THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Proposal and Contract for Grave Removal

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| --- | --- | --- | --- | --- | --- |
| **Bids to be opened at** |  | **Am/pm on** |  | **20** |  |
| **In the division Right of Way office located:** |  |
| **WBS:** |  | **COUNTY:** |  | **PARCEL:** |  |

THIS CONTRACT made and entered into, this the \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by the Department of Transportation, hereinafter designated the Department and\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ hereinafter designated the Contractor, said Contractor being licensed as a funeral director or a funeral services licensee in the State of North Carolina.

**W I T N E S S E T H T H A T**:

The purpose of this CONTRACT is to complete the disinterment and re-interment of all human remains located in those cemeteries and burial plots being displaced by this highway project.

It is hereby mutually agreed between the Department and the Contractor that all work being performed by the Contractor shall be for the unit price established acknowledging all aspects and responsibilities as specified in this CONTRACT.

It is further agreed and understood by the Contractor that the Department's Division Right of Way Agent or his representative shall exclusively direct the overall scope of this CONTRACT. However, the Department's Inspector shall direct the Contractor in fulfilling his work responsibility as subsequently embodied in this Contract.

It is estimated by the Department that there are \_\_\_\_\_\_\_\_\_ graves in said cemeteries or burial plots. However, it is understood that this number of graves is strictly an estimate only. The Contractor agrees to satisfy himself concerning the number of graves involved before placing a bid. Should more than one remains be uncovered in a single grave, each removal will be considered a separate grave.

It is also estimated there are \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ vaults included in the total number of graves as previously counted. Again, this is strictly an estimate only. From information ascertained by the Department, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ may be the company warranting these involved vaults and/or caskets. Before submitting a bid, the Contractor is cautioned to satisfy himself regarding the number of vaults and/or caskets and respective warranting companies.

SECTION A - Authorization

The Department hereby authorizes the Contractor to provide disinterment and re-interment services as well as perform all work hereinafter specified in accordance with the provisions of Article 5 of Chapter 65-106 of the North Carolina General Statutes, as well as Department regulations pursuant thereto, involving grave remains on properties located on this project.

SECTION B - Scope of Work

1. No work provided for in this proposal and contract may be subcontracted by the contractor without prior written permission of the department through the Division Right of Way Agent. The Contractor shall pay any Subcontractor for work performed within 7 days after the Contractor receives payment from the department for work performed by the Subcontractor. This requirement must be incorporated into all subcontract agreements. Failure to comply with the 7-day requirement may cause the Department to withhold payments to the contractor and the department may suspend work until the subcontractor is paid.

2. No work will be permitted at disinterment or re-interment sites unless an Inspector or representative designated by the Department is present. Failure on the part of the Contractor to comply with this provision is grounds for automatic revocation of the Contract and forfeiture of the performance bond. Proper arrangement shall be made between the Contractor and the Department's representatives for work to be performed on a Saturday or holiday. The Contractor will be required to work on an orderly schedule, generally in keeping with the season of the year, to the end that the Department's Inspector will not be needlessly detained while awaiting the Contractor or his forces to begin work on any given day. For the purpose of this Contract, work will begin no later than 8:00 A. M. on any working day, unless specific arrangements to the contrary are made with either the Department's Inspector, the Division Right of Way Agent or his representative. Work beyond the hour of 5:00 P.M. will be permitted when circumstances necessitate such work. The Department's Inspector must be notified by the Contractor of his intent and must be furnished with an estimated hour of termination of that particular day's work. Under no circumstances, shall disinterment or re-interment be allowed after nightfall whereby work cannot progress without artificial lighting.

3. Due care shall be taken to protect the existing head stones and markers. The first order of business for the Contractor, upon beginning disinterment, shall be to carefully catalog all existing head stones and markers. At the discretion of the Contractor, he may wrap each in burlap or other suitable material to prevent scarring, chipping or otherwise defacing same. These head stones and markers shall be removed to a safe place for storage or transport to the site of re-interment.

4. The Contractor may disinter gravesites by use of mechanical grave excavating equipment to remove soil covering the remains but shall not exceed a depth below 12 inches above the remains. With the use of this mechanical equipment, the Contractor shall assume all liability for any damage to the grave vault, casket and/or the remains. Otherwise, the use of hand tools shall be utilized to complete the uncovering process.

5. All vault removal will be accomplished by having cable or chain of an approved size passed wholly beneath the vault in at least two locations, not less than 24 inches from each end thereof. Where caskets or vaults are to be removed intact, the Contractor will at all times keep the same level and under no circumstances will any undue twisting, bouncing, jostling, or other undue movements be permitted to the end that the remains be kept respectfully undisturbed at all times during the moving operation.

