolition and renovation apply.

Provide notice to the Owner of demolition or renovation to the structures listed on the plans at least 30 calendar days before initiating demolition or renovation of each structure or load bearing member. Provide the scheduled start and completion date of structure demolition, renovation, or removal.

When demolition, renovation, or removal of load-bearing members is planned for several phases, provide the start and completion dates identified by separate phases.

DSHS requires that notifications be postmarked at least 10 working days before initiating demolition or renovation. If the date of actual demolition, renovation, or removal is changed, the Owner will be required to notify DSHS at least 10 days in advance of the work. This notification is also required when a previously scheduled (notification sent to DSHS) demolition, renovation, or removal is delayed. Therefore, if the date of actual demolition, renovation, or removal is changed, provide the Engineer, in writing, the revised dates in enough time to allow for the Owner's notification to DSHS to be postmarked at least 10 days in advance of the actual work.

Failure to provide the above information may require the temporary suspension of work under Article 8.4., "Temporary Suspension of Work or Working Day Charges," due to reasons under the control of the Contractor. The Owner retains the right to determine the actual advance notice needed for the change in date to address post office business days and staff availability.

13. RESTORING SURFACES OPENED BY PERMISSION

Do not authorize anyone to make an opening in the highway for utilities, drainage, or any other reason without written permission by the Engineer. Repair all openings as directed by the Engineer. Payment for repair of surfaces opened by permission will be made in accordance with pertinent items or Article 4.4., "Changes in the Work." Costs associated with openings made with Contractor authorization but without Owner approval will not be paid.

14. PROTECTING ADJACENT PROPERTY

Protect adjacent property from damage. If any damage results from an act or omission on the part of or on behalf of the Contractor, take corrective action to restore the damaged property to a condition similar or equal to that existing before the damage was done.

15. RESPONSIBILITY FOR DAMAGE CLAIMS

Indemnify and save harmless the Owner and its agents and employees from all suits, actions, or claims and from all liability and damages for any injury or damage to any person or property due to the Contractor's negligence in the performance of the work and from any claims arising or amounts recovered under any laws, including workers' compensation and the Texas Tort Claims Act. Indemnify and save harmless the Owner and assume responsibility for all damages and injury to property of any character occurring during the prosecution of the work resulting from any act, omission, neglect, or misconduct on the Contractor's part in the manner or method of executing the work; from failure to properly execute the work; or from defective work or material.

Pipelines and other underground installations that may or may not be shown on the plans may be located within the right of way. Indemnify and save harmless the Owner from any suits or claims resulting from damage by the Contractor's operations to any pipeline or underground installation. Make available the scheduled sequence of work to the respective utility owners so that they may coordinate and schedule adjustments of their utilities that conflict with the proposed work.

16. HAULING AND LOADS ON ROADWAYS AND STRUCTURES

Comply with federal and state laws concerning legal gross and axle weights. Except for the designated Interstate system, vehicles with a valid yearly overweight tolerance permit may haul materials to the work locations at the permitted load. Provide copies of the yearly overweight tolerance permits to the Engineer upon request. Construction equipment is not exempt from oversize or overweight permitting requirements on roadways open to the traveling public.

Protect existing bridges and other structures that will remain in use by the traveling public during and after the completion of the Contract. Construction traffic on roadways, bridges, and culverts within the limits of the work, including any structures under construction that will remain in service during and after completion of the Contract is subject to legal size and weight limitations.

Additional temporary fill may be required by the Engineer for hauling purposes for the protection of certain structures. This additional fill will not be paid directly but will be subsidiary.

Replace or restore to original condition any structure damaged by the Contractor's operations.

The Engineer may allow equipment with oversize or non-divisible overweight loads to operate without a permit within the work locations on pavement structures not open to the traveling public. Submit Contractor-proposed changes to traffic control plans for approval, in accordance with Item 502, "Barricades, Signs, and Traffic Handling." The following sections further address overweight allowances. The Owner will make available to the Contractor any available plans and material reports for existing structures.

- 16.1. **Overweight Construction Traffic Crossing Structures.** The Engineer may allow crossing of a structure not open to the public within the work locations, when divisible or non-divisible loads exceed legal weight limitations, including limits for load-posted bridges. Obtain written permission to make these crossings. Submit for approval a structural analysis by a licensed professional engineer indicating that the excessive loads should be allowed. Provide a manufacturer's certificate of equipment weight that includes the weight distribution on the various axles and any additional parts such as counterweights, the configuration of the axles, or other information necessary for the analysis. Submit the structural analysis and supporting documentation sufficiently in advance of the move to allow for review. Permission may be granted if the Engineer finds that no damage or overstresses in excess of those normally allowed for occasional overweight loads will result to structures that will remain in use after Contract completion. Provide temporary matting or other protective measures as directed.

Schedule loads so that only one vehicle is on any span or continuous unit at any time. Use barricades, fences, or other positive methods to prevent other vehicular access to structures at any time the overweight load is on any span or continuous unit.

- 16.2. **Construction Equipment Operating on Structures.** Cranes and other construction equipment used to perform construction operations that exceed legal weight limits may be allowed on structures. Before any operation that may require placement of equipment on a structure, submit for approval a detailed structural analysis prepared by a licensed professional engineer.

Submit the structural analysis and supporting documentation sufficiently in advance of the use to allow for review and approval. Include all axle loads and configurations, spacing of tracks or wheels, tire loads, outrigger placements, center of gravity, equipment weight, and predicted loads on tires and outriggers for all planned movements, swings, or boom reaches. The analysis must demonstrate that no overstresses will occur in excess of those normally allowed for occasional overweight loads.

- 16.3. **Loads on Structures.** Do not store or stockpile material on bridge structures without written permission. If required, submit a structural analysis and supporting documentation by a licensed professional engineer for review. Permission may be granted if the Engineer finds that no damage or overstresses in excess of those normally allowed for occasional overweight loads will result to structures that will remain in use after Contract completion. Provide temporary matting or other protective measures as directed.

- 16.4. **Hauling Divisible Overweight Loads on Pavement Within the Work Locations.** The Engineer may allow divisible overweight loads on pavement structures within the work locations not open to the traveling public. Obtain written approval before hauling the overweight loads. Include calculations to demonstrate that there will be no damage or overstress to the pavement structure.

17. CONTRACTOR'S RESPONSIBILITY FOR WORK

Until final acceptance of the Contract, take every precaution against injury or damage to any part of the work by the action of the elements or by any other cause, whether arising from the execution or from the nonexecution of the work. Protect all materials to be used in the work at all times, including periods of suspension.

When any roadway or portion of the roadway is in suitable condition for travel, it may be opened to traffic as directed. Opening of the roadway to traffic does not constitute final acceptance.

Repair damage to all work until final acceptance. Repair damage to existing facilities in accordance with the Contract or as directed. Repair damage to existing facilities or work caused by Contractor operations at the Contractor's expense. Repair work for damage that was not due to the Contractor's operations will not be paid for except as provided below.

17.1. **Reimbursable Repair.** Except for damage to appurtenances listed in Section 7.17.2.1., "Unreimbursed Repair," the Contractor will be reimbursed for repair of damage caused by:

- motor vehicle, watercraft, aircraft, or railroad-train incident;
- vandalism; or
- Acts of God, such as earthquake, tidal wave, tornado, hurricane, or other cataclysmic phenomena of nature.

17.2. **Appurtenances.**

17.2.1. **Unreimbursed Repair.** Except for destruction (not reusable) due to hurricanes, reimbursement will not be made for repair of damage to the following temporary appurtenances, regardless of cause:

- signs,
- barricades,
- changeable message signs, and
- other work zone traffic control devices.

Crash cushion attenuators and guardrail end treatments are the exception to the above listing and are to be reimbursed in accordance with Section 7.17.2.2., "Reimbursed Repair."

For the devices listed in this section, reimbursement may be made for damage due to hurricanes. Where the Contractor retains replaced appurtenances after completion of the project, the Owner will limit the reimbursement to the cost that is above the salvage value at the end of the project.

17.2.2. **Reimbursed Repair.** Reimbursement will be made for repair of damage due to the causes listed in Section 7.17.1., "Reimbursable Repair," to appurtenances (including temporary and permanent crash cushion attenuators and guardrail end treatments).

17.3. **Roadways and Structures.** Until final acceptance, the Contractor is responsible for all work constructed under the Contract. The Owner will not reimburse the Contractor for repair work to new construction, unless the failure or damage is due to one of the causes listed in Section 7.17.1., "Reimbursable Repair."

The Owner will be responsible for the cost for repair of damage to existing roadways and structures not caused by the Contractor's operations.

17.4. **Detours.** The Contractor will be responsible for the cost of maintenance of detours constructed under the Contract, unless the failure or damage is due to one of the causes listed in Section 7.17.1., "Reimbursable Repair." The Engineer may consider failures beyond the Contractor's control when determining reimbursement for repairs to detours constructed. The Owner will be responsible for the cost of maintenance of existing streets and roadways used for detours or handling traffic.

- 17.5. **Relief from Maintenance.** The Engineer may relieve the Contractor from responsibility of maintenance as outlined in this section. This relief does not release the Contractor from responsibility for defective materials or work or constitute final acceptance.
- 17.5.1. **Isolated Work Locations.** For isolated work locations, when all work is completed, including work for Article 5.11., "Final Cleanup," the Engineer may relieve the Contractor from responsibility for maintenance.
- 17.5.2. **Work Except for Vegetative Establishment and Test Periods.** When all work for all or isolated work locations has been completed, including work for Article 5.11., "Final Cleanup," with the exception of vegetative establishment and maintenance periods and test and performance periods, the Engineer may relieve the Contractor from responsibility for maintenance of completed portions of work.
- 17.5.3. **Work Suspension.** When all work is suspended for an extended period of time, the Engineer may relieve the Contractor from responsibility for maintenance of completed portions of work during the period of suspension.
- 17.5.4. **When Directed by the Engineer.** The Engineer may relieve the Contractor from the responsibility for maintenance when directed.
- 17.6. **Basis of Payment.** When reimbursement for repair work is allowed and performed, payment will be made in accordance with pertinent items or Article 4.4., "Changes in the Work."

18. ELECTRICAL REQUIREMENTS

18.1. Definitions.

18.1.1. **Electrical Work.** Electrical work is work performed for:

- Item 610, "Roadway Illumination Assemblies,"
- Item 614, "High Mast Illumination Assemblies,"
- Item 616, "Performance Testing of Lighting Systems,"
- Item 617, "Temporary Roadway Illumination,"
- Item 618, "Conduit,"
- Item 620, "Electrical Conductors,"
- Item 621, "Tray Cable,"
- Item 622, "Duct Cable,"
- Item 628, "Electrical Services,"
- Item 680, "Highway Traffic Signals,"
- Item 681, "Temporary Traffic Signals,"
- Item 684, "Traffic Signal Cables,"
- Item 685, "Roadside Flashing Beacon Assemblies,"
- other items that involve either the distribution of electrical power greater than 50 volts or the installation of conduit and duct banks,
- the installation of conduit and wiring associated with Item 624, "Ground Boxes," and Item 656, "Foundations for Traffic Control Devices," and
- the installation of the conduit system for communication and fiber optic cable.

Electrical work does not include the installation of communications or fiber optic cable, or the connections for low voltage and inherently power limited circuits such as electronic or communications equipment. Assembly and placement of poles, structures, cabinets, enclosures, manholes, or other hardware will not be considered electrical work as long as no wiring, wiring connections, or conduit work is done at the time of assembly and placement.

- 18.1.2. **Specialized Electrical Work.** Specialized electrical work is work that includes the electrical service and feeders, sub-feeders, branch circuits, controls, raceways, and enclosures for the following:
- pump stations,
 - moveable bridges,
 - ferry slips,
 - motor control centers,
 - facilities required under Item 504, "Field Office and Laboratory,"
 - rest area or other public buildings,
 - weigh-in-motion stations,
 - electrical services larger than 200 amps,
 - electrical services with main or branch circuit breaker sizes not shown in the Contract, and
 - any 3-phase electrical power.
- 18.1.3. **Certified Person.** A certified person is a person who has passed the test from the TxDOT course TRF450, "TxDOT Roadway Illumination and Electrical Installations," or other courses as approved by the Owner. Submit a current and valid certification upon request.
- 18.1.4. **Licensed Electrician.** A licensed electrician is a person with a current and valid unrestricted master electrical license, or unrestricted journeyman electrical license that is supervised or directed by an unrestricted master electrician. An unrestricted master electrician need not be on the work locations at all times electrical work is being done, but the unrestricted master electrician must approve work performed by the unrestricted journeyman. Licensed electrician requirements by city ordinances do not apply to on state system work.
- The unrestricted journeyman and unrestricted master electrical licenses must be issued by the Texas Department of Licensing and Regulation or by a city in Texas with a population of 50,000 or greater that issues licenses based on passing a written test and demonstrating experience.
- The Engineer may accept other states' electrical licenses. Submit documentation of the requirements for obtaining that license. Acceptance of the license will be based on sufficient evidence that the license was issued based on:
- passing a test based on the NEC similar to that used by Texas licensing officials, and
 - sufficient electrical experience commensurate with general standards for an unrestricted master and unrestricted journeyman electrician in the State of Texas.
- 18.2. **Work Requirements.** The qualifications required to perform electrical work and specialized electrical work are listed in Table 2.

Table 2
Work Requirements

| Type of Work | Qualifications to Perform Work |
|-----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| Electrical work with plans | Licensed electrician, certified person, or workers directly supervised by a licensed electrician or certified person |
| Electrical work without plans | Licensed electrician or workers directly supervised by a licensed electrician |
| Specialized electrical work | Licensed electrician or workers directly supervised by a licensed electrician |
| Replace lamps, starting aids, and changing fixtures | Licensed electrician, certified person, or workers directly supervised by a licensed electrician or certified person |
| Conduit in precast section with approved working drawings | Inspection by licensed electrician or certified person |
| Conduit in cast-in-place section | Inspection by licensed electrician or certified person |
| All other electrical work (troubleshooting, repairs, component replacement, etc.) | Licensed electrician or workers directly supervised by a licensed electrician |

A licensed electrician must be physically present during all electrical work when Table 2 states that workers are to be directly supervised by a licensed electrician or certified person.

A non-certified person may install conduit in cast-in-place concrete sections if the work is verified by a certified person before concrete placement.

When the plans specify IMSA certification, the requirements of Table 2 will still apply to the installation of the conduit, ground boxes, electrical services, pole grounding, and electrical conductors installed under Item 620, "Electrical Conductors."

Item 8L

Prosecution and Progress

1. PROSECUTION OF WORK

Unless otherwise shown in the Contract, begin work within 90 calendar days after the authorization date to begin work as shown on the Notice to Proceed. Prosecute the work continuously to completion within the working days specified. Unless otherwise shown in the Contract documents, work may be prosecuted in concurrent phases if no changes are required in the traffic control plan or if a revised traffic control plan is approved. Notify the Engineer at least 24 hr. before beginning work or before beginning any new operation. Do not start new operations to the detriment of work already begun. Minimize interference to traffic.

2. SUBCONTRACTING

Do not sublet any portion of a construction Contract without the Engineer's written approval. A subcontract does not relieve any responsibility under the Contract and bonds. Ensure that all subcontracted work complies with all governing labor provisions.

The Contractor certifies by signing the Contract that the Contractor will not enter into any subcontract with a subcontractor that is debarred or suspended by the Owner, or any state or federal agency.

For federally funded Contracts, ensure the required federal documents are physically attached to each subcontract agreement including all tiered subcontract agreements.

For all DBE/HUB/SBE subcontracts including all tiered DBE/HUB/SBE subcontracts, submit a copy of the executed subcontract agreement.

Submit a copy of the executed non-DBE subcontracts including all tiered non-DBE subcontracts when requested.

- 2.1. **Construction Contracts.** Perform work with own organization on at least 30% of the total original Contract cost (25% if the Contractor is an SBE on a wholly State or local funded Contract) excluding any items determined to be specialty items. Specialty items are those that require highly specialized knowledge, abilities, or equipment not usually available in the contracting firm expected to bid on the proposed Contract as a whole.

Specialty items will be shown on the plans or as directed by the Engineer. Bid cost of specialty items performed by subcontractors will be deducted from the total original Contract cost before computing the required amount of work to be performed by the Contractor's own organization.

The term "perform work with own organization" includes only:

- workers employed and paid directly by the Contractor or wholly owned subsidiary;
- equipment owned by the Contractor or wholly owned subsidiary;
- rented or leased equipment operated by the Contractor's employees or wholly owned subsidiary's employees;
- materials incorporated into the work if the majority of the value of the work involved in incorporating the material is performed by the Contractor's own organization, including a wholly owned subsidiary's organization; and

- labor provided by staff leasing firms licensed under Chapter 91 of the Texas Labor Code for nonsupervisory personnel if the Contractor or wholly owned subsidiary maintains direct control over the activities of the leased employees and includes them in the weekly payrolls.

When staff leasing firms provide materials or equipment, they are considered subcontractors. In these instances, submit staff leasing firms for approval as a subcontractor.

Copies of cancelled checks and certified statements may be required to verify compliance with the requirements of this section.

- 2.2. **Payments to Subcontractors.** Report payments for DBE/HUB/SBE subcontracts including tiered DBE/HUB/SBE subcontracts in the manner as prescribed by the Owner.

- 2.3. **Payment Records.** Make payment records, including copies of cancelled checks, available for inspection by the Owner. Submit payment records upon request. Retain payment records for a period of 3 yr. following completion of the Contract work or as specified by the Owner.

Failure to submit this information to the Engineer by the 20th day of each month will result in the Owner taking actions, including, but not limited to, withholding estimates and suspending the work. This work will not be measured or paid for directly but will be subsidiary to pertinent items.

3. COMPUTATION OF CONTRACT TIME FOR COMPLETION

Upon request, the Engineer will provide the conceptual time determination schedule to the Contractor for informational purposes only. The schedules assume generic resources, production rates, sequences of construction and average weather conditions based on historic data. The Owner will not adjust the number of working days and milestones, if any, due to differences in opinion regarding any assumptions made in the preparation of the schedule or for errors, omissions, or discrepancies found in the Owner's conceptual time schedule.

The number of working days is established by the Contract. Working day charges will begin 30 calendar days after the date of the written authorization to begin work. Working day charges will continue in accordance with the Contract. The Engineer may consider increasing the number of working days under extraordinary circumstances.

- 3.1. **Working Day Charges.** Working days will be charged in accordance with Section 8.3.1.4., "Standard Workweek," unless otherwise shown in the Contract documents. Working days will be computed and charged in accordance with one of the following:

- 3.1.1. **Five-Day Workweek.** Working days will be charged Monday through Friday, excluding national holidays, regardless of weather conditions or material availability. The Contractor has the option of working on Saturdays. Provide sufficient advance notice when scheduling work on Saturdays. Work on Sundays and national holidays will not be permitted without written permission. If work requiring an Inspector to be present is performed on a Saturday, Sunday, or national holiday, and weather and other conditions permit the performance of work for 7 hr. between 7 A.M. and 6 P.M., a working day will be charged.

- 3.1.2. **Six-Day Workweek.** Working days will be charged Monday through Saturday, excluding national holidays, regardless of weather conditions or material availability. Work on Sundays and national holidays will not be permitted without written permission. If work requiring an Inspector to be present is performed on a Sunday or a national holiday, and weather or other conditions permit the performance of work for 7 hr. between 7 A.M. and 6 P.M., a working day will be charged.

- 3.1.3. **Seven-Day Workweek.** Working days will be charged Monday through Sunday, excluding national holidays, regardless of weather conditions or material availability. Work on national holidays will not be permitted without written permission. If work is performed on any of these holidays requiring an Inspector to be present,

and weather or other conditions permit the performance of work for 7 hr. between 7 A.M. and 6 P.M., a working day will be charged.

- 3.1.4. **Standard Workweek.** Working days will be charged Monday through Friday, excluding national or state holidays, if weather or other conditions permit the performance of the principal unit of work underway, as determined by the Engineer, for a continuous period of at least 7 hr. between 7 A.M. and 6 P.M., unless otherwise shown in the Contract. The Contractor has the option of working on Saturdays or state holidays. Provide sufficient advance notice to the Engineer when scheduling work on Saturdays. Work on Sundays and national holidays will not be permitted without written permission. If work requiring an Inspector to be present is performed on a Saturday, Sunday, or holiday, and weather or other conditions permit the performance of work for 7 hr. between 7 A.M. and 6 P.M., a working day will be charged.
- 3.1.5. **Calendar Day.** Working days will be charged Sunday through Saturday, including all holidays, regardless of weather conditions, material availability, or other conditions not under the control of the Contractor.
- 3.1.6. **Other.** Working days will be charged as shown in the Contract documents.
- 3.2. **Restricted Work Hours.** Restrictions on Contractor work hours and the related definition for working day charges are as prescribed in this article unless otherwise shown in the Contract documents.
- 3.3. **Nighttime Work.** Nighttime work is allowed only when shown in the Contract documents or as directed. Nighttime work is defined as work performed from 30 min. after sunset to 30 min. before sunrise.
- 3.3.1. **Five-, Six-, and Seven-Day Workweeks.** Nighttime work that extends past midnight will be assigned to the following day for the purposes of approval for allowing work on Sundays or national holidays.
- 3.3.2. **Standard Workweek.**
- 3.3.2.1. **Nighttime Work Only.** When nighttime work is allowed or required and daytime work is not allowed, working day charges will be made when weather and other conditions permit the performance of the principal unit of work underway, as determined by the Engineer, for a continuous period of at least 7 hr. for the nighttime period, as defined in Section 8.3.3., "Nighttime Work," unless otherwise shown in the Contract documents.
- 3.3.2.2. **Nighttime Work and Daytime Work Requiring Inspector.** When nighttime work is performed or required and daytime work is allowed, working day charges will be made when weather and other conditions permit the performance of the principal unit of work underway, as determined by the Engineer, for a continuous period of at least 7 hr. for the nighttime period, as defined in Section 8.3.3., "Nighttime Work," or for a continuous period of at least 7 hr. for the alternative daytime period unless otherwise shown in the Contract documents. Only one day will be charged for each 24-hr. time period. When the Engineer agrees to restrict work hours to the nighttime period only, working day charges will be in accordance with Section 8.3.3.2.1., "Nighttime Work Only."
- 3.4. **Time Statements.** The Engineer will furnish the Contractor a monthly time statement. Review the monthly time statement for correctness. Report protests in writing, no later than 30 calendar days after receipt of the time statement, providing a detailed explanation for each day protested. Not filing a protest within 30 calendar days will indicate acceptance of the working day charges and future consideration of that statement will not be permitted.

4. TEMPORARY SUSPENSION OF WORK OR WORKING DAY CHARGES

The Engineer may suspend the work, wholly or in part, and will provide notice and reasons for the suspension in writing. Suspend and resume work only as directed in writing.

When part of the work is suspended, the Engineer may suspend working day charges only when conditions not under the control of the Contractor prohibit the performance of critical activities. When all of the work is

suspended for reasons not under the control of the Contractor, the Engineer will suspend working day charges.

5. PROJECT SCHEDULES

Prepare, maintain, and submit project schedules. Project schedules are used to convey the Contractor's intended work plan to the Owner. Prepare project schedules with a level of effort sufficient for the work being performed. Project schedules will not be used as a basis to establish the amount of work performed or for the preparation of the progress payments.

5.1. **Project Scheduler.** Designate an individual who will develop and maintain the progress schedule. The Project Scheduler will be prepared to discuss, in detail, the proposed sequence of work and methods of operation, and how that information will be communicated through the Progress Schedule at the Preconstruction Meeting. This individual will also attend the project meetings and make site visits to prepare, develop, and maintain the progress schedules.

5.2. **Construction Details.** Before starting work, prepare and submit a progress schedule based on the sequence of work and traffic control plan shown in the Contract documents. At a minimum, prepare the progress schedule as a Bar Chart or Critical Path Method (CPM), as shown on the plans. Include all planned work activities and sequences and show Contract completion within the number of working days specified. Incorporate major material procurements, known utility relocations, and other activities that may affect the completion of the Contract in the progress schedule. Show a beginning date, ending date, and duration in whole working days for each activity. Do not use activities exceeding 20 working days, except for agreed upon activities. Show an estimated production rate per working day for each work activity.

5.3. **Schedule Format.** Format all project schedules according to the following:

- Begin the project schedule on the date of the start of Contract time or start of activities affecting work on the project;
- Show the sequence and interdependence of activities required for complete performance of the work. If using a CPM schedule, show a predecessor and a successor for each activity; and
- Ensure all work sequences are logical and show a coordinated plan of the work.

CPM schedules must also include:

- Clearly and accurately identify the critical path as the longest continuous path;
- Provide a legend for all abbreviations, run date, data date, project start date, and project completion date in the title block of each schedule submittal; and
- Through the use of calendars, incorporate seasonal weather conditions into the schedule for work (e.g., earthwork, concrete paving, structures, asphalt, drainage, etc.) that may be influenced by temperature or precipitation. Also, incorporate non-work periods such as holidays, weekends, or other non-work days as identified in the Contract.

5.4. **Activity Format.** For each activity on the project schedule provide:

- A concise description of the work represented by the activity;
- An activity duration in whole working days;
- Code activities so that organized plots of the schedule may be produced.

CPM schedules must also include the quantity of work and estimated production rate for major items of work. Provide enough information for review of the work being performed.

5.5. **Schedule Types.**

5.5.1. **Bar Chart.** Seven calendar days before the preconstruction meeting, prepare and submit a hard copy of the schedule using the bar chart method.

5.5.1.1. **Progress Schedule Reviews.** Update the project schedule and submit a hard copy when changes to the schedule occur or when requested.

5.5.2. **Critical Path Method.** Prepare and submit the schedule using the CPM.

5.5.2.1. **Preliminary Schedule.** Seven calendar days before the preconstruction meeting, submit both the plotted and electronic copies of the project schedule showing work to be performed within the first 90 calendar days of the project.

5.5.2.2. **Baseline Schedule.** The baseline schedule will be considered the Contractor's plan to successfully construct the project within the time frame and construction sequencing indicated in the Contract. Submit both plotted and electronic copies of the baseline schedule. Submit 2 plots of the schedule: one organized with the activities logically grouped using the activity coding; and the other plot showing only the critical path determined by the longest path, not based on critical float.

Develop and submit the baseline schedule for review within the first 45 calendar days of the project unless the time for submission is extended.

5.5.2.2.1. **Review.** Within 15 calendar days of receipt of the schedule, the Engineer will evaluate, and inform the Contractor if the schedule has been accepted. If the schedule is not accepted, the Engineer will provide comments to the Contractor for incorporation. Provide a revised schedule based on the Engineer's comments, or reasons for not doing so within 10 calendar days. The Engineer's review and acceptance of the project schedule is for conformance to the requirements of the Contract documents only and does not relieve the Contractor of any responsibility for meeting the interim milestone dates (if specified) or the Contract completion date. Review and acceptance does not expressly or by implication warrant, acknowledge, or admit the reasonableness of the logic or durations of the project schedule. If the Contractor fails to define any element of work, activity, or logic and the Engineer's review does not detect this omission or error, the Contractor is responsible for correcting the error or omission.

Submit an acceptable baseline schedule before the 90th calendar day of the project unless the time for submission is extended.

5.5.2.3. **Progress Schedule.** Maintain the project schedule for use by both the Contractor and the Engineer. Submit both the plotted and electronic copy as it will become an as-built record of the daily progress achieved on the project. If continuous progress of an activity is interrupted for any reason except non-work periods (such as holidays, weekend, or interference from temperature or precipitation), then the activity will show the actual finish date as that date of the start of the interruption and the activity will be broken into a subsequent activity (or activities, based on the number of interruptions) similarly numbered with successive alpha character as necessary. The original duration of the subsequent activity will be that of the remaining duration of the original activity. Relationships of the subsequent activity will match those of the original activity so that the integrity of the project schedule logic is maintained. Once established, the original durations and actual dates of all activities must remain unchanged. Revisions to the schedule may be made as necessary.

The project schedule must be revised when changes in construction phasing and sequencing occur or other changes that cause deviation from the original project schedule occur. Any revisions to the schedule must be listed in the monthly update narrative with the purpose of the revision and description of the impact on the project schedule's critical path and project completion date. Create the schedule revision using the latest update before the start of the revision.

Monthly updating of the project schedule will include updating of:

- The actual start dates for activities started;
- The actual finish dates for activities completed;
- The percentage of work completed and remaining duration for each activity started but not yet completed; and
- The calendars to show days actual work was performed on the various work activities.

The cut-off day for recording monthly progress will be the last day of each month. Submit the updated project schedule no later than the 20th calendar day of the following month. The Engineer will evaluate the updated schedule within 5 calendar days of receipt and inform the Contractor if it has or has not been accepted. If the schedule is not accepted, the Engineer will provide comments to the Contractor for incorporation. Provide a revised schedule based on the Engineer's comments, or reasons for not doing so within 5 calendar days.

Provide a brief narrative in a bulleted statement format for major items that have impacted the schedule. Notify the Engineer if resource-leveling is being used.

- 5.5.2.3.1. **Project Schedule Summary Report (PSSR).** When shown on the plans, provide the PSSR instead of the narrative required in Section 8.5.5.2.3., "Progress Schedule." The PSSR includes a listing of major items that have impacted the schedule as well as a summary of progress in days ahead or behind schedule. Include an explanation of the project progress for the period represented on the form provided by the Owner.