1. All remains once uncovered and removed from disinterment site will be covered and placed in a temporary location on the disinterment property. Such a location will prohibit unnecessary public viewing and will maintain reasonable protection from the natural elements, as much as possible, until permanent re-interment is accomplished.
2. The Contractor shall transport said remains in a covered vehicle, unless verbally waived by the Department's Inspector, Division Right of Way Agent or his representative. These remains shall be re-interred in the following described cemeteries or burial plots:

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1. All work shall be done with due respect to the remains of such persons and their next of kin and other interested persons. The Contractor shall cooperate with the nearest of kin and other authorized persons should they elect to hold brief services at re-interment site; and the Contractor shall suspend all noise-generating operations and all personnel will conduct themselves in a respectful and quiet manner.

9. Each re-interred gravesite will have dimensions of 4 feet by 8 feet or as required by the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Health Department or as specified by the particu­lar cemetery wherein re-interment is to be made. In the absence of any other grave size specification, the 4 feet by 8 feet size shall prevail. Under no circumstances shall an old or new grave be allowed to remain open overnight. Any grave that is disinterred must be re-interred in the same workday. If in the collective opinion of the Contractor and Inspector, a grave cannot be disinterred and re-interred in the same workday, the grave shall not be disturbed until the following workday. The Contractor agrees to fill in the new graves in such a manner as to prevent settling or sinking. Each box is to be filled completely, with either the contents of each grave or the earth there from before boxes are re-interred. A minimum cover of thirty (30) inches must be placed over all caskets and boxes. For vaults, a minimum of 16 inches of cover is required. The backfill of each new grave shall be properly compacted as directed by the Inspector.

10. The Contractor will distribute all surplus excavation over the newly re-interred graves prior to completion of his work, and see that each grave site is raked, cleaned and seeded to the satisfaction of the Department's Inspector or representative (unless it is waived). The seeding operation at the site of the re-interment shall include but not be limited to the following:

All disturbed soil shall be worked up to a minimum depth of (5) inches. Only North Carolina Kentucky 31 Fescue seed shall be used in a minimum of three (3) pounds per 100 square yards. Fertilizer shall be 8.8.8 or equivalent, and shall be spread to a minimum of 25 pounds per 100 square yards. Lime shall be secured from reputable supplier and shall be spread to a minimum of 80 pounds per 100 square yards. Baled straw shall be used for mulch and the same shall be free of all noxious weed or onion seed and shall be spread at the minimum rate of two (2) bales per 100 square yards. A seeding operation will not be required at the site of disinterment, unless hereinafter specified but the premises shall be left in an orderly and level condition.

Where the re-interment will be in a memorial park or cemetery having specifications for the seeding of the re-interment sites, these requirements will have precedent over those set forth above.

11. Where an existing head stone or marker is to be reinstalled, the Inspector may require a new footing be poured at the new grave site, said footing or bottom base to be at all points of the head stone or marker which is to rest thereon. The depth of the footing or bottom base shall be in a proportion to the size of head stone or marker to rest thereon and shall be sufficient depth to prevent future settling or leaning, said depth to be established by the Department's Inspector in charge. If no head stone or marker is present, the Contractor will furnish a "surface marker" which rises approximately four (4) inches above the ground level and to be securely anchored by a twelve (12) inch stake or its equivalent. Glass or equivalent will be used in the marker with the date being permanently indented into the metal card of the marker by a lead pencil along with the name of the person and date born and died, if known; and if unknown, the inscription will be "Remains moved from the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Cemetery in 20\_\_."

12. In the event additional graves are discovered during highway grading operations, the Contractor agrees to remove and relocate the additional graves under the same provisions and for the same unit price as set forth below. He further agrees to return to the site within ten (10) calendar days following notifications to perform the additional work involved.

**SECTION C - Contractor's Responsibility**

1. To assure that all requirements, regulations and laws of the State of North Carolina, the North Carolina Department of Health and the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ County Board of Health have been satisfactorily complied with and shall secure all necessary permits (if any) pertinent to both disinterment and re-interment sites.

2. To notify respective vault and casket companies of the impending grave disinterment. Such company representatives should be present during disinterment to address any problems relating to defective vaults and/or caskets. The Contractor shall be responsible for replacing any vaults that are damaged to such an extent by him, his agents, contractors or employees that they cannot be disinterred or re-interred without causing further destruction to the grave remains.

3. Furnish all labor, transportation, supervision, tools equipment, materials, box caskets, vaults and any other incidentals necessary and sufficient to complete satisfactorily the disinterment, transportation and re-interment of such remains unless otherwise provided in this Contract.

4. Shall provide appropriate boxes of the following approximate minimum sizes, with adjoining lids, for all disinterred remains not found to be properly enclosed. If wooden boxes are used, they shall be constructed of ¾-inch dressed lumber, not plywood or composition board.