- 5.5.3. **Notice of Potential Time Impact.** Submit a "Notice of Potential Time Impact" when a Contract time extension or adjustment of milestone dates may be justified or when directed.

Failure to provide this notice in the time frames outlined above will compromise the Owner's ability to mitigate the impacts and the Contractor forfeits the right to request a time extension or adjustment of milestone dates unless the circumstances are such that the Contractor could not reasonably have had knowledge of the impact at the time.

- 5.5.4. **Time Impact Analysis.** When directed, provide a time impact analysis. A time impact analysis is an evaluation of the effects of impacts on the project. A time impact analysis consists of the following steps:

- **Step 1.** Establish the status of the project immediately before the impact.
- **Step 2.** Predict the effect of the impact on the schedule update used in Step 1.
- **Step 3.** Track the effects of the impact on the schedule during its occurrence.
- **Step 4.** Establish the status of the project after the impact's effect has ended and provide details identifying any mitigating actions or circumstances used to keep the project ongoing during the impact period.

Determine the time impact by comparing the status of the work before the impact (Step 1) to the prediction of the effect of the impact (Step 2), if requested, and to actual effects of the impact once it is complete (Step 4). Unless otherwise approved, Steps 1, 3, and 4, must be completed before consideration of a Contract time extension or adjustment of a milestone date will be provided. Time extensions will only be considered when delays that affect milestone dates or the Contract completion date are beyond the Contractor's control. Submit Step 4 no later than 15 calendar days after the impact's effects have ended or when all the information on the effect has been realized.

Submit one electronic backup copy of the complete time impact analysis and a copy of the full project schedule incorporating the time impact analysis. If the project schedule is revised after the submittal of a time impact analysis, but before its approval, indicate in writing the need for any modification to the time impact analysis.

The Engineer will review the time impact analysis upon completion of step 4. If this review detects revisions or changes to the schedule that had not been performed and identified in a narrative, the Engineer may reject the time impact analysis. If the Engineer is in agreement with the time impact analysis, a change order may be issued to grant additional working days, or to adjust interim milestones. Once a change order has been executed, incorporate the time impact analysis into the project schedule. The time impact analysis may also be used to support the settlement of disputes and claims. Compensation related to the time impact analysis may be provided at the completion of the analysis or the completion of the project to determine the true role the impact played on the final completion.

The work performed under this article will not be measured or paid for directly but will be subsidiary to pertinent items.

6. FAILURE TO COMPLETE WORK ON TIME

The time established for the completion of the work is an essential element of the Contract. If the Contractor fails to complete the work within the number of working days specified, working days will continue to be charged. Failure to complete the Contract, a separate work order, or callout work within the number of working days specified, including any approved additional working days, will result in liquidated damages for each working day charged over the number of working days specified in the Contract. The dollar amount specified in the Contract will be deducted from any money due or to become due the Contractor for each working day the Contract remains incomplete. This amount will be assessed not as a penalty but as liquidated damages.

7. DEFAULT OF THE CONTRACT

7.1. **Declaration of Default.** The Engineer may declare the Contractor to be in default of the Contract if the Contractor:

- fails to begin the work within the number of days specified,
- fails to prosecute the work to assure completion within the number of days specified,
- is uncooperative, disruptive or threatening,
- fails to perform the work in accordance with the Contract requirements,
- neglects or refuses to remove and replace rejected materials or unacceptable work,
- discontinues the prosecution of the work without the Engineer's approval,
- makes an unauthorized assignment,
- fails to resume work that has been discontinued within a reasonable number of days after notice to do so,
- fails to conduct the work in an acceptable manner, or
- commits fraud or other unfixable conduct as determined by the Owner.

If any of these conditions occur, the Engineer will give notice in writing to the Contractor and the Surety of the intent to declare the Contractor in default. If the Contractor does not proceed as directed within 10 days after the notice, the Owner will provide written notice to the Contractor and the Surety to declare the Contractor to be in default of the Contract. The Owner will also provide written notice of default to the Surety. If the Contractor provides the Owner written notice of voluntary default of the Contract, the Owner may waive the 10 day notice of intent to declare the Contractor in default and immediately provide written notice of default to the Contractor and the Surety. Working day charges will continue until completion of the Contract. The Owner may suspend work in accordance with Section 8.4., "Temporary Suspension of Work or Working Day Charges," to investigate apparent fraud or other unfixable conduct before defaulting the Contractor. The Contractor may be subject to sanctions under the state and/or federal laws and regulations.

The Owner will determine the method used for the completion of the remaining work as follows:

- **Contracts without Performance Bonds.** The Owner will determine the most expeditious and efficient way to complete the work, and recover damages from the Contractor.
- **Contracts with Performance Bonds.** The Owner will, without violating the Contract, demand that the Contractor's Surety complete the remaining work in accordance with the terms of the original Contract. A completing Contractor will be considered a subcontractor of the Surety. The Owner reserves the right to approve or reject proposed subcontractors. Work may resume after the Owner receives and approves Certificates of Insurance as required in Section 3.4.3., "Insurance." Certificates of Insurance may be issued in the name of the completing Contractor. The Surety is responsible for making every effort to expedite the resumption of work and completion of the Contract. The Owner may complete the work using any or all materials at the work locations that it deems suitable and acceptable. Any costs incurred by the Owner for the completion of the work under the Contract will be the responsibility of the Surety.

From the time of notification of the default until work resumes (either by the Surety or the Owner), the Owner will maintain traffic control devices and will do any other work it deems necessary, unless otherwise agreed upon by the Owner and the Surety. All costs associated with this work will be deducted from money due to the Surety.

The Owner will hold all money earned but not disbursed by the date of default. Upon resumption of the work after the default, all payments will be made to the Surety. All costs and charges incurred by the Owner as a result of the default, including the cost of completing the work under the Contract, costs of maintaining traffic control devices, costs for other work deemed necessary, and any applicable liquidated damages or disincentives will be deducted from money due the Contractor for completed work. If these costs exceed the sum that would have been payable under the Contract, the Surety will be liable and pay the Owner the balance of these costs in excess of the Contract price. In case the costs incurred by the Owner are less than the amount that would have been payable under the Contract if the work had been completed by the Contractor, the Owner will be entitled to retain the difference.

Comply with Article 8.2., "Subcontracting," and abide by the DBE/HUB/SBE commitments previously approved by the Owner .

No markups as defined in Article 9.7., "Payment for Extra Work and Force Account Method," will be allowed for the Surety.

- 7.2. **Wrongful Default.** Submit a written request to the Owner within 14 calendar days of receipt of the notice of default for consideration of wrongful default.

The Owner will determine if the Contractor has been wrongfully defaulted, and will proceed with the following:

- If the Owner determines the default is proper, the default will remain. If the Contractor is in disagreement, the Contractor may file a claim in accordance with Article 4.7., "Dispute or Claims Procedure."
- If the Owner determines it was a wrongful default, the Owner will terminate the Contract for convenience, in accordance with Article 8.8., "Termination of the Contract."

8. TERMINATION OF THE CONTRACT

The Owner may terminate the Contract in whole or in part whenever:

- the Contractor is prevented from proceeding with the work as a direct result of an executive order of the President of the United States or the Governor of the State;
- the Contractor is prevented from proceeding with the work due to a national emergency, or when the work to be performed under the Contract is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor as the result of an order or a proclamation of the President of the United States;
- the Contractor is prevented from proceeding with the work due to an order of any federal authority;
- the Contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining court order where the issuance of the restraining order is primarily caused by acts or omissions of persons or agencies other than the Contractor; or
- the Owner determines that termination of the Contract is in the best interest of the Owner or the public. This includes, but is not limited to, the discovery of significant hazardous material problems, right of way acquisition problems, or utility conflicts that would cause substantial delays or expense to the Contract.

- 8.1. **Procedures and Submittals.** The Engineer will provide written notice to the Contractor of termination specifying the extent of the termination and the effective date. Upon notice, immediately proceed in accordance with the following:

- stop work as specified in the notice;

- place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete a critical portion of the Contract, as approved;
- terminate all subcontracts to the extent they relate to the work terminated;
- complete performance of the work not terminated;
- settle all outstanding liabilities and termination settlement proposals resulting from the termination for public convenience of the Contract;
- create an inventory report, including all acceptable materials and products obtained for the Contract that have not been incorporated in the work that was terminated (include in the inventory report a description, quantity, location, source, cost, and payment status for each of the acceptable materials and products); and
- take any action necessary, or that the Engineer may direct, for the protection and preservation of the materials and products related to the Contract that are in the possession of the Contractor and in which the Owner has or may acquire an interest.

8.2.

Settlement Provisions. Within 60 calendar days of the date of the notice of termination, submit a final termination settlement proposal, unless otherwise approved. The Engineer will prepare a change order that reduces the affected quantities of work and adds acceptable costs for termination. No claim for loss of anticipated profits will be considered. The Owner will pay reasonable and verifiable termination costs including:

- all work completed at the unit bid price and partial payment for incomplete work;
- the percentage of Item 500, "Mobilization," equivalent to the percentage of work complete or actual cost that can be supported by cost records, whichever is greater;
- expenses necessary for the preparation of termination settlement proposals and support data;
- the termination and settlement of subcontracts;
- storage, transportation, restocking, and other costs incurred necessary for the preservation, protection, or disposition of the termination inventory; and
- other expenses acceptable to the Owner.

Item 9L

Measurement and Payment

1. MEASUREMENT OF QUANTITIES

The Engineer will measure all completed work using United States standard measures, unless otherwise specified.

- 1.1. **Linear Measurement.** Unless otherwise specified, all longitudinal measurements for surface areas will be made along the actual surface of the roadway and not horizontally. No deduction will be made for structures in the roadway with an area of 9 sq. ft. or less. For all transverse measurements for areas of base courses, surface courses, and pavements, the dimensions to be used in calculating the pay areas will be the neat dimensions and will not exceed those shown on the plans, unless otherwise directed.

- 1.2. **Volume Measurement.** Transport materials measured for payment by volume in approved hauling vehicles. Display a unique identification mark on each vehicle. Furnish information necessary to calculate the volume capacity of each vehicle. The Engineer may require verification of volume through weight measurement. Use body shapes that allow the capacity to be verified. Load and level the load to the equipment's approved capacity. Loads not hauled in approved vehicles may be rejected.

- 1.3. **Weight Measurement.** Transport materials measured for payment by weight or truck measure in approved hauling vehicles. Furnish certified measurements, tare weights, and legal gross weight calculations for all haul units. Affix a permanent, legible number on the truck and on the trailer to correspond with the certified information. Furnish certified weights of loaded haul units transporting material if requested.

The material will be measured at the point of delivery. The cost of supplying these volume and weight capacities is subsidiary to the pertinent item. For measurement by the ton, in the field, provide measurements in accordance with Item 520, "Weighing and Measuring Equipment," except for items where ton measurements are measured by standard tables.

The Engineer may reject loads and suspend hauling operations for overloading.

- 1.3.1. **Hauling on Routes Accessible to the Traveling Public.** For payment purposes on haul routes accessible to the traveling public, the net weight of the load will be calculated as follows:
- If the gross vehicle weight is less than the maximum allowed by state law, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the gross weight.
 - If the gross vehicle weight is more than the maximum allowed by state law, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the maximum gross weight allowed.

- 1.3.2. **Hauling on Routes Not Accessible to the Traveling Public.** For payment purposes on haul routes that are not accessible to the traveling public where advance permission is obtained in writing from the Engineer:
- If the gross vehicle weight is less than the maximum allowed, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the gross weight.
 - If the gross vehicle weight is more than the maximum allowed, the net weight of the load will be determined by deducting the tare weight of the vehicle from the maximum gross weight allowed.

2. PLANS QUANTITY MEASUREMENT

Plans quantities may or may not represent the exact quantity of work performed or material moved, handled, or placed during the execution of the Contract. The estimated bid quantities are designated as final payment quantities, unless revised by the governing specifications or this article.

If the quantity measured as outlined under "Measurement" varies by more than 5% (or as stipulated under "Measurement" for specific Items) from the total estimated quantity for an individual item originally shown in the Contract, an adjustment may be made to the quantity of authorized work done for payment purposes.

When quantities are revised by a change in design approved by the Owner, by change order, or to correct an error on the plans, the plans quantity will be increased or decreased by the amount involved in the change, and the 5% variance will apply to the new plans quantity.

If the total Contract quantity multiplied by the unit bid price for an individual item is less than \$250 and the item is not originally a plans quantity item, then the item may be paid as a plans quantity item if the Engineer and Contractor agree in writing to fix the final quantity as a plans quantity.

For Contracts with callout work and work orders, plans quantity measurement requirements are not applicable.

3. ADJUSTMENT OF QUANTITIES

The party to the Contract requesting the adjustment will provide field measurements and calculations showing the revised quantity. When approved, this revised quantity will constitute the final quantity for which payment will be made. Payment for revised quantity will be made at the unit price bid for that item, except as provided for in Article 4.4., "Changes in the Work."

4. SCOPE OF PAYMENT

Payment of the Contract unit price is full compensation for all materials, equipment, labor, tools, and supplies necessary to complete the item of work under the Contract. Until final acceptance in accordance with Article 5.12., "Final Acceptance," assume liability for completing the work according to the Contract documents and any loss or damage arising from the performance of the work or from the action of the elements, infringement of patent, trademark, or copyright, except as provided elsewhere in the Contract.

The Owner will only pay for material incorporated into the work in accordance with the Contract. Payment of progress estimates will in no way affect the Contractor's obligation under the Contract to repair or replace any defective parts in the construction or to replace any defective materials used in the construction and to be responsible for all damages due to defects if the defects and damages are discovered on or before final inspection and acceptance of the work.

5. PROGRESS PAYMENTS

The Engineer will prepare a monthly estimate of the amount of work performed, including materials in place. Incomplete items of work may be paid at an agreed upon percentage as approved. Payment of the monthly estimate is determined at the Contract item prices less any withholdings or deductions in accordance with the Contract. Progress payments may be withheld for failure to comply with the Contract.

6. PAYMENT FOR MATERIAL ON HAND (MOH)

If payment for MOH is desired, request compensation for the invoice cost of acceptable nonperishable materials that have not been used in the work before the request, and that have been delivered to the work location or are in acceptable storage places. Nonperishable materials are those that do not have a shelf life or whose characteristics do not materially change when exposed to the elements. Include only materials that

have been sampled, tested, approved, or certified, and are ready for incorporation into the work. Only materials which are completely constructed or fabricated on the Contractor's order for a specific Contract and are so marked and on which an approved test report has been issued are eligible. Payment for MOH may include the following types of items: concrete traffic barrier, precast concrete box culverts, concrete piling, reinforced concrete pipe, and illumination poles. Any repairs required after fabricated materials have been approved for storage will require approval of the Engineer before being made and will be made at the Contractor's expense. Include only those materials that have an invoice cost of at least \$1,000 in the request for MOH payment.

If the request is acceptable, the Engineer will include payment for MOH in a progress payment. Payment for MOH does not constitute acceptance of the materials. Payment will not exceed the actual cost of the material as established by invoice, or the total cost for the associated item less reasonable placement costs, whichever is less. Materials for which the Contractor does not have a paid invoice within 60 days will not be eligible for payment and will be removed from the estimate. Payment may be limited to a portion of the invoice cost or unit price if shown elsewhere in the Contract. Payment for precast products fabricated or constructed by the Contractor for which invoices or freight bills are not available may be made based on statements of actual cost.

Submit the request on forms provided by the Owner. These forms may be electronically reproduced, provided they are in the same format and contain all the required information and certifications. Continue to submit monthly MOH forms until the total value of MOH is \$0.

By submitting a request for MOH payment, the Contractor expressly authorizes the Owner to audit MOH records, and to perform process reviews of the record-keeping system. If the Owner determines noncompliance with any of the requirements of this provision, the Owner may exclude payment for any or all MOH for the duration of the Contract.

Maintain all records relating to MOH payment until final acceptance. Provide these records to the Engineer upon request.

7. PAYMENT FOR EXTRA WORK AND FORCE ACCOUNT METHOD

Payment for extra work directed, performed, and accepted will be made in accordance with Article 4.4., "Changes in the Work." Payment for extra work may be established by agreed unit prices or by Force Account Method.

Agreed unit prices are unit prices that include markups and are comparable to recent bid prices for the same character of work. These unit prices may be established without additional breakdown justification.

When using Force Account Method, determine an estimated cost for the proposed work and establish labor and equipment rates and material costs. Maintain daily records of extra work and provide copies of these records daily, signed by the Contractor's representative, for verification by the Engineer. Request payment for the extra work no later than the 10th day of the month following the month in which the work was performed. Include copies of all applicable invoices. If the extra work to be performed has an estimated cost of less than \$10,000, submit for approval and payment an invoice of actual cost for materials, equipment, labor, tools, and incidentals necessary to complete the extra work.

7.1. **Markups.** Payment for extra work may include markups as compensation for the use of small tools, overhead expense, and profit.

7.1.1. **Labor.** Compensation will be made for payroll rates for each hour that the labor, foremen, or other approved workers are actually engaged in the work. In no case will the rate of wages be less than the minimum shown in the Contract for a particular category. An additional 25% of this sum will be paid as compensation for overhead, superintendence, profit, and small tools.

- 7.1.2. **Insurance and Taxes.** An additional 55% of the labor cost, excluding the 25% compensation provided in Section 9.7.1.1., "Labor," will be paid as compensation for labor insurance and labor taxes including the cost of premiums on non-project-specific liability (excluding vehicular) insurance, workers compensation insurance, Social Security, unemployment insurance taxes, and fringe benefits.
- 7.1.3. **Materials.** Compensation will be made for materials associated with the work based on actual delivered invoice costs, less any discount. An additional 25% of this sum will be paid as compensation for overhead and profit.
- 7.1.4. **Equipment.** Payment will be made for the established equipment hourly rates for each hour that the equipment is involved in the work. An additional 15% of this sum will be paid as compensation for overhead and profit not included in the rates.
- Transportation cost for mobilizing equipment will be included if the equipment is mobilized from an off-site location.
- 7.1.4.1. **Contractor-Owned Equipment.** For Contractor-owned machinery, trucks, power tools, or other equipment, use the FHWA rental rates found in the *Rental Rate Blue Book* multiplied by the regional adjustment factor and the rate adjustment factor to establish hourly rates. Use the rates in effect for each section of the *Rental Rate Blue Book* at the time of use.
- If a rate has not been established for a particular piece of equipment in the *Rental Rate Blue Book*, the Engineer will allow a reasonable hourly rate. This price will include operating costs.
- Payment for equipment will be made for the actual hours used in the work. The Owner reserves the right to withhold payment for low production or lack of progress. Payment will not be made for time lost for equipment breakdowns, time spent to repair equipment, or time after equipment is no longer needed.
- If equipment is used intermittently while dedicated solely to the work, payment will be made for the duration the equipment is assigned to the work but no more than 8 hours will be paid during a 24-hour day, nor more than 40 hours per week, nor more than 176 hours per month, except when time is computed using a six-day or seven-day workweek. When using a six-day workweek, no more than 8 hours will be paid during a 24-hour day, nor more than 48 hours per week, nor more than 211 hours per month. When using a seven-day workweek, no more than 8 hours will be paid during a 24-hour day, nor more than 56 hours per week, nor more than 246 hours per month.
- 7.1.4.2. **Equipment Not Owned by the Contractor.** For equipment rented from a third party not owned by the Contractor, payment will be made at the invoice daily rental rate for each day the equipment is needed for the work. The Owner reserves the right to limit the daily rate to comparable *Rental Rate Blue Book* rates. When the invoice specifies that the rental rate does not include fuel, lubricants, repairs, and servicing, the *Rental Rate Blue Book* hourly operating cost for each hour the equipment is operated will be added.
- When the invoice specifies equipment operators as a component of the equipment rental, payment will be made at the invoice rate for each operator for each day the equipment is needed for the work.
- 7.1.4.3. **Standby Equipment Costs.** Payment for standby equipment will be made in accordance with Section 9.7.1.4., "Equipment," except that:
- 7.1.4.3.1. **Contractor-Owned Equipment.** For Contractor-owned machinery, trucks, power tools, or other equipment:
- Standby will be paid at 50% (to remove operating cost) of the FHWA rental rates found in the *Rental Rate Blue Book* multiplied by the regional adjustment factor and the rate adjustment factor.
 - Standby costs will not be allowed during periods when the equipment would have otherwise been idle.
- 7.1.4.3.2. **Equipment Not Owned by the Contractor.** For equipment rented from a third party not owned by the Contractor:

- Standby will be paid at the invoice daily rental rate, excluding operating cost, which includes fuel, lubricants, repairs, and servicing. The Owner reserves the right to limit the daily standby rate to comparable FHWA rental rates found in the *Rental Rate Blue Book* multiplied by the regional adjustment factor and the rate adjustment factor.
- Standby will be paid for equipment operators when included on the invoice and equipment operators are actually on standby.
- Standby costs will not be allowed during periods when the equipment would have otherwise been idle.

7.1.5. **Subcontracting.** An additional 5% of the actual invoice cost will be paid to the Contractor as compensation for administrative cost, superintendence, and profit.

7.1.6. **Law Enforcement.** An additional 5% of the actual invoice cost will be paid as compensation for administrative costs, superintendence, and profit.

7.1.7. **Railroad Flaggers.** An additional 5% of the actual invoice cost will be paid as compensation for administrative cost, superintendence, and profit.

7.1.8. **Bond Cost.** An additional 1% of the total compensation provided in Article 9.7., "Payment for Extra Work and Force Account Method," will be paid for the increase in bond.

8. RETAINAGE

The Owner will not withhold retainage on the Contractor. The Contractor may withhold retainage on subcontractors in accordance with state and federal regulations.

9. PAYMENT PROVISIONS FOR SUBCONTRACTORS

For the purposes of this article only, the term subcontractor includes suppliers and the term work includes materials provided by suppliers at a location approved by the Engineer.

These requirements apply to all tiers of subcontractors. Incorporate the provisions of this article into all subcontract or material purchase agreements.

Pay subcontractors for work performed within 10 days after receiving payment for the work performed by the subcontractor. Also, pay any retainage on a subcontractor's work within 10 days after satisfactory completion of all of the subcontractor's work. Completed subcontractor work includes vegetative establishment, test, maintenance, performance, and other similar periods that are the responsibility of the subcontractor.

For the purpose of this section, satisfactory completion is accomplished when:

- the subcontractor has fulfilled the Contract requirements of both the Owner and the subcontract for the subcontracted work, including the submittal of all information required by the specifications and the Owner; and
- the work done by the subcontractor has been inspected, approved, and paid by the Owner.

Provide a certification of prompt payment in accordance with the Owner's prompt payment procedure to certify that all subcontractors and suppliers were paid from the previous months payments and retainage was released for those whose work is complete. Submit the completed form each month and the month following the month when final acceptance occurred at the end of the project.

The inspection and approval of a subcontractor's work does not eliminate the Contractor's responsibilities for all the work as defined in Article 7.17., "Contractor's Responsibility for Work."

The Owner may pursue actions against the Contractor, including withholding of estimates and suspending the work, for noncompliance with the subcontract requirements of this section upon receipt of written notice with sufficient details showing the subcontractor has complied with contractual obligations.

10.

FINAL PAYMENT

When the Contract has been completed, all work has been approved, final acceptance has been made in accordance with Article 5.12., "Final Acceptance," and Contractor submittals have been received, the Engineer will prepare a final estimate for payment showing the total quantity of work completed and the money owed the Contractor. The final payment will reflect the entire sum due, less any sums previously paid.

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Special Provision to Item 000

Schedule of Liquidated Damages

The dollar amount of daily contract administration Liquidated Damages per Working Day is \$1,425.00

Special Provision to Item 000

Nondiscrimination

1. DESCRIPTION

All recipients of federal financial assistance are required to comply with various nondiscrimination laws including Title VI of the Civil Rights Act of 1964, as amended, (Title VI). Title VI forbids discrimination against anyone in the United States on the grounds of race, color, or national origin by any agency receiving federal funds.

Owner, as a recipient of Federal financial assistance, and under Title VI and related statutes, ensures that no person shall on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment per 42 U.S.C. § 2000d-3), color, national origin, sex, age or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any of Owner's programs or activities.

2. DEFINITION OF TERMS

Where the term "contractor" appears in the following six nondiscrimination clauses, the term "contractor" is understood to include all parties to contracts or agreements with the Owner.

3. NONDISCRIMINATION PROVISIONS

During the performance of this contract, the contractor agrees as follows:

- 3.1. **Compliance with Regulations.** The Contractor shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- 3.2. **Nondiscrimination.** The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3.3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- 3.4. **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Owner or the Texas Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the Owner or the Texas Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

- 3.5. **Sanctions for Noncompliance.** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Owner shall impose such contract sanctions as it, the Owner may determine to be appropriate, including, but not limited to:
- withholding of payments to the contractor under the contract until the contractor complies, and/or
 - cancellation, termination or suspension of the contract, in whole or in part.
- 3.6. **Incorporation of Provisions.** The contractor shall include the provisions of paragraphs (3.1) through (3.6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Owner may direct as a means of enforcing such provisions including sanctions for non-compliance: provided, however that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Owner to enter into such litigation to protect the interests of the Owner, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Special Provision to Item 000

Certification of Nondiscrimination in Employment

1. GENERAL

By signing this proposal, the Bidder certifies that Bidder has participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, or if Bidder has not participated in a previous contract of this type, or if Bidder has had previous contract or subcontracts and has not filed, Bidder will file 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 contracts 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 contracts and subcontracts 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.

Special Provision to Item 000

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246)

1. GENERAL

In addition to the affirmative action requirements of the Special Provision titled "Standard Federal Equal Employment Opportunity Construction Contract Specifications" as set forth elsewhere in this proposal, the Bidder's attention is directed to the specific requirements for utilization of minorities and females as set forth below.

2. GOALS

2.1. Goals for minority and female participation are hereby established in accordance with 41 CFR 60-4.

2.2. The goals for minority and female participation expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area are as follows:

| Goals for minority participation in each trade, % | Goals for female participation in each trade, % |
|------------------------------------------------------|----------------------------------------------------|
| See Table 1 | 6.9 |

2.3. These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it will 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 will be based on its implementation of the Standard Federal Equal Employment Opportunity Construction Contract Specifications Special Provision and its efforts to meet the goals. 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 must make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority and female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals will be a violation of the Contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

2.4. A Contractor or subcontractor will be considered in compliance with these provisions by participation in the Texas Highway-Heavy Branch, AGC, Statewide Training and Affirmative Action Plan. Provided that each Contractor or subcontractor participating in this plan must individually comply with the equal opportunity clause set forth in 41 CFR 60-1.4 and must make a good faith effort to achieve the goals set forth for each participating trade in the plan in which it has employees. The overall good performance of other Contractors and subcontractors toward a goal in an approved plan does not excuse any covered Contractor's or subcontractor's failure to make good faith efforts to achieve the goals contained in these provisions. Contractors or subcontractors participating in the plan must be able to demonstrate their participation and document their compliance with the provisions of this Plan.

3. SUBCONTRACTING

The Contractor must provide written notification to the Owner within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the Contract resulting from this solicitation pending concurrence of the Owner in the award. The notification will list the names,

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.

4. COVERED AREA

As used in this special provision, and in the Contract resulting from this solicitation, the geographical area covered by these goals for female participation is the State of Texas. The geographical area covered by these goals for other minorities are the counties in the State of Texas as indicated in Table 1.

5. REPORTS

The Contractor is hereby notified that he may be subject to the Office of Federal Contract Compliance Programs (OFCCP) reporting and record keeping requirements as provided for under Executive Order 11246 as amended. OFCCP will provide direct notice to the Contractor as to the specific reporting requirements that he will be expected to fulfill.