(a) Outside dimensions of box, 2 feet long by 1 foot 4 inches wide by 1 foot high, to be used for the encasement of infants' caskets or for the remains where the casket and body have disintegrated to the extent that only a small amount of residue remains.

(b) Outside dimensions of box, 4 feet 5 inches long by 1 foot 7-5/8 inches wide by 1 foot 3-5/8 inches high, to be used for encasing children's' caskets or for remains which require a container greater than 2 feet 10 inches in length.

(c) Outside dimensions of box, 7 feet 0 inches long by 2 feet 4 inches wide by 1 foot 11 inches high, to be used for adult caskets or when full length pieces of the casket can be taken up or for re-interment of remains in cases where they can be removed intact or almost intact.

If in the opinion of the Contractor the minimum size boxes are inadequate to accommodate the disinterred remains, a box with a minimum depth of one foot with length and width dimensions sufficient in size to enclose the remains in their entirety shall be provided. In no event shall any box utilized for disinterment of grave remains contain holes, cracks or any other separations that would allow any loss of grave remains. The Inspector shall approve each box.

5. To remove and dispose of all debris, stumps, undergrowth, etc., necessary to be cleared and removed at both the disinterment and re-interment sites. Furthermore, if necessary, shall secure a replacement site for the orderly disposal of all debris at his expense.

6. Remove and re-inter all existing grave markers and head stones in accordance with the arrangements as stated under special provisions. Otherwise, all such markers shall be removed from the old grave and used to mark the same remains at each new burial location.

7. Make a plat of each disinterment and re-interment cemetery described in this contract. The scale of one inch equals twenty (20) feet, unless waived by the Division Right of Way Agent, to identify the exact location where each grave is relocated. All completed maps are to be submitted to Division Right of Way Agent within fifteen (15) days after the last grave has been re-interred.

8. Shall be present and personally supervise the performance of all work contracted under this proposal and contract.

**SECTION D - Inspector's Responsibility**

1. To determine if an uncovered metal casket or vault can be moved intact, based upon its condition as being satisfactory for disinterment. He has the authority to require the Contractor to replace the casket and/or vault.

2. For all other remains disinterred, which in the opinion of the Inspector, are not satisfactorily enclosed shall be placed in an appropriately sized box, by the Contractor, and be covered by a lid. Also, each box shall be approved by the Inspector in insure they meet the specifications as stipulated in Section C, Item Four of this Contract.

3. Shall catalog and denote in writing all items removed from each disinterred grave.

4. Shall properly note and record any existing flaws, damage or defect to any head stone or marker both prior to removal and after resetting such head stones or markers. This procedure is necessary to determine what damage, if any, they may have suffered in the process of being moved and reset.

5. Approve all equipment utilized by the Contractor. If, in the Inspector's opinion, any equipment is considered unsafe, in a poor state of repair, or not suitable for the purpose of which it is intended to be used, the Inspector may deny the Contractor the right to use such equipment and require that a suitable satisfactory replacement be brought to the site immediately.

6. Keep an accurate written account as to the unit number of disinterments and re-interments performed under the terms of this Contract. In the event of any dispute, the records of the Inspector shall be the final method of determination in computing the amount to be paid under the terms of this Contract.

1. Determine a temporary location on the disinterment property where excavated grave remains can be placed to prohibit unnecessary public viewing and offers reasonable protection from the natural elements.
2. Keep records of individuals, i.e. general public, officials, staff, etc., who visit the site during disinterment or re-interment.

**SECTION E - Department's Responsibility**

1. The purchase of the re-interment sites will be by and at the expense of the Department, and the cost of these sites will not be included in this bid unless otherwise provided.

2. Shall provide to the Contractor all information in assisting his securement of permits in meeting all local, state and federal laws.

3. At the discretion of the Division Right of Way Agent, a preliminary meeting between the Contractor, Department Inspector and a representative of the Division Right of Way Agent can be held before the grave removal commences. The purpose of this meeting is to discuss any potential problems and solutions associated with the disinterment process.

4. The Division Right of Way Agent shall have the authority and right to waive any provision of this Proposal and Contract.