Table 1
Goals for Minority Participation

| County | Participation, % | County | Participation, % |
|---------------|-------------------------|---------------|-------------------------|
| Anderson | 22.5 | Chambers | 27.4 |
| Andrews | 18.9 | Cherokee | 22.5 |
| Angelina | 22.5 | Childress | 11.0 |
| Aransas | 44.2 | Clay | 12.4 |
| Archer | 11.0 | Cochran | 19.5 |
| Armstrong | 11.0 | Coke | 20.0 |
| Atascosa | 49.4 | Coleman | 10.9 |
| Austin | 27.4 | Collin | 18.2 |
| Bailey | 19.5 | Collingsworth | 11.0 |
| Bandera | 49.4 | Colorado | 27.4 |
| Bastrop | 24.2 | Comal | 47.8 |
| Baylor | 11.0 | Comanche | 10.9 |
| Bee | 44.2 | Concho | 20.0 |
| Bell | 16.4 | Cooke | 17.2 |
| Bexar | 47.8 | Coryell | 16.4 |
| Blanco | 24.2 | Cottle | 11.0 |
| Borden | 19.5 | Crane | 18.9 |
| Bosque | 18.6 | Crockett | 20.0 |
| Bowie | 19.7 | Crosby | 19.5 |
| Brazoria | 27.3 | Culberson | 49.0 |
| Brazos | 23.7 | Dallam | 11.0 |
| Brewster | 49.0 | Dallas | 18.2 |
| Briscoe | 11.0 | Dawson | 19.5 |
| Brooks | 44.2 | Deaf Smith | 11.0 |
| Brown | 10.9 | Delta | 17.2 |
| Burleson | 27.4 | Denton | 18.2 |
| Burnet | 24.2 | DeWitt | 27.4 |
| Caldwell | 24.2 | Dickens | 19.5 |
| Calhoun | 27.4 | Dimmit | 49.4 |
| Callahan | 11.6 | Donley | 11.0 |
| Cameron | 71.0 | Duval | 44.2 |
| Camp | 20.2 | Eastland | 10.9 |
| Carson | 11.0 | Ector | 15.1 |
| Cass | 20.2 | Edwards | 49.4 |
| Castro | 11.0 | Ellis | 18.2 |

| County | Participation, % | County | Participation, % |
|------------|------------------|-------------|------------------|
| El Paso | 57.8 | Kenedy | 44.2 |
| Erath | 17.2 | Kent | 10.9 |
| Falls | 18.6 | Kerr | 49.4 |
| Fannin | 17.2 | Kimble | 20.0 |
| Fayette | 27.4 | King | 19.5 |
| Fisher | 10.9 | Kinney | 49.4 |
| Floyd | 19.5 | Kleberg | 44.2 |
| Foard | 11.0 | Knox | 10.9 |
| Fort Bend | 27.3 | Lamar | 20.2 |
| Franklin | 17.2 | Lamb | 19.5 |
| Freestone | 18.6 | Lampasas | 18.6 |
| Frio | 49.4 | LaSalle | 49.4 |
| Gaines | 19.5 | Lavaca | 27.4 |
| Galveston | 28.9 | Lee | 24.2 |
| Garza | 19.5 | Leon | 27.4 |
| Gillespie | 49.4 | Liberty | 27.3 |
| Glasscock | 18.9 | Limestone | 18.6 |
| Goliad | 27.4 | Lipscomb | 11.0 |
| Gonzales | 49.4 | Live Oak | 44.2 |
| Gray | 11.0 | Llano | 24.2 |
| Grayson | 9.4 | Loving | 18.9 |
| Gregg | 22.8 | Lubbock | 19.6 |
| Grimes | 27.4 | Lynn | 19.5 |
| Guadalupe | 47.8 | Madison | 27.4 |
| Hale | 19.5 | Marion | 22.5 |
| Hall | 11.0 | Martin | 18.9 |
| Hamilton | 18.6 | Mason | 20.0 |
| Hansford | 11.0 | Matagorda | 27.4 |
| Hardeman | 11.0 | Maverick | 49.4 |
| Hardin | 22.6 | McCulloch | 20.0 |
| Harris | 27.3 | McLennan | 20.7 |
| Harrison | 22.8 | McMullen | 49.4 |
| Hartley | 11.0 | Medina | 49.4 |
| Haskell | 10.9 | Menard | 20.0 |
| Hays | 24.1 | Midland | 19.1 |
| Hemphill | 11.0 | Milam | 18.6 |
| Henderson | 22.5 | Mills | 18.6 |
| Hidalgo | 72.8 | Mitchell | 10.9 |
| Hill | 18.6 | Montague | 17.2 |
| Hockley | 19.5 | Montgomery | 27.3 |
| Hood | 18.2 | Moore | 11.0 |
| Hopkins | 17.2 | Morris | 20.2 |
| Houston | 22.5 | Motley | 19.5 |
| Howard | 18.9 | Nacogdoches | 22.5 |
| Hudspeth | 49.0 | Navarro | 17.2 |
| Hunt | 17.2 | Newton | 22.6 |
| Hutchinson | 11.0 | Nolan | 10.9 |
| Irion | 20.0 | Nueces | 41.7 |
| Jack | 17.2 | Ochiltree | 11.0 |
| Jackson | 27.4 | Oldham | 11.0 |
| Jasper | 22.6 | Orange | 22.6 |
| Jeff Davis | 49.0 | Palo Pinto | 17.2 |
| Jefferson | 22.6 | Panola | 22.5 |
| Jim Hogg | 49.4 | Parker | 18.2 |
| Jim Wells | 44.2 | Parmer | 11.0 |
| Johnson | 18.2 | Pecos | 18.9 |
| Jones | 11.6 | Polk | 27.4 |
| Karnes | 49.4 | Potter | 9.3 |
| Kaufman | 18.2 | Presidio | 49.0 |
| Kendall | 49.4 | Randall | 9.3 |

| County | Participation, % | County | Participation, % |
|---------------|------------------|--------------|------------------|
| Rains | 17.2 | Reagan | 20.0 |
| Real | 49.4 | Throckmorton | 10.9 |
| Red River | 20.2 | Titus | 20.2 |
| Reeves | 18.9 | Tom Green | 19.2 |
| Refugio | 44.2 | Travis | 24.1 |
| Roberts | 11.0 | Trinity | 27.4 |
| Robertson | 27.4 | Tyler | 22.6 |
| Rockwall | 18.2 | Upshur | 22.5 |
| Runnels | 20.0 | Upton | 18.9 |
| Rusk | 22.5 | Uvalde | 49.4 |
| Sabine | 22.6 | Val Verde | 49.4 |
| San Augustine | 22.5 | Van Zandt | 17.2 |
| San Jacinto | 27.4 | Victoria | 27.4 |
| San Patricio | 41.7 | Walker | 27.4 |
| San Saba | 20.0 | Waller | 27.3 |
| Schleicher | 20.0 | Ward | 18.9 |
| Scurry | 10.9 | Washington | 27.4 |
| Shackelford | 10.9 | Webb | 87.3 |
| Shelby | 22.5 | Wharton | 27.4 |
| Sherman | 11.0 | Wheeler | 11.0 |
| Smith | 23.5 | Wichita | 12.4 |
| Somervell | 17.2 | Wilbarger | 11.0 |
| Starr | 72.9 | Willacy | 72.9 |
| Stephens | 10.9 | Williamson | 24.1 |
| Sterling | 20.0 | Wilson | 49.4 |
| Stonewall | 10.9 | Winkler | 18.9 |
| Sutton | 20.0 | Wise | 18.2 |
| Swisher | 11.0 | Wood | 22.5 |
| Tarrant | 18.2 | Yoakum | 19.5 |
| Taylor | 11.6 | Young | 11.0 |
| Terrell | 20.0 | Zapata | 49.4 |
| Terry | 19.5 | Zavala | 49.4 |

Special Provision to Item 000

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

1. GENERAL

1.1. As used in these specifications:

- "Covered area" means the geographical area described in the solicitation from which this Contract resulted;
- "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- "Minority" includes:
 - Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - 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
 - American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation or community identification).

1.2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it will 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 and which is set forth in the solicitations from which this Contract resulted.

1.3. 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) will 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 equal employment opportunity (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 or 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.

1.4. The Contractor will implement the specific affirmative action standards provided in Section 1.7.1. through Section 1.7.16. of these specifications. The goals set forth in the solicitation from which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors performing Contracts in geographical areas where they do not have a Federal or federally assisted construction Contract will apply the minority and female goals established for the geographical area where the Contract 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 any Federal procurement contracting officer. The

Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

- 1.5. 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 will excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
- 1.6. 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.
- 1.7. The Contractor will take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications will be based upon its effort to achieve maximum results from its actions. The Contractor will document these efforts fully, and will implement affirmative action steps at least as extensive as the following:
 - 1.7.1. 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, will assign two or more women to each construction project. The Contractor will specifically ensure that all foremen, 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 or in such facilities.
 - 1.7.2. 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.
 - 1.7.3. 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 will be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
 - 1.7.4. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman 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.
 - 1.7.5. 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 U.S. Department of Labor. The Contractor will provide notice of these programs to the sources compiled under 7b above.
 - 1.7.6. 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, annual report, etc.; 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.
 - 1.7.7. 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 on-site supervisory personnel such as Superintendents, General Foremen, etc., before the initiation of construction work at any job site. A written record must be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- 1.7.8. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, 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.
- 1.7.9. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month before the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor will send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- 1.7.10. 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 a Contractor's workforce.
- 1.7.11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- 1.7.12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- 1.7.13. 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.
- 1.7.14. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities will be provided to assure privacy between the sexes.
- 1.7.15. 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.
- 1.7.16. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- 1.8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (Section 7.1. through Section 7.16.). 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 Section 7.1. through Section 7.16. 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 will not be a defense for the Contractor's noncompliance.
- 1.9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, 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 (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

- 1.10. 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 national origin.
- 1.11. The Contractor will not enter into any Subcontract with any person or firm debarred from Government Contracts pursuant to Executive Order 11246.
- 1.12. The Contractor will carry out such sanctions and penalties for violation of these specifications and of 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 will be in violation of these specifications and Executive Order 11246, as amended.
- 1.13. The Contractor, in fulfilling its obligations under these specifications, will 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.
- 1.14. The Contractor will designate a responsible official 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 must 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 must be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.
- 1.15. Nothing herein provided will 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).
- 1.16. In addition to the reporting requirements set forth elsewhere in this Contract, the Contractor and the subcontractors holding subcontracts, not including material suppliers, of \$10,000 or more, will submit for every month of July during which work is performed, employment data as contained under Form PR 1391 (Appendix C to 23 CFR, Part 230), and in accordance with the included instructions.

Special Provision to Item 000

Disadvantaged Business Enterprise in Federal-Aid Contracts

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|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p>DESCRIPTION</p> <p>The purpose of this Special Provision is to carry out the U.S. Department of Transportation's (DOT) policy of ensuring nondiscrimination in the award and administration of DOT-assisted Contracts and creating a level playing field on which firms owned and controlled by individuals who are determined to be socially and economically disadvantaged can compete fairly for DOT-assisted Contracts.</p> |
| 2. | <p>DISADVANTAGED BUSINESS ENTERPRISE IN FEDERAL-AID CONTRACTS</p> |
| 2.1. | <p>Policy. It is the policy of the DOT and the Texas Department of Transportation (Department) that DBEs, as defined in 49 CFR Part 26, Subpart A, and the Department's DBE Program, will have the opportunity to participate in the performance of Contracts financed in whole or in part with federal funds. The DBE requirements of 49 CFR Part 26, and the Department's DBE Program, apply to this Contract as follows.</p> <p>The Contractor will solicit DBEs through reasonable and available means, as defined in 49 CFR Part 26, Appendix A, and the Department's DBE Program, or show a good faith effort to meet the DBE goal for this Contract.</p> <p>The Contractor, subrecipient, or subcontractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Contracts. Failure 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 recipient deems appropriate.</p> <p>The requirements of this Special Provision must be physically included in any subcontract.</p> <p>By signing the Contract proposal, the Bidder is certifying that the DBE goal as stated in the proposal will be met by obtaining commitments from eligible DBEs or that the Bidder will provide acceptable evidence of good faith effort to meet the commitment.</p> |
| 2.2. | <p>Definitions.</p> |
| 2.2.1. | <p>Administrative Reconsideration. A process by which the low bidder may request reconsideration when the Department determines the good faith effort (GFE) requirements have not been met.</p> |
| 2.2.2. | <p>Commercially Useful Function (CUF). A CUF occurs when a DBE has the responsibility for the execution of the work and carrying out such responsibilities by actually performing, managing, and supervising the work.</p> |
| 2.2.3. | <p>Disadvantaged Business Enterprise (DBE). A for-profit small business certified through the Texas Unified Certification Program in accordance with 49 CFR Part 26, that is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of a publicly owned business, in which is at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the individuals who own it.</p> |
| 2.2.4. | <p>DBE Joint Venture. An association of a DBE firm and one or more other firms to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills, and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the Contract and whose</p> |

share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

- 2.2.5. **DOT.** The U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).
- 2.2.6. **Federal-Aid Contract.** Any Contract between the Owner and a Contractor that is paid for in whole or in part with DOT financial assistance.
- 2.2.7. **Good Faith Effort.** All necessary and reasonable steps to achieve the contract goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if not fully successful. Good faith efforts are evaluated prior to award and throughout performance of the Contract. For guidance on good faith efforts, see 49 CFR Part 26, Appendix A.
- 2.2.8. **North American Industry Classification System (NAICS).** A designation that best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau website:
<http://www.census.gov/eos/www/naics/>.
- 2.2.9. **Race-Conscious.** A measure or program that is focused specifically on assisting only DBEs, including women-owned businesses.
- 2.2.10. **Race-Neutral DBE Participation.** Any participation by a DBE through customary competitive procurement procedures.
- 2.2.11. **Texas Unified Certification Program (TUCP) Directory.** An online directory listing all DBEs currently certified by the TUCP. The Directory identifies DBE firms whose participation on a Contract may be counted toward achievement of the assigned DBE Contract goal.
- 2.3. **Contractor's Responsibilities.**
 - 2.3.1. **DBE Liaison Officer.** Designate a DBE liaison officer who will administer the Contractor's DBE program and who will be responsible for maintenance of records of efforts and contacts made to subcontract with DBEs.
 - 2.3.2. **Compliance Tracking System (CTS).** This Contract is subject to Contract compliance tracking. Contractors and DBEs are required to provide any noted and requested Contract compliance-related data to the Owner. This includes, but is not limited to, commitments, payments, substitutions, and good faith efforts. Contractors and DBEs are responsible for responding by any noted response date or due date to any instructions or request for information by the Owner.
 - 2.3.3. **Apparent Low Bidder.** The apparent low bidder must submit DBE commitments to satisfy the DBE goal or submit good faith effort Form 2603 and supporting documentation demonstrating why the goal could not be achieved, in whole or part, no later than 5 calendar days after bid opening. The means of transmittal and the risk of timely receipt of the information will be the bidder's responsibility and no extension of the 5-calendar-day timeframe will be allowed for any reason.
 - 2.3.4. **DBE Contractor.** A DBE Contractor may receive credit toward the DBE goal for work performed by its own forces and work subcontracted to DBEs. In the event a DBE subcontracts to a non-DBE, that information must be reported monthly.
 - 2.3.5. **DBE Committal.** Only those DBEs certified by the TUCP are eligible to be used for goal attainment. The Directory can be accessed at the following Internet address:
<https://txdot.txdotcms.com/FrontEnd/VendorSearchPublic.asp?TN=txdot&XID=2340>.

A DBE must be certified on the day the commitment is considered and at time of subcontract execution. It is the Contractor's responsibility to ensure firms identified for participation are approved certified DBE firms.

The Bidder is responsible to ensure that all submittals are checked for accuracy. Any and all omissions, deletions, and/or errors that may affect the end result of the commitment package are the sole liabilities of the bidder.

Commitments in excess of the goal are considered race-neutral commitments.

- 2.3.6. **Good Faith Effort Requirements.** A Contractor who cannot meet the Contract goal, in whole or in part, must make adequate good faith efforts to obtain DBE participation as so stated and defined in 49 CFR Part 26, Appendix A.

- 2.3.6.1. **Administrative Reconsideration.** If the Owner determines that the apparent low bidder has failed to satisfy the good faith efforts requirement, the Owner will notify the Bidder of the failure and will give the Bidder an opportunity for administrative reconsideration.

The Bidder must request an administrative reconsideration of that determination within 3 days of the date of receipt of the notice. The request must be submitted directly to the Owner.

If a reconsideration request is timely received, the reconsideration decision will be made by the Owner's DBE liaison officer or, if the DBE liaison officer took part in the original determination that the Bidder failed to satisfy the good faith effort requirements, an Owner employee who holds a senior leadership position and reports directly to the executive officer, and who did not take part in the original determination will act as an administrative hearing officer. The Bidder may provide written documentation or argument concerning whether the assigned DBE contract goal was met or whether adequate good faith efforts were made to meet the Contract goal.

The DBE liaison or other Owner employee making the reconsideration determination may request a meeting with the Bidder to discuss whether the goal commitments were met or whether adequate good faith efforts were made to obtain the commitments to meet the Contract goal.

The meeting must be held within 7 days of the date of the request submitted under this section. If the Bidder is unavailable to meet during the 7-day period, the reconsideration decision will be made on the written information provided by the Bidder.

The Owner will provide to the Bidder a written decision that explains the basis for finding that the Bidder did not meet the Contract goal or did not make adequate good faith efforts to meet the Contract goal, within 7 days of the date of the notice issued in this section.

The reconsideration decision is final and not subject to administrative appeal.

- 2.3.7. **Determination of DBE Participation.** The work performed by the DBE must be reasonably construed to be included in the work area and NAICS work code identified by the Contractor in the approved commitment.

Participation by a DBE on a Contract will not be counted toward DBE goals until the amount of the participation has been paid to the DBE.

Payments made to a DBE that was not on the original commitment may be counted toward the Contract goal if that DBE was certified as a DBE before the execution of the subcontract and has performed a Commercially Useful Function.

The total amount paid to the DBE for work performed with its own forces is counted toward the DBE goal. When a DBE subcontracts part of the work of its Contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the subcontractor is itself a DBE.

DBE Goal credit for the DBE subcontractors leasing of equipment or purchasing of supplies from the Contractor or its affiliates is not allowed. Project materials or supplies acquired from an affiliate of the Contractor cannot directly or indirectly (second or lower tier subcontractor) be used for DBE goal credit.

If a DBE firm is declared ineligible due to DBE decertification after the execution of the DBE's subcontract, the DBE firm may complete the work and the DBE firm's participation will be counted toward the Contract goal. If the DBE firm is decertified before the DBE firm has signed a subcontract, the Contractor is obligated to replace the ineligible DBE firm or demonstrate that it has made good faith efforts to do so.

The Contractor may count 100% of its expenditure to a DBE manufacturer. According to 49 CFR 26.55(e)(1)(i), a DBE manufacturer is 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 specifications.

The Contractor may count only 60% of its expenditure to a DBE regular dealer. According to 49 CFR 26.55(e)(2)(i), a DBE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. A 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 if the firm both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment must be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. A long-term lease with a third-party transportation company is not eligible for 60% goal credit.

With respect to materials or supplies purchased from a DBE that is neither a manufacturer nor a regular dealer, the Contractor may count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site.

A Contractor may count toward its DBE goal a portion of the total value of the Contract amount paid to a DBE joint venture equal to the distinct, clearly defined portion of the work of the Contract performed by the DBE.

- 2.3.8. **Commercially Useful Function.** It is the Contractor's obligation to ensure that each DBE used on federal-assisted contracts performs a commercially useful function on the Contract.

The Owner will monitor performance during the Contract to ensure each DBE is performing a CUF.

Under the terms established in 49 CFR 26.55, a DBE performs a CUF when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

With respect to material and supplies used on the Contract, a DBE must be responsible for negotiating price, determining quality and quantity, ordering the material, installing the material, if applicable, and paying for the material itself.

With respect to trucking, the DBE trucking firm must own and operate at least one fully licensed, insured, and operational truck used on the Contract. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the Contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.

A DBE does not perform a CUF when its 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. The Owner will evaluate similar transactions involving non-DBEs in order to determine whether a DBE is an extra participant.

If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its Contract with its own work force, or the DBE subcontracts a greater portion of the work than would be expected on the basis of normal industry practice for the type of work involved, the Owner will presume that the DBE is not performing a CUF.

If the Owner determines that a DBE is not performing a CUF, no work performed by such DBE will count as eligible participation. The denial period of time may occur before or after a determination has been made by the Owner.

In case of the denial of credit for non-performance, the Contractor will be required to provide a substitute DBE to meet the Contract goal or provide an adequate good faith effort when applicable.

- 2.3.8.1. **Rebuttal of a Finding of No Commercially Useful Function.** Consistent with the provisions of 49 CFR 26.55(c)(4)&(5), before the Owner makes a final finding that no CUF has been performed by a DBE, the Owner will notify the DBE and provide the DBE the opportunity to provide rebuttal information.

CUF determinations are not subject to administrative appeal.

- 2.3.9. **Joint Check.** The use of joint checks between a Contractor and a DBE is allowed with Owner approval. To obtain approval, the Contractor must submit a completed Form 2178, "DBE Joint Check Approval," to the Owner.

The Owner will closely monitor the use of joint checks to ensure that such a practice does not erode the independence of the DBE nor inhibit the DBE's ability to perform a CUF. When joint checks are utilized, DBE credit toward the Contract goal will be allowed only when the subcontractor is performing a CUF in accordance with 49 CFR 26.55(c)(1).

Long-term or open-ended joint checking arrangements may be a basis for further scrutiny and may result in the lack of participation towards the Contract goal requirement if DBE independence cannot be established.

Joint checks will not be allowed simply for the convenience of the Contractor.

If the proper procedures are not followed or the Owner determines that the arrangements result in a lack of independence for the DBE involved, no credit for the DBE's participation as it relates to the material cost will be used toward the Contract goal requirement, and the Contractor will need to make up the difference elsewhere on the project.

- 2.3.10. **DBE Termination and Substitution.** No DBE named in the commitment submitted under Section 2.3.5. will be terminated for convenience, in whole or part, without the Owner's approval. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

Unless consent is provided, the Contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Contractor, prior to submitting its request to terminate, must first give written notice to the DBE of its intent to terminate and the reason for the termination. The Contractor will copy the Owner on the Notice of Intent to terminate.

The DBE has 5 calendar days to respond to the Contractor's notice and will advise the Contractor and the Owner of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Owner should not approve the prime Contractor's request for termination.

The Owner may provide a shorter response time if required in a particular case as a matter of public necessity.

The Owner will consider both the Contractor's request and DBE's stated position prior to approving the request. The Owner may provide a written approval only if it agrees, for reasons stated in its concurrence document, that the Contractor has good cause to terminate the DBE. If the Owner does not approve the request, the Contractor must continue to use the committed DBE firm in accordance with the Contract. For guidance on what good cause includes, see 49 CFR 26.53.

Good cause does not exist if the Contractor seeks to terminate, reduce, or substitute a DBE it relied upon to obtain the Contract so that the Contractor can self-perform the work for which the DBE firm was engaged.

When a DBE subcontractor is terminated, make good faith efforts to find, as a substitute for the original DBE, another DBE to perform, at least to the extent needed to meet the established Contract goal, the work that the original DBE was to have performed under the Contract.

Submit the completed Form 2228, "DBE Termination Substitution Request," within seven (7) days, which may be extended for an additional 7 days if necessary at the request of the Contractor. The Owner will provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

- 2.3.11. **Reports and Records.** By the 15th of each month and after work begins, report payments to meet the DBE goal and for DBE race-neutral participation on projects with or without goals. These payment reports will be required until all DBE subcontracting or material supply activity is completed. Negative payment reports are required when no activity has occurred in a monthly period.

Notify the Owner if payment to any DBE subcontractor is withheld or reduced.

Before receiving final payment from the Owner, the Contractor must indicate a final payment on the compliance tracking system. The final payment is a summary of all payments made to the DBEs on the project.

All records must be retained for a period of 3 years following completion of the Contract work, and must be available at reasonable times and places for inspection by authorized representatives of the Owner, Texas Department of Transportation or the DOT. Provide copies of subcontracts or agreements and other documentation upon request.

- 2.3.12. **Failure to Comply.** If the Owner determines the Contractor has failed to demonstrate good faith efforts to meet the assigned goal, the Contractor will be given an opportunity for reconsideration by the Owner.

A Contractor's failure to comply with the requirements of this Special Provision will constitute a material breach of this Contract. In such a case, the Owner reserves the right to terminate the Contract; to deduct the amount of DBE goal not accomplished by DBEs from the money due or to become due the Contractor; or to secure a refund, not as a penalty but as liquidated damages, to the Owner or such other remedy or remedies as the Owner deems appropriate.

- 2.3.13. **Investigations.** The Owner may conduct reviews or investigations of participants as necessary. All participants, including, but not limited to, DBEs and complainants using DBE Subcontractors to meet the Contract goal, are required to cooperate fully and promptly with compliance reviews, investigations, and other requests for information.

2.3.14.

Falsification and Misrepresentation. If the Owner determines that a Contractor or subcontractor was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate DBE participation or any other business arrangement determined by the Owner to be unallowable, or if the Contractor engages in repeated violations, falsification, or misrepresentation, the Owner may:

- refuse to count any fraudulent or misrepresented DBE participation;
- withhold progress payments to the Contractor commensurate with the violation;
- refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; and/or
- seek any other available contractual remedy.

Special Provision to Item 2

Instructions to Bidders

Item 2, "Instructions to Bidders," of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Article 2.3., "Issuing Proposal Forms," second paragraph, is supplemented by the following.

The Owner will not issue a proposal form if one or more of the following apply:

- the Bidder or affiliate of the Bidder that was originally determined as the apparent low Bidder on a project, but was deemed nonresponsive for failure to submit a DBE commitment as specified in Article 2.14., "Disadvantaged Business Enterprise (DBE)," is prohibited from rebidding that specific project.

Article 2.7., "Nonresponsive Bid," is supplemented by the following:

The Owner will not accept a nonresponsive bid. A bid that has one or more of the deficiencies listed below is considered nonresponsive:

- the Bidder failed to submit a DBE commitment as specified in Article 2.14., "Disadvantaged Business Enterprise (DBE)."

Article 2.14., "Disadvantaged Business Enterprise (DBE)," is added.

The apparent low bidder must submit DBE commitment information on federally funded projects with DBE goals within 5 calendar days (as defined in 49 CFR Part 26, Subpart A) of bid opening. For a submission that meets the 5-day requirement, administrative corrections will be allowed.

If the apparent low Bidder fails to submit their DBE information within the specified timeframe, the apparent low bidder will be deemed nonresponsive and the proposal guaranty will become the property of the Owner, not as a penalty, but as liquidated damages. The Bidder forfeiting the proposal guaranty will not be considered in future proposals for the same work unless there has been a substantial change in the design of the work. The Owner may recommend:

- reject all bids, or
- award the Contract to the new apparent low Bidder, if the new apparent low Bidder submits DBE information within one calendar day of notification by the Owner.

If the new apparent low Bidder is unable to submit the required DBE information within one calendar day:

- the new apparent low Bidder will not be deemed nonresponsive,
- the Bidder's guaranty will not be forfeited,
- the Owner will reject all bids, and
- the Bidder will remain eligible to receive future proposals for the same project.

Special Provision to Item 7

Legal Relations and Responsibilities

Item 7, "Legal Relations and Responsibilities," of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Section 2.6.5., "Training", is supplemented by the following:

Coordinate enrollment, pay associated fees, and successfully complete approved Training or Contractor Delivered Training. Training is valid for the period prescribed by the provider but no less than 3 yrs. from the date of completion. The Owner may require training at a frequency less than the period prescribed or 3 yrs. based on Owner's needs. Training and associated fees will not be measured or paid for directly but are considered subsidiary to pertinent Items.

2.6.5.1. Approved Training. Approved training is listed below:

2.6.5.1.1 Contractor Responsible Person and Alternate.

| Provider | Course Title |
|----------------------------------------------|------------------------------------------------|
| American Traffic Safety Services Association | Traffic Control Supervisor |
| National Highway Institute | Maintenance of Traffic Control for Supervisors |

2.6.5.1.2. Flagger Instructor Training.

| Provider | Course Title |
|--------------------------------------------------------------------------|-------------------------------------|
| American Traffic Safety Services Association | Flagging Instructor Training Course |
| Texas Engineering Extension Services | Train-the-Trainer Flaggers |
| National Safety Council | Flagger (Instructor) |
| University of Texas at Arlington, Division for Enterprise Development | Certified Flagger Instructor |

Flagger Training.

| Provider | Course Title |
|----------------------------------------------------------------------|-----------------------------------------|
| Texas Engineering Extension Services | Flaggers in Work Zones |
| National Safety Council | Flagger (Novice) |
| University of Texas at Arlington, Continuing Education Department | Flaggers in Work Zones (TxDOT Training) |
| University of Texas at Arlington, Continuing Education Department | WZ Traffic Control/Qualified Flagger |
| Associated Builders and Contractors, Austin Chapter | Flagger Training |
| LDI Safety Training | Flagger Training |
| Tipton Compliance and Safety | Flagger Training |

2.6.5.1.3. Law Enforcement Personnel.

| Provider | Course Title |
|----------------------------|-------------------------------------------------------------------|
| National Highway Institute | Safe and Effective Use of Law Enforcement Personnel in Work Zones |

2.6.5.1.4. Other Work Zone Personnel.

| Provider | Course Title |
|----------------------------------------------|------------------------------------------------------------------|
| American Traffic Safety Services Association | Traffic Control Technician Training |
| Texas Engineering Extension Services | Work Zone Traffic Control |
| National Highway Institute | Maintenance of Traffic Control for Technicians |
| National Highway Institute | Maintenance Training Series: Basics of Work Zone Traffic Control |

2.6.5.2. Contractor Delivered Training. Develop Contractor Delivered Training curriculum and submit the curriculum to the Owner for approval. Do not implement the training curriculum before receiving written approval from the Owner. The work performed and materials furnished to develop the curriculum and provide training will not be measured or paid for directly but will be considered subsidiary to pertinent Items.

A contractor's certified flagging instructor is permitted to train other flaggers.

Special Provision to Item 506

Temporary Erosion, Sedimentation, and Environmental Controls

For this project, item 506, "Temporary Erosion, Sedimentation, and Environmental Controls," of the standard specifications, is hereby voided and replaced with the following.

1. DESCRIPTION

Install, maintain, and remove erosion, sedimentation, and environmental control measures to prevent or reduce the discharge of pollutants in accordance with the Storm Water Pollution Prevention Plan (SWP3) in the plans and the Texas Pollutant Discharge Elimination System (TPDES) General Permit TXR150000.