**SECTION F - Equal Opportunity Provisions**

**REQUIRED CONTRACT PROVISIONS FOR FEDERAL AID CONTRACTS**

**3. Selection of Subcontractors, Procurement of Materials, and Leasing of Equipment**

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

a. Compliance With Regulations: The Contractor shall comply with the Regulations relative to non-discrimination in federally-assisted programs of the Department of Transportation, 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.

b. Non-discrimination: The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, sex 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.

c. Solicitations for Subcontractors, 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, sex or national origin.

d. 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 State Highway Department or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. 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 State highway department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. Sanctions for Noncompliance: In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the State highway department shall impose such Contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

 (1) withholding of payments to the Contractor under the Contract until the Contractor complies, and/or

 (2) cancellation, termination or suspension of the Contract in whole or part.

f. Incorporation of Provisions: The Contractor shall include the provision of this paragraph 3 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 subcontractor or procurement as the State highway department or the Federal Highway Administration 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 State highway department to enter into such litigation to protect the interests of the State, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**SECTION G - Insurance and Performance Bonds**

The Contractor shall indemnify and save harmless the Department from any and all claims against it which arise out of the acts of the Contractor, or its Subcontractor(s), in the performance of this contract; and the Contractor shall secure and maintain during the life of this contract, and any extensions thereof, general liability insurance in a minimum amount of $1,000,000.00 (one million dollars). This coverage may be in the form of a basic policy or rider to the Contractor's general vehicular liability, or it may be in the form of a special policy covering this particular contract. Proof of ownership of such a policy will be required prior to the Contractor beginning work.

The Contractor will furnish to the Department a performance bond or contract in the amount of **$\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**. The bond shall be given and executed by a firm or duly authorized agent actively doing business in the State of North Carolina. As a substitute, a cash bond or an irrevocable standby letter of credit from a bank approved by the Department may be provided.

**SECTION H - Terms of Contract**

1. The disinterment, transportation and re-interment of all remains covered by this contract shall be completed in accordance with all the terms of this contract within 30 days of written approval of the awarded contract. The Contractor and the Division Right of Way Agent shall verbally agree to a tentative beginning Contract date.

1. The Contractor agrees to disinter and re-inter the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ remains in accordance with the foregoing provisions, at a unit price of $\_\_\_\_\_\_\_\_\_\_\_\_\_ per grave. In the event additional remains are discovered, the Contractor agrees to disinter and re-inter each additional remains under the same provisions herein above outlined for the same unit price per grave.
2. The Contractor will provide a completed W-9 Federal Tax Identification Form, Page 8 of this proposal and contract, and a completed Contractor/Subcontractor Data Sheet, Page 9 of this proposal and contract.

IN WITNESS WHEREOF, the contract was made and executed by the duly authorized representatives of the parties hereto on the day and year first herein above written.

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|  |  | Recommend: |
| Company Name |  |  |
|  |  |  |
|  |  | Division Right of Way Agent |
|  |  |  |
| Contractor |  |  |
| Type/Print Name: |  |  |  |
|  |  |  |
|  |  |  |
| License Number |  |  |
|  |  | Approved: |
|  |  |  |
|  |  |  |
|  |  | Manager of Right of Way |
|  |  |  |
|  |  |  |

**SUBSTITUTE FORM W-9**

REV 3/2018

 **VENDOR REGISTRATION FORM**

**NORTH CAROLINA DEPARTMENT OF TRANSPORTATION**

**Pursuant to Internal Revenue Service (IRS) Regulations, vendors must furnish their Taxpayer Identification Number (TIN) to the State. If this number is not provided, you may be subject to a 20% withholding on each payment. To avoid this 20% withholding and to insure that accurate tax information is reported to the Internal Revenue Service and the State, please use this form to provide the requested information exactly as it appears on file with the IRS.**

**INDIVIDUAL AND SOLE PROPRIETOR: ENTER NAME AS SHOWN ON SOCIAL SECURITY CARD**

**CORPORATION OR PARTNERSHIP : ENTER YOUR LEGAL BUSINESS NAME**

|  |  |
| --- | --- |
| **NAME:** |  |

|  |  |
| --- | --- |
| **MAILING ADDRESS: STREET/PO BOX:** |  |

|  |  |
| --- | --- |
| **CITY, STATE, ZIP:** |  |

|  |  |
| --- | --- |
| **DBA / TRADE NAME (IF APPLICABLE):** |  |

|  |  |  |
| --- | --- | --- |
| **BUSINESS DESIGNATION:** | [ ]  INDIVIDUAL (use Social Security No.) | [ ] SOLE PROPRIETOR (use SS No. or Fed ID No.) |

|  |  |  |
| --- | --- | --- |
|   | [ ]  CORPORATION (use Federal ID No.) | [ ] PARTNERSHIP (use Federal ID No.) |

|  |  |  |
| --- | --- | --- |
|   | **[ ]** ESTATE/TRUST (use Federal ID no.) | [ ] STATE OR LOCAL GOVT. (use Federal ID No.) |

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| --- | --- | --- | --- |
|   | **[ ]** OTHER / SPECIFY |  |  |

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|  **SOCIAL SECURITY NO.** \_\_\_\_\_\_**IVIDUAL / SOLE PROPRIETOR** |  |  |  |  |  | **-** |  |  |  | **-** |  |  |  |  |  |  |  |  | (Social Security #) |