2. MATERIALS

Furnish materials in accordance with the following:

- Item 161, "Compost"
- Item 432, "Riprap"
- Item 556, "Pipe Underdrains"

2.1. Rock Filter Dams.

2.1.1. **Aggregate.** Furnish aggregate with hardness, durability, cleanliness, and resistance to crumbling, flaking, and eroding acceptable to the Owner. Provide the following:

- Types 1, 2, and 4 Rock Filter Dams. Use 3 to 6 in. aggregate.
- Type 3 Rock Filter Dams. Use 4 to 8 in. aggregate.

2.1.2. **Wire.** Provide minimum 20 gauge galvanized wire for the steel wire mesh and tie wires for Types 2 and 3 rock filter dams. Type 4 dams require:

- a double-twisted, hexagonal weave with a nominal mesh opening of 2-1/2 in. × 3-1/4 in.;
- minimum 0.0866 in. steel wire for netting;
- minimum 0.1063 in. steel wire for selvages and corners; and
- minimum 0.0866 in. for binding or tie wire.

2.1.3. **Sandbag Material.** Furnish sandbags meeting Section 506.2.8., "Sandbags," except that any gradation of aggregate may be used to fill the sandbags.

2.2. **Temporary Pipe Slope Drains.** Provide corrugated metal pipe, polyvinyl chloride (PVC) pipe, flexible tubing, watertight connection bands, grommet materials, prefabricated fittings, and flared entrance sections that conform to the plans. Recycled and other materials meeting these requirements are allowed if approved.

Furnish concrete in accordance with Item 432, "Riprap."

2.3. **Temporary Paved Flumes.** Furnish asphalt concrete, hydraulic cement concrete, or other comparable non-erodible material that conforms to the plans. Provide rock or rubble with a minimum diameter of 6 in. and a maximum volume of 1/2 cu. ft. for the construction of energy dissipaters.

2.4. **Construction Exits.** Provide materials that meet the details shown on the plans and this Section.

- 2.4.1. **Rock Construction Exit.** Provide crushed aggregate for long- and short-term construction exits. Furnish aggregates that are clean, hard, durable, and free from adherent coatings such as salt, alkali, dirt, clay, loam, shale, soft or flaky materials, and organic and injurious matter. Use 4- to 8-in. aggregate for Type 1. Use 2- to 4-in. aggregate for Type 3.
- 2.4.2. **Timber Construction Exit.** Furnish No. 2 quality or better railroad ties and timbers for long-term construction exits, free of large and loose knots and treated to control rot. Fasten timbers with nuts and bolts or lag bolts, of at least 1/2 in. diameter, unless otherwise shown on the plans or allowed. Provide plywood or pressed wafer board at least 1/2 in. thick for short-term exits.
- 2.4.3. **Foundation Course.** Provide a foundation course consisting of flexible base, bituminous concrete, hydraulic cement concrete, or other materials as shown on the plans or directed.
- 2.5. **Embankment for Erosion Control.** Provide rock, loam, clay, topsoil, or other earth materials that will form a stable embankment to meet the intended use.
- 2.6. **Pipe.** Provide pipe outlet material in accordance with Item 556, "Pipe Underdrains," and details shown on the plans.
- 2.7. **Construction Perimeter Fence.**
- 2.7.1. **Posts.** Provide essentially straight wood or steel posts that are at least 60 in. long. Furnish soft wood posts with a minimum diameter of 3 in., or use nominal 2 × 4 in. boards. Furnish hardwood posts with a minimum cross-section of 1-1/2 × 1-1/5 in. Furnish T- or L-shaped steel posts with a minimum weight of 0.5 lb. per foot.
- 2.7.2. **Fence.** Provide orange construction fencing as approved.
- 2.7.3. **Fence Wire.** Provide 11 gauge or larger galvanized smooth or twisted wire. Provide 16 gauge or larger tie wire.
- 2.7.4. **Flagging.** Provide brightly-colored flagging that is fade-resistant and at least 3/4 in. wide to provide maximum visibility both day and night.
- 2.7.5. **Staples.** Provide staples with a crown at least 1/2 in. wide and legs at least 1/2 in. long.
- 2.7.6. **Used Materials.** Previously used materials meeting the applicable requirements may be used if approved.
- 2.8. **Sandbags.** Provide sandbag material of polypropylene, polyethylene, or polyamide woven fabric with a minimum unit weight of 4 oz. per square yard, a Mullen burst-strength exceeding 300 psi, and an ultraviolet stability exceeding 70%.

Use natural coarse sand or manufactured sand meeting the gradation given in Table 1 to fill sandbags. Filled sandbags must be 24 to 30 in. long, 16 to 18 in. wide, and 6 to 8 in. thick.

Table 1
Sand Gradation

| Sieve # | Retained (% by Weight) |
|---------|------------------------|
| 4 | Maximum 3% |
| 100 | Minimum 80% |
| 200 | Minimum 95% |

Aggregate may be used instead of sand for situations where sandbags are not adjacent to traffic. The aggregate size shall not exceed 3/8 in.

- 2.9. **Temporary Sediment Control Fence.** Provide a net-reinforced fence using woven geo-textile fabric. Logos visible to the traveling public will not be allowed.

- 2.9.1. **Fabric.** Provide fabric materials in accordance with DMS-6230, "Temporary Sediment Control Fence Fabric."
- 2.9.2. **Posts.** Provide essentially straight wood or steel posts with a minimum length of 48 in., unless otherwise shown on the plans. Furnish soft wood posts at least 3 in. in diameter, or use nominal 2 × 4 in. boards. Furnish hardwood posts with a minimum cross-section of 1-1/2 × 1-1/2 in. Furnish T- or L-shaped steel posts with a minimum weight of 1.3 lb. per foot.
- 2.9.3. **Net Reinforcement.** Provide net reinforcement of at least 12-1/2 gauge galvanized welded wire mesh, with a maximum opening size of 2 × 4 in., at least 24 in. wide, unless otherwise shown on the plans.
- 2.9.4. **Staples.** Provide staples with a crown at least 3/4 in. wide and legs 1/2 in. long.
- 2.9.5. **Used Materials.** Use recycled material meeting the applicable requirements if approved.
- 2.10. **Biodegradable Erosion Control Logs.**
 - 2.10.1. **Core Material.** Furnish core material that is biodegradable or recyclable. Use compost, mulch, aspen excelsior wood fibers, chipped site vegetation, agricultural rice or wheat straw, coconut fiber, 100% recyclable fibers, or any other acceptable material unless specifically called out on the plans. Permit no more than 5% of the material to escape from the containment mesh. Furnish compost meeting the requirements of Item 161, "Compost."
 - 2.10.2. **Containment Mesh.** Furnish containment mesh that is 100% biodegradable, photodegradable, or recyclable such as burlap, twine, UV photodegradable plastic, polyester, or any other acceptable material.

Furnish biodegradable or photodegradable containment mesh when log will remain in place as part of a vegetative system.

Furnish recyclable containment mesh for temporary installations.
 - 2.10.3. **Size.** Furnish biodegradable erosion control logs with diameters shown on the plans or as directed. Stuff containment mesh densely so logs do not deform.

3. CONSTRUCTION

- 3.1. **Contractor Responsibilities.** Implement the Owner's Storm Water Pollution Prevention Plan (SWP3) for the project in accordance with the plans and specifications, TPDES General Permit TXR150000, and as directed by the Owner. Develop and implement an SWP3 for project-specific material supply plants within and outside of the Owner's right of way in accordance with the specific or general storm water permit requirements. Prevent water pollution from storm water associated with construction activity from entering any surface water or private property on or adjacent to the project site.
- 3.2. **General.**
 - 3.2.1. **Phasing.** Implement control measures in the area to be disturbed before beginning construction, or as directed. Limit the disturbance to the area shown on the plans or as directed. If, in the opinion of the Owner, the Contractor cannot control soil erosion and sedimentation resulting from construction operations, the Owner will limit the disturbed area to that which the Contractor is able to control. Minimize disturbance to vegetation.
 - 3.2.2. **Maintenance.** Immediately correct ineffective control measures. Implement additional controls as directed. Remove excavated material within the time requirements specified in the applicable storm water permit.
 - 3.2.3. **Stabilization.** Stabilize disturbed areas where construction activities will be temporarily stopped in accordance with the applicable storm water permit. Establish a uniform vegetative cover. The project will not be accepted until a 70% density of existing adjacent undisturbed areas is obtained, unless otherwise shown

on the plans. When shown on the plans, the Owner may accept the project when adequate controls are in place that will control erosion, sedimentation, and water pollution until sufficient vegetative cover can be established.

- 3.2.4. **Finished Work.** Upon acceptance of vegetative cover, remove and dispose of all temporary control measures, temporary embankments, bridges, matting, falsework, piling, debris, or other obstructions placed during construction that are not a part of the finished work, or as directed.
- 3.2.5. **Restricted Activities and Required Precautions.** Do not discharge onto the ground or surface waters any pollutants such as chemicals, raw sewage, fuels, lubricants, coolants, hydraulic fluids, bitumens, or any other petroleum product. Operate and maintain equipment on-site to prevent actual or potential water pollution. Manage, control, and dispose of litter on-site such that no adverse impacts to water quality occur. Prevent dust from creating a potential or actual unsafe condition, public nuisance, or condition endangering the value, utility, or appearance of any property. Wash out concrete trucks only as described in the TPDES General Permit TXR150000. Utilize appropriate controls to minimize the offsite transport of suspended sediments and other pollutants if it is necessary to pump or channel standing water (i.e. dewatering). Prevent discharges that would contribute to a violation of Edwards Aquifer Rules, water quality standards, the impairment of a listed water body, or other state or federal law.
- 3.3. **Installation, Maintenance, and Removal Work.** Perform work in accordance with the SWP3, according to manufacturers' guidelines, and in accordance with the TPDES General Permit TXR150000. Install and maintain the integrity of temporary erosion and sedimentation control devices to accumulate silt and debris until soil disturbing activities are completed and permanent erosion control features are in place or the disturbed area has been adequately stabilized as determined by the Owner. . If a device ceases to function as intended, repair or replace the device or portions thereof as necessary. Remove sediment, debris, and litter. When approved, sediments may be disposed of within embankments, or in the right of way in areas where the material will not contribute to further siltation. Dispose of removed material in accordance with federal, state, and local regulations.
- Remove devices upon approval or as directed. Finish-grade and dress the area upon removal. Stabilize disturbed areas in accordance with the permit, and as shown on the plans or directed. Materials removed are considered consumed by the project. Retain ownership of stockpiled material and remove it from the project when new installations or replacements are no longer required.
- 3.3.1. **Rock Filter Dams for Erosion Control.** Remove trees, brush, stumps, and other objectionable material that may interfere with the construction of rock filter dams. Place sandbags as a foundation when required or at the Contractor's option.
- Place the aggregate to the lines, height, and slopes specified, without undue voids for Types 1, 2, 3, and 5. Place the aggregate on the mesh and then fold the mesh at the upstream side over the aggregate and secure it to itself on the downstream side with wire ties, or hog rings for Types 2 and 3, or as directed. Place rock filter dams perpendicular to the flow of the stream or channel unless otherwise directed. Construct filter dams according to the following criteria unless otherwise shown on the plans:
- 3.3.1.1. **Type 1 (Non-reinforced).**
- 3.3.1.1.1. **Height.** At least 18 in. measured vertically from existing ground to top of filter dam.
- 3.3.1.1.2. **Top Width.** At least 2 ft.
- 3.3.1.1.3. **Slopes.** No steeper than 2:1.
- 3.3.1.2. **Type 2 (Reinforced).**
- 3.3.1.2.1. **Height.** At least 18 in. measured vertically from existing ground to top of filter dam.

- 3.3.1.2.2. **Top Width.** At least 2 ft.
- 3.3.1.2.3. **Slopes.** No steeper than 2:1.
- 3.3.1.3. **Type 3 (Reinforced).**
 - 3.3.1.3.1. **Height.** At least 36 in. measured vertically from existing ground to top of filter dam.
 - 3.3.1.3.2. **Top Width.** At least 2 ft.
 - 3.3.1.3.3. **Slopes.** No steeper than 2:1.
 - 3.3.1.4. **Type 4 (Sack Gabions).** Unfold sack gabions and smooth out kinks and bends. Connect the sides by lacing in a single loop—double loop pattern on 4- to 5-in. spacing for vertical filling. Pull the end lacing rod at one end until tight, wrap around the end, and twist 4 times. Fill with stone at the filling end, pull the rod tight, cut the wire with approximately 6 in. remaining, and twist wires 4 times.

Place the sack flat in a filling trough, fill with stone, connect sides, and secure ends as described above for horizontal filling.

Lift and place without damaging the gabion. Shape sack gabions to existing contours.
- 3.3.1.5. **Type 5.** Provide rock filter dams as shown on the plans.
- 3.3.2. **Temporary Pipe Slope Drains.** Install pipe with a slope as shown on the plans or as directed. Construct embankment for the drainage system in 8-in. lifts to the required elevations. Hand-tamp the soil around and under the entrance section to the top of the embankment as shown on the plans or as directed. Form the top of the embankment or earth dike over the pipe slope drain at least 1 ft. higher than the top of the inlet pipe at all points. Secure the pipe with hold-downs or hold-down grommets spaced a maximum of 10 ft. on center. Construct the energy dissipaters or sediment traps as shown on the plans or as directed. Construct the sediment trap using concrete or rubble riprap in accordance with Item 432, "Riprap," when designated on the plans.
- 3.3.3. **Temporary Paved Flumes.** Construct paved flumes as shown on the plans or as directed. Provide excavation and embankment (including compaction of the subgrade) of material to the dimensions shown on the plans unless otherwise indicated. Install a rock or rubble riprap energy dissipater, constructed from the materials specified above, to a minimum depth of 9 in. at the flume outlet to the limits shown on the plans or as directed.
- 3.3.4. **Construction Exits.** Prevent traffic from crossing or exiting the construction site or moving directly onto a public roadway, alley, sidewalk, parking area, or other right of way areas other than at the location of construction exits when tracking conditions exist. Construct exits for either long- or short-term use.
 - 3.3.4.1. **Long-Term.** Place the exit over a foundation course as required. Grade the foundation course or compacted subgrade to direct runoff from the construction exits to a sediment trap as shown on the plans or as directed. Construct exits with a width of at least 14 ft. for one-way and 20 ft. for two-way traffic for the full width of the exit, or as directed.
 - 3.3.4.1.1. **Type 1.** Construct to a depth of at least 8 in. using crushed aggregate as shown on the plans or as directed.
 - 3.3.4.1.2. **Type 2.** Construct using railroad ties and timbers as shown on the plans or as directed.
 - 3.3.4.2. **Short-Term.**
 - 3.3.4.2.1. **Type 3.** Construct using crushed aggregate, plywood, or wafer board. This type of exit may be used for daily operations where long-term exits are not practical.