 **OR**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **FED.EMPLOYER IDENTIFICATION NO.**  |  |  |  | **-** |  |  |  |  |  |  |  |  |  |  |  |  |  |  | (Employer Identification #) |

|  |
| --- |
| COMPLETE THIS SECTION WITH CHECK REMITTANCE ADDRESS AS IT APPEARS ON INVOICES: |
| **REMIT TO ADDRESS: STREET / PO BOX:** |  |
|  **CITY, STATE, ZIP:** |  |
|  |  |

|  |
| --- |
| Participation in this section is voluntary. You are not required to complete this section to become a registered vendor. The information below will in no way affect the vendor registration process and its sole purpose is to collect statistical data on those vendors doing business with NCDOT. If you choose to participate, circle the answer that best fits your firm’s group definition**.** |
| **What is your firm’s ethnicity?** ([ ] Prefer Not To Answer, [ ] African American, [ ] Native American, [ ] Caucasian American, [ ] Asian American, |
| [ ] Hispanic American, [ ] Asian-Indian American, | [ ] Other:  |  | **)** |
| **What is your firm’s gender?** ([ ] Prefer Not to Answer,[ ] Male, [ ] Female**) Disabled-Owned Business?** ([ ] Prefer Not to Answer, [ ] Yes,[ ]  No) |

**IRS Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

**The IRS does not require your consent to any provision of this document other than the certifications required to avoid backup withholding. For complete certification instructions please see IRS FORM W-9** **at** [**http://www.irs.g****ov/pub/irs-pdf/fw9.pdf**](http://www.irs.gov/pub/irs-pdf/fw9.pdf) **.**

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| --- | --- | --- |
|  |  |  |
| **NAME (Print or Type)** |  | **TITLE (Print or Type)** |
|  |  |  |  |  |
| **SIGNATURE (Typed or DocuSigned signatures will not be accepted)** |  | **DATE** |  | **PHONE NUMBER** |
|  |  |  |
|  |  | **EMAIL** |  |  |

**To avoid payment delays, completed forms should be returned promptly to:**

**NC Department of Transportation**

**Fiscal /Commercial Accounts**

**1514 Mail Service Center / Raleigh, North Carolina 27699-1514**

**ap@ncdot.gov** **FAX (919) 733-9247**

CONTRACTOR DATA

**Report any changes in this data immediately to the Right of Way Agent.**

Corporate Status (Check only one.)

License Number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_ Corporation \_\_\_\_\_ Sole Proprietorship \_\_\_\_\_Partnership \_\_\_\_\_\_LLC

Company Name (or name in which it does business if sole proprietorship, partnership, or LLC)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name and title of person authorized to execute this agreement \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Company Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Business Phone Number\_(\_\_\_\_\_)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 24 Hr./Pager # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Answering Service Local/Toll Free Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Facsimile (Fax) Number\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Email Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

N. C. Corporate ID No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Federal I.D. No. (EIN) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Indicate if other than Large Business: (As defined under Special Interest Groups Definition below)

Minority Owned \_\_\_\_ Woman Owned \_\_\_\_ Handicap Owned \_\_\_\_ Disabled Owned \_\_\_\_ Small Business\_\_\_\_

Name of individual authorized to answer questions concerning the information contained herein:

Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Telephone No. \_\_(\_\_\_\_\_)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name, address, and telephone number of designated management person to contact after award of contract:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone Numbers: (Please put all numbers that are available to you.)

Office: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cell: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Pager: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SUBCONTRACTOR DATA

**Report any changes in this data immediately to the Right of Way Agent.**

Corporate Status (Check only one.)

\_\_\_\_ Corporation \_\_\_\_\_ Sole Proprietorship \_\_\_\_\_Partnership \_\_\_\_\_\_LLC

Company Name (or name in which it does business if sole proprietorship, partnership, or LLC)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address of Company Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Business Phone Number\_(\_\_\_\_\_)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 24 Hr./Pager # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Answering Service Local/Toll Free Number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Facsimile (Fax) Number\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Email Address\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

N. C. Corporate ID No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Federal I.D. No. (EIN) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Indicate if other than Large Business: (As defined under Special Interest Groups Definition below)

Minority Owned \_\_\_\_ Woman Owned \_\_\_\_ Handicap Owned \_\_\_\_ Disabled Owned \_\_\_\_ Small Business\_\_\_\_

**SPECIAL INTEREST GROUP DEFINITIONS:**

Minority Owned (At least 51% of which is owned and controlled by minority group member (Black, Asian,

Hispanic, American Indian),

Woman Owned (51% and controlled by Women)

Handicapped Owned (51% owned & controlled by a Physically Handicapped Person)

Disabled Owned (51% owned & controlled by a Disabled Person)

Small Business (Less than 100 Employees & yearly sales Less than $500,000.00)

APPENDIX B

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

1. **EQUAL OPPORTUNITY**

**3. Selection of Subcontractors, Procurement of materials, and Leasing of Equipment**

During the performance of this contract, the second party, for itself, its assignees and successors in interest (heroin referred to as the “contractor”), agree as follows:

1. Compliance with Regulations: The contractor shall comply with Regulations relative to nondiscrimination in Federally-assisted programs of the US Department of Transportation, 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.
2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin, in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contract 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. Solicitations for Subcontractors, 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, sex, or national origin.
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 Division of Highways of the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Division of Highways, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the contractor’s noncompliance with the nondiscrimination provisions of this contract, the Division of Highways shall impose such contract sections as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
6. withholding of payments to the contractor under the contract until the contractor complies, and/or,
7. cancellation, termination or suspension of the contract, in whole or in part.
8. Incorporation of Provisions: The contractor shall include the provisions of paragraph “a” through “f” 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 Division of Highways or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: 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 Division of Highways to enter into such litigation to protect the interest of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

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| EXECUTIVE ORDER NO. 24REGARDING GIFTS TO STATE EMPLOYEESWHEREAS, those in State government who do the work of the public must continuously ensure that their actions reflect the ethical standards that are essential to maintaining the public’s trust; andWHEREAS, N.C. Gen. Stat. 133-32 makes it unlawful for a State employee to willfully receive or accept any gift or favor from a contractor, subcontractor, or supplier of the State agency if the State employee is involved in (1) preparing plans, specifications, or estimates for public contracts; (2) awarding or administering public contracts; or (3) inspecting or supervising construction; andWHEREAS, N.C. Gen. Stat. 133-32 applies to a limited group of State employees; andWHEREAS, no State employee should be permitted to accept gifts or favors from contractors working or seeking to work with the employee’s agency; andWHEREAS, as State employees continue to work to provide excellent service to the State, it is imperative that they understand the legal restrictions to accepting gifts and favors and the consequences for such actions.NOW, THEREFORE, by the power vested in me as Governor by the Constitution and laws of the State of North Carolina, IT IS ORDERED:1. North Carolina General Statute 133-32 shall apply to all employees in the Cabinet agencies and the Office of the Governor.2. Within the next 30 days, the secretary of each executive branch agency shall do the following:a. Review this Executive Order with the employees in their respective agency and inform all employees that violation of this Order may subject the employees to disciplinary action. b. Review N.C. Gen. Stat. 133-32 with all employees in their respective agency and inform all employees that violation of N.C. Gen. Stat. 133-32 is a Class 1 misdemeanor and may subject the employees to disciplinary action.c. Review with all employees in their respective agency any additional policies or rules that the agency may have regarding the acceptance of gifts, meals, or favors by employees in the agency.d. Distribute this Executive Order, N.C. Gen. Stat. 133-32, and any relevant agency policies to all employees in the agency and require employees to certify, in writing, that they have received a copy of and are responsible for complying with this Executive Order, N.C. Gen. Stat. 133-32, and any internal policies.e. As a part of new employee orientation for their respective agency and in conjunction with the Office of State Personnel, establish a process to provide a copy of all documents specified in Section 2d above to new employees and require new employees to certify, in writing, that they have received a copy of and are responsible for complying with the provisions of this Executive Order, N.C. Gen. Stat. 133-32, and any internal policies.f. Provide a report to the Governor’s Ethics Officer concerning compliance with the directives of this Executive Order and any recommendations for changes to policies or state law regarding acceptance of gifts by State employees.3. The Office of State Personnel shall assist the secretaries of the executive agencies to ensure that the documents specified in Section 2d above are provided to employees through the new employee orientation process and that new employees certify that they have received a copy of such documents as provided in Section 2e above.4. The State Ethics Commission shall discuss this Executive Order and N.C. Gen. Stat. 133-32 in their training for State employees who are covered by the Ethics Act.5. The Department of Administration shall include a provision regarding this Executive Order and N.C. Gen. Stat. 133-32 in all new RFPs, the North Carolina General Contract Terms and Conditions, and all other contracts under the authority of the Department of Administration, the Department of Transportation, the Office of Information Technology Services, and all other cabinet agencies to inform contractors of the requirements of this Order and the statute. The department shall also notify current contractors regarding the provisions of this Order and N.C. Gen. Stat. 133-32.6. The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, and each head of the Council of State agencies are encouraged and invited to participate in this Executive Order. This Executive Order shall be effective immediately and shall remain in effect until rescinded. This Executive Order shall supplement, but shall not supersede, existing agency policies regarding the acceptance of gifts and favors by agency employees. |

§ 138A‑32.  Gifts.

(a)        A covered person or a legislative employee shall not knowingly, directly or indirectly, ask, accept, demand, exact, solicit, seek, assign, receive, or agree to receive anything of value for the covered person or legislative employee, or for another person, in return for being influenced in the discharge of the covered person's or legislative employee's official responsibilities, other than that which is received by the covered person or the legislative employee from the State for acting in the covered person's or legislative employee's official capacity.