- 3.3.4.2.2. **Type 4.** Construct as shown on the plans or as directed.
- 3.3.5. **Earthwork for Erosion Control.** Perform excavation and embankment operations to minimize erosion and to remove collected sediments from other erosion control devices.
- 3.3.5.1. **Excavation and Embankment for Erosion Control Features.** Place earth dikes, swales, or combinations of both along the low crown of daily lift placement, or as directed, to prevent runoff spillover. Place swales and dikes at other locations as shown on the plans or as directed to prevent runoff spillover or to divert runoff. Construct cuts with the low end blocked with undisturbed earth to prevent erosion of hillsides. Construct sediment traps at drainage structures in conjunction with other erosion control measures as shown on the plans or as directed.
- Create a sediment basin, where required, providing 3,600 cu. ft. of storage per acre drained, or equivalent control measures for drainage locations that serve an area with 10 or more disturbed acres at one time, not including offsite areas.
- 3.3.5.2. **Excavation of Sediment and Debris.** Remove sediment and debris when accumulation affects the performance of the devices, after a rain, and when directed.
- 3.3.6. **Construction Perimeter Fence.** Construct, align, and locate fencing as shown on the plans or as directed.
- 3.3.6.1. **Installation of Posts.** Embed posts 18 in. deep or adequately anchor in rock, with a spacing of 8 to 10 ft.
- 3.3.6.2. **Wire Attachment.** Attach the top wire to the posts at least 3 ft. from the ground. Attach the lower wire midway between the ground and the top wire.
- 3.3.6.3. **Flag Attachment.** Attach flagging to both wire strands midway between each post. Use flagging at least 18 in. long. Tie flagging to the wire using a square knot.
- 3.3.7. **Sandbags for Erosion Control.** Construct a berm or dam of sandbags that will intercept sediment-laden storm water runoff from disturbed areas, create a retention pond, detain sediment, and release water in sheet flow. Fill each bag with sand so that at least the top 6 in. of the bag is unfilled to allow for proper tying of the open end. Place the sandbags with their tied ends in the same direction. Offset subsequent rows of sandbags 1/2 the length of the preceding row. Place a single layer of sandbags downstream as a secondary debris trap. Place additional sandbags as necessary or as directed for supplementary support to berms or dams of sandbags or earth.
- 3.3.8. **Temporary Sediment-Control Fence.** Provide temporary sediment-control fence near the downstream perimeter of a disturbed area to intercept sediment from sheet flow. Incorporate the fence into erosion-control measures used to control sediment in areas of higher flow. Install the fence as shown on the plans, as specified in this Section, or as directed.
- 3.3.8.1. **Installation of Posts.** Embed posts at least 18 in. deep, or adequately anchor, if in rock, with a spacing of 6 to 8 ft. and install on a slight angle toward the runoff source.
- 3.3.8.2. **Fabric Anchoring.** Dig trenches along the uphill side of the fence to anchor 6 to 8 in. of fabric. Provide a minimum trench cross-section of 6 × 6 in. Place the fabric against the side of the trench and align approximately 2 in. of fabric along the bottom in the upstream direction. Backfill the trench, then hand-tamp.
- 3.3.8.3. **Fabric and Net Reinforcement Attachment.** Attach the reinforcement to wooden posts with staples, or to steel posts with T-clips, in at least 4 places equally spaced unless otherwise shown on the plans. Sewn vertical pockets may be used to attach reinforcement to end posts. Fasten the fabric to the top strand of reinforcement by hog rings or cord every 15 in. or less.

- 3.3.8.4. **Fabric and Net Splices.** Locate splices at a fence post with a minimum lap of 6 in. attached in at least 6 places equally spaced unless otherwise shown on the plans. Do not locate splices in concentrated flow areas.

Requirements for installation of used temporary sediment-control fence include the following:

- fabric with minimal or no visible signs of biodegradation (weak fibers),
- fabric without excessive patching (more than 1 patch every 15 to 20 ft.),
- posts without bends, and
- backing without holes.

- 3.3.9. **Biodegradable Erosion Control Logs.** Install biodegradable erosion control logs near the downstream perimeter of a disturbed area to intercept sediment from sheet flow. Incorporate the biodegradable erosion control logs into the erosion measures used to control sediment in areas of higher flow. Install, align, and locate the biodegradable erosion control logs as specified below, as shown in plans or as directed.

Secure biodegradable erosion control logs in a method adequate to prevent displacement as a result of normal rain events, prevent damage to the logs, and to the satisfaction of the Owner such that flow is not allowed under the logs. Temporarily removing and replacing biodegradable erosion logs as to facilitate daily work is allowed at the Contractor's expense.

- 3.3.10. **Vertical Tracking.** Perform vertical tracking on slopes to temporarily stabilize soil. Provide equipment with a track undercarriage capable of producing a linear soil impression measuring a minimum of 12 in. long × 2 to 4 in. wide × 1/2 to 2 in. deep. Do not exceed 12 in. between track impressions. Install continuous linear track impressions where the 12 in. length impressions are perpendicular to the slope. Vertical tracking is required on projects where soil disturbing activities have occurred unless otherwise approved.

4. MEASUREMENT

- 4.1. **Rock Filter Dams.** Installation or removal of rock filter dams will be measured by the foot or by the cubic yard. The measured volume will include sandbags, when used.
- 4.1.1. **Linear Measurement.** When rock filter dams are measured by the foot, measurement will be along the centerline of the top of the dam.
- 4.1.2. **Volume Measurement.** When rock filter dams are measured by the cubic yard, measurement will be based on the volume of rock computed by the method of average end areas.
- 4.1.2.1. **Installation.** Measurement will be made in final position.
- 4.1.2.2. **Removal.** Measurement will be made at the point of removal.
- 4.2. **Temporary Pipe Slope Drains.** Temporary pipe slope drains will be measured by the foot.
- 4.3. **Temporary Paved Flumes.** Temporary paved flumes will be measured by the square yard of surface area. The measured area will include the energy dissipater at the flume outlet.
- 4.4. **Construction Exits.** Construction exits will be measured by the square yard of surface area.
- 4.5. **Earthwork for Erosion and Sediment Control.**
- 4.5.1. **Equipment and Labor Measurement.** Equipment and labor used will be measured by the actual number of hours the equipment is operated and the labor is engaged in the work.
- 4.5.2. **Volume Measurement.**

- 4.5.2.1. **In Place.**
- 4.5.2.1.1. **Excavation.** Excavation will be measured by the cubic yard in its original position and the volume computed by the method of average end areas.
- 4.5.2.1.2. **Embankment.** Embankment will be measured by the cubic yard in its final position by the method of average end areas. The volume of embankment will be determined between:
- the original ground surfaces or the surface upon that the embankment is to be constructed for the feature and
 - the lines, grades and slopes of the accepted embankment for the feature.
- 4.5.2.2. **In Vehicles.** Excavation and embankment quantities will be combined and paid for under "Earthwork (Erosion and Sediment Control, In Vehicle)." Excavation will be measured by the cubic yard in vehicles at the point of removal. Embankment will be measured by the cubic yard in vehicles measured at the point of delivery. Shrinkage or swelling factors will not be considered in determining the calculated quantities.
- 4.6. **Construction Perimeter Fence.** Construction perimeter fence will be measured by the foot.
- 4.7. **Sandbags for Erosion Control.** Sandbags will be measured as each sandbag or by the foot along the top of sandbag berms or dams.
- 4.8. **Temporary Sediment-Control Fence.** Installation or removal of temporary sediment-control fence will be measured by the foot.
- 4.9. **Biodegradable Erosion Control Logs.** Installation or removal of biodegradable erosion control logs will be measured by the foot along the centerline of the top of the control logs.
- 4.10. **Vertical Tracking.** Vertical tracking will not be measured or paid for directly but is considered subsidiary to this Item.

5. PAYMENT

The following will not be paid for directly but are subsidiary to pertinent Items:

- erosion-control measures for Contractor project-specific locations (PSLs) inside and outside the right of way (such as construction and haul roads, field offices, equipment and supply areas, plants, and material sources);
- removal of litter, unless a separate pay item is shown on the plans;
- repair to devices and features damaged by Contractor operations;
- added measures and maintenance needed due to negligence, carelessness, lack of maintenance, and failure to install permanent controls;
- removal and reinstallation of devices and features needed for the convenience of the Contractor;
- finish grading and dressing upon removal of the device; and
- minor adjustments including but not limited to plumbing posts, reattaching fabric, minor grading to maintain slopes on an erosion embankment feature, or moving small numbers of sandbags.

Stabilization of disturbed areas will be paid for under pertinent Items.

Furnishing and installing pipe for outfalls associated with sediment traps and ponds will not be paid for directly but is subsidiary to the excavation and embankment under this Item.

- 5.1. **Rock Filter Dams.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:

- 5.1.1. **Installation.** Installation will be paid for as “Rock Filter Dams (Install)” of the type specified. This price is full compensation for furnishing and operating equipment, finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.

- 5.1.2. **Removal.** Removal will be paid for as “Rock Filter Dams (Remove).” This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.

When the Owner directs that the rock filter dam installation or portions thereof be replaced, payment will be made at the unit price bid for “Rock Filter Dams (Remove)” and for “Rock Filter Dams (Install)” of the type specified. This price is full compensation for furnishing and operating equipment, finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.

- 5.2. **Temporary Pipe Slope Drains.** The work performed and materials furnished in accordance with this Item and measured as provided under “Measurement” will be paid for at the unit price bid for “Temporary Pipe Slope Drains” of the size specified. This price is full compensation for furnishing materials, removal and disposal, furnishing and operating equipment, labor, tools, and incidentals.

Removal of temporary pipe slope drains will not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the pipe slope drain installation or portions thereof be replaced, payment will be made at the unit price bid for “Temporary Pipe Slope Drains” of the size specified, which is full compensation for the removal and reinstallation of the pipe drain.

Earthwork required for the pipe slope drain installation, including construction of the sediment trap, will be measured and paid for under “Earthwork for Erosion and Sediment Control.”

Riprap concrete or stone, when used as an energy dissipater or as a stabilized sediment trap, will be measured and paid for in accordance with Item 432, “Riprap.”

- 5.3. **Temporary Paved Flumes.** The work performed and materials furnished in accordance with this Item and measured as provided under “Measurement” will be paid for at the unit price bid for “Temporary Paved Flume (Install)” or “Temporary Paved Flume (Remove).” This price is full compensation for furnishing and placing materials, removal and disposal, equipment, labor, tools, and incidentals.

When the Owner directs that the paved flume installation or portions thereof be replaced, payment will be made at the unit prices bid for “Temporary Paved Flume (Remove)” and “Temporary Paved Flume (Install).” These prices are full compensation for the removal and replacement of the paved flume and for equipment, labor, tools, and incidentals.

Earthwork required for the paved flume installation, including construction of a sediment trap, will be measured and paid for under “Earthwork for Erosion and Sediment Control.”

- 5.4. **Construction Exits.** Contractor-required construction exits from off right of way locations or on-right of way PSLs will not be paid for directly but are subsidiary to pertinent Items.

The work performed and materials furnished in accordance with this Item and measured as provided under “Measurement” for construction exits needed on right of way access to work areas required by the Owner will be paid for at the unit price bid for “Construction Exits (Install)” of the type specified or “Construction Exits (Remove).” This price is full compensation for furnishing and placing materials, excavating, removal and disposal, cleaning vehicles, labor, tools, and incidentals.

When the Owner directs that a construction exit or portion thereof be removed and replaced, payment will be made at the unit prices bid for “Construction Exit (Remove)” and “Construction Exit (Install)” of the type specified. These prices are full compensation for the removal and replacement of the construction exit and for equipment, labor, tools, and incidentals.

Construction of sediment traps used in conjunction with the construction exit will be measured and paid for under "Earthwork for Erosion and Sediment Control."

5.5. **Earthwork for Erosion and Sediment Control.**

- 5.5.1. **Initial Earthwork for Erosion and Sediment Control.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Excavation (Erosion and Sediment Control, In Place)," "Embankment (Erosion and Sediment Control, In Place)," "Excavation (Erosion and Sediment Control, In Vehicle)," "Embankment (Erosion and Sediment Control, In Vehicle)," or "Earthwork (Erosion and Sediment Control, In Vehicle)."

This price is full compensation for excavation and embankment including hauling, disposal of material not used elsewhere on the project; embankments including furnishing material from approved sources and construction of erosion-control features; and equipment, labor, tools, and incidentals.

Sprinkling and rolling required by this Item will not be paid for directly, but will be subsidiary to this Item.

- 5.5.2. **Maintenance Earthwork for Erosion and Sediment Control for Cleaning and Restoring Control Measures.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid under a Contractor Force Account Item from invoice provided to the Owner.

This price is full compensation for excavation, embankment, and re-grading including removal of accumulated sediment in various erosion control installations as directed, hauling, and disposal of material not used elsewhere on the project; excavation for construction of erosion-control features; embankments including furnishing material from approved sources and construction of erosion-control features; and equipment, labor, tools, and incidentals.

Earthwork needed to remove and obliterate erosion-control features will not be paid for directly but is subsidiary to pertinent Items unless otherwise shown on the plans.

Sprinkling and rolling required by this Item will not be paid for directly, but will be subsidiary to this Item.

- 5.6. **Construction Perimeter Fence.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Construction Perimeter Fence." This price is full compensation for furnishing and placing the fence; digging, fence posts, wire, and flagging; removal and disposal; and materials, equipment, labor, tools, and incidentals.

Removal of construction perimeter fence will be not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the perimeter fence installation or portions thereof be removed and replaced, payment will be made at the unit price bid for "Construction Perimeter Fence," which is full compensation for the removal and reinstallation of the construction perimeter fence.

- 5.7. **Sandbags for Erosion Control.** Sandbags will be paid for at the unit price bid for "Sandbags for Erosion Control" (of the height specified when measurement is by the foot). This price is full compensation for materials, placing sandbags, removal and disposal, equipment, labor, tools, and incidentals.

Removal of sandbags will not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the sandbag installation or portions thereof be replaced, payment will be made at the unit price bid for "Sandbags for Erosion Control," which is full compensation for the reinstallation of the sandbags.

- 5.8. **Temporary Sediment-Control Fence.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:

- 5.8.1. **Installation.** Installation will be paid for as "Temporary Sediment-Control Fence (Install)." This price is full compensation for furnishing and operating equipment finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.
- 5.8.2. **Removal.** Removal will be paid for as "Temporary Sediment-Control Fence (Remove)." This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.
- 5.9. **Biodegradable Erosion Control Logs.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:
- 5.9.1. **Installation.** Installation will be paid for as "Biodegradable Erosion Control Logs (Install)" of the size specified. This price is full compensation for furnishing and operating equipment finish backfill and grading, staking, proper disposal, labor, materials, tools, and incidentals.
- 5.9.2. **Removal.** Removal will be paid for as "Biodegradable Erosion Control Logs (Remove)." This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.
- 5.10. **Vertical Tracking.** Vertical tracking will not be measured or paid for directly but is considered subsidiary to this Item.