(b)        A covered person may not solicit for a charitable purpose any thing of monetary value from any subordinate State employee. This subsection shall not apply to generic written solicitations to all members of a class of subordinates. Nothing in this subsection shall prohibit a covered person from serving as the honorary head of the State Employees Combined Campaign.

(c)        No public servant, legislator, or legislative employee shall knowingly accept a gift from a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes. No legislator or legislative employee shall knowingly accept a gift from liaison personnel designated under Chapter 120C of the General Statutes. No public servant, legislator, or legislative employee shall accept a gift knowing all of the following:

(1)        The gift was obtained indirectly from a lobbyist, lobbyist principal, or liaison personnel registered under Chapter 120C of the General Statutes.

(2)        The lobbyist, lobbyist principal, or liaison personnel registered under Chapter 120C of the General Statutes intended for the ultimate recipient of the gift to be a public servant, legislator, or legislative employee as provided in G.S. 120C‑303.

(d)        No public servant shall knowingly accept a gift from a person whom the public servant knows or has reason to know any of the following:

(1)        Is doing or is seeking to do business of any kind with the public servant's employing entity.

(2)        Is engaged in activities that are regulated or controlled by the public servant's employing entity.

(3)        Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the public servant's official duties.

(d1)      No public servant shall accept a gift knowing all of the following:

(1)        The gift was obtained indirectly from a person described under subdivisions (d)(1), (2), and (3) of this section.

(2)        The person described under subdivisions (d)(1), (2), and (3) of this section intended for the ultimate recipient of the gift to be a public servant.

(e)        Subsections (c), (d), and (d1) of this section shall not apply to any of the following:

(1)        Food and beverages for immediate consumption in connection with any of the following:

a.         An open meeting of a public body, provided that the open meeting is properly noticed under Article 33C of Chapter 143 of the General Statutes.

b.         A gathering of a person or governmental unit with at least 10 or more individuals in attendance open to the general public, provided that a sign or other communication containing a message that is reasonably designed to convey to the general public that the gathering is open to the general public is displayed at the gathering.

c.         A gathering of a person or governmental unit to which the entire board of which a public servant is a member, at least 10 public servants, all the members of the House of Representatives, all the members of the Senate, all the members of a county or municipal legislative delegation, all the members of a recognized legislative caucus with regular meetings other than meetings with one or more lobbyists, all the members of a committee, a standing subcommittee, a joint committee or joint commission of the House of Representatives, the Senate, or the General Assembly, or all legislative employees are invited, and one of the following applies:

1.         At least 10 individuals associated with the person or governmental unit actually attend, other than the covered person or legislative employee, or the immediate family of the covered person or legislative employee.

2.         All shareholders, employees, board members, officers, members, or subscribers of the person or governmental unit located in North Carolina are notified and invited to attend.

For purposes of this sub‑subdivision only, the term "invited" shall mean written notice from at least one host or sponsor of the gathering containing the date, time, and location of the gathering given at least 24 hours in advance of the gathering to the specific qualifying group listed in this sub‑subdivision. If it is known at the time of the written notice that at least one sponsor is a lobbyist or lobbyist principal, the written notice shall also state whether or not the gathering is permitted under this section.

(2)        Informational materials relevant to the duties of the covered person or legislative employee.

(3)        Reasonable actual expenditures of the legislator, public servant, or legislative employee for food, beverages, registration, travel, lodging, other incidental items of nominal value, and entertainment, in connection with (i) a legislator's, public servant's, or legislative employee's attendance at an educational meeting for purposes primarily related to the public duties and responsibilities of the legislator, public servant, or legislative employee; (ii) a legislator's, public servant's, or legislative employee's participation as a speaker or member of a panel at a meeting; (iii) a legislator's or legislative employee's attendance and participation in meetings of a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or that the legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or as a member of a board, agency, or committee of such organization; or (iv) a public servant's attendance and participation in meetings as a member of a board, agency, or committee of a nonpartisan state, regional, national, or international organization of which the public servant's agency is a member or the public servant is a member by virtue of that public servant's public position, provided the following conditions are met:

a.         The reasonable actual expenditures shall be made by a lobbyist principal, and not a lobbyist.

b.         Any meeting must be attended by at least 10 or more participants, have a formal agenda, and notice of the meeting has been given at least 10 days in advance.

c.         Any food, beverages, transportation, or entertainment must be provided to all attendees or defined groups of 10 or more attendees as part of the meeting or in conjunction with the meeting.

d.         Any entertainment must be incidental to the principal agenda of the meeting.

e.         If the legislator, public servant, or legislative employee is participating as a speaker or member of a panel, then that legislator, public servant, or legislative employee must be a bona fide speaker or participant.

(4)        A plaque or similar nonmonetary memento recognizing individual services in a field or specialty or to a charitable cause.

(5)        Gifts accepted on behalf of the State for use by the State or for the benefit of the State.

(6)        Anything generally made available or distributed to the general public or all other State employees by lobbyists or lobbyist principals, or persons described in subdivisions (d)(1), (2), or (3) of this section.

(7)        Gifts from the covered person's or legislative employee's extended family, or a member of the same household of the covered person or legislative employee.

(8)        Gifts given to a public servant not otherwise subject to an exception under this subsection, where the gift is food and beverages, transportation, lodging, entertainment or related expenses associated with the public business of industry recruitment, promotion of international trade, or the promotion of travel and tourism, and the public servant is responsible for conducting the business on behalf of the State, provided all the following conditions apply:

a.         The public servant did not solicit the gift, and the public servant did not accept the gift in exchange for the performance of the public servant's official duties.

b.         The public servant reports electronically to the Commission within 30 days of receipt of the gift or of the date set for disclosure of public records under G.S. 132‑6(d), if applicable. The report shall include a description and value of the gift and a description how the gift contributed to the public business of industry recruitment, promotion of international trade, or the promotion of travel and tourism. This report shall be posted to the Commission's public Web site.

c.         A tangible gift, other than food or beverages, not otherwise subject to an exception under this subsection shall be turned over as State property to the Department of Commerce within 30 days of receipt, except as permitted under subsection (f) of this section.

(9)        Gifts of personal property valued at less than one hundred dollars ($100.00) given to a public servant in the commission of the public servant's official duties if the gift is given to the public servant as a personal gift in another country as part of an overseas trade mission, and the giving and receiving of such personal gifts is considered a customary protocol in the other country.

(10)      Gifts given or received as part of a business, civic, religious, fraternal, personal, or commercial relationship provided all of the following conditions are met:

a.         The relationship is not related to the public servant's, legislator's, or legislative employee's public service or position.

b.         The gift is made under circumstances that a reasonable person would conclude that the gift was not given for the purpose of lobbying.

(11)      Food and beverages for immediate consumption and related transportation provided all of the following conditions are met:

a.         The food, beverage, or transportation is given by a lobbyist principal and not a lobbyist.

b.         The food, beverage, or transportation is provided during a conference, meeting, or similar event and is available to all attendees of the same class as the recipient.

c.         The recipient of the food, beverage, or transportation is a director, officer, governing board member, employee, or independent contractor of one of the following:

1.         The lobbyist principal giving the food, beverage, or transportation.

2.         A third party that received the funds to purchase the food, beverages, or transportation.

(12)      Food and beverages for immediate consumption at an organized gathering of a person, the State, or a governmental unit to which a public servant is invited to attend for purposes primarily related to the public servant's public service or position, and to which at least 10 individuals, other than the public servant, or the public servant's immediate family, actually attend, or to which all shareholders, employees, board members, officers, members, or subscribers of the person or governmental unit who are located in a specific North Carolina office or county are notified and invited to attend.

(f)         A prohibited gift that would constitute an expense appropriate for reimbursement by the public servant's employing entity if it had been incurred by the public servant personally shall be considered a gift accepted by or donated to the State, provided the public servant has been approved by the public servant's employing entity to accept or receive such things of value on behalf of the State. The fact that the employing entity's reimbursement rate for the type of expense is less than the value of a particular gift shall not render the gift prohibited.

(g)        A prohibited gift shall be, and a permissible gift may be, promptly declined, returned, paid for at fair market value, or donated to charity or the State.

(h)        A covered person or legislative employee shall not accept an honorarium from a source other than the employing entity for conducting any activity where any of the following apply:

(1)        The employing entity reimburses the covered person or legislative employee for travel, subsistence, and registration expenses.

(2)        The employing entity's work time or resources are used.

(3)        The activity would be considered official duty or would bear a reasonably close relationship to the covered person's or legislative employee's official duties.

An outside source may reimburse the employing entity for actual expenses incurred by a covered person or legislative employee in conducting an activity within the duties of the covered person or legislative employee, or may pay a fee to the employing entity, in lieu of an honorarium, for the services of the covered person or legislative employee. An honorarium permissible under this subsection shall not be considered a gift for purposes of subsection (c) of this section.

(i)         Acceptance or solicitation of a gift in compliance with this section without corrupt intent shall not constitute a violation of the statutes related to bribery under G.S. 14‑217, 14‑218, or 120‑86.  (2006‑201, s. 1; 2007‑347, s. 11; 2007‑348, ss. 15(b), 35‑41(a); 2008‑213, ss. 77(a), 78(a), 79‑82, 90; 2009‑549, s. 17.)