

-- STATE OF NORTH CAROLINA--  
DEPARTMENT OF TRANSPORTATION  
RALEIGH, N.C.

**EXTERNAL DRAFT RFP**

**DESIGN-BUILD PROJECT**

**TIP I-3306BB**

**November 22, 2006**

*VOID FOR BIDDING*

DATE AND TIME OF TECHNICAL AND PRICE PROPOSAL SUBMISSION: **February 8, 2007 AT 4:00 PM**

DATE AND TIME OF PRICE PROPOSAL OPENING: **February 20, 2007 AT 2:00 PM**

CONTRACT ID: C 201650

WBS ELEMENT NO. 34178.3.5

FEDERAL-AID NO. NHF-40-4-(132)271

COUNTY: Orange / Durham

ROUTE NO. I-40

MILES: 10.401

LOCATION: I-40 from West of Orange / Durham County Line to East of NC 147

TYPE OF WORK: DESIGN-BUILD AS SPECIFIED IN THE SCOPE OF WORK  
CONTAINED IN THE REQUEST FOR PROPOSALS

NOTICE:

ALL PROPOSERS SHALL COMPLY WITH ALL APPLICABLE LAWS REGULATING THE PRACTICE OF GENERAL CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA WHICH REQUIRES THE PROPOSER TO BE LICENSED BY THE N.C. LICENSING BOARD FOR CONTRACTORS WHEN BIDDING ON ANY NON-FEDERAL AID PROJECT WHERE THE BID IS \$30,000 OR MORE, EXCEPT FOR CERTAIN SPECIALTY WORK AS DETERMINED BY THE LICENSING BOARD. PROPOSERS SHALL ALSO COMPLY WITH ALL OTHER APPLICABLE LAWS REGULATING THE PRACTICES OF ELECTRICAL, PLUMBING, HEATING AND AIR CONDITIONING AND REFRIGERATION CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA. NOT WITHSTANDING THESE LIMITATIONS ON BIDDING, THE PROPOSER WHO IS AWARDED ANY PROJECT SHALL COMPLY WITH CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA FOR LICENSING REQUIREMENTS WITHIN 60 CALENDAR DAYS OF BID OPENING, REGARDLESS OF FUNDING SOURCES.

\_\_\_\_\_  
5% BID BOND OR BID DEPOSIT REQUIRED  
\_\_\_\_\_

**PROPOSAL FORM FOR THE CONSTRUCTION OF CONTRACT NO. C201650  
IN ORANGE AND DURHAM COUNTIES, NORTH CAROLINA**

Date \_\_\_\_\_ 20 \_\_\_\_\_

**DEPARTMENT OF TRANSPORTATION,  
RALEIGH, NORTH CAROLINA**

The Design-Build Team herein acknowledges that it has carefully examined the location of the proposed work to be known as Contract No. C201650; has carefully examined the Final Request for Proposal (RFP) and all addendums thereto, specifications, special provisions, the form of contract, and the forms of contract payment bond and contract performance bonds, which are acknowledged to be part of the Contract; and thoroughly understands the stipulations, requirements and provisions. The undersigned Design-Build Team agrees to be bound upon their execution of the Contract and including any subsequent award to them by the Board of Transportation in accordance with this Contract to provide the necessary contract payment bond and contract performance bond within fourteen calendar days after the written notice of award is received by them.

The undersigned Design-Build Team further agrees to provide all necessary materials, machinery, implements, appliances, tools, labor, and other means of construction, except as otherwise noted, to perform all the work and required labor to design, construct and complete all the work necessary for State Highway Contract No. C201650 in Durham and Orange Counties by no later than the dates(s) specified in the Final RFP or Technical Proposal, whichever is earlier, and in accordance with the requirements of the Engineer, the Final RFP, the *2006 Standard Specifications for Roads and Structures*, specifications prepared by the Department, the Technical Proposal prepared by the Design-Build Team, at the lump sum price(s) bid by the Design-Build Team in their Price Proposal.

The Design-Build Team shall provide signed and sealed documents prepared by the Design-Build Team, which specifications and plans show the details covering this project and adhere to the items noted above.

The Design-Build Team acknowledges that project documents furnished by the Department are preliminary and provided solely to assist the Design-Build Team in the development of the project design. Unless otherwise noted herein, the Department does not warrant or guarantee the sufficiency or accuracy of any information furnished by the Department.

The Department does not warrant or guarantee the sufficiency or accuracy of any investigations made, nor the interpretations made or opinions of the Department as to the type of materials and conditions to be encountered at the project site. The Design-Build Team is advised to make such independent investigations, as they deem necessary to satisfy their self as to conditions to be encountered on this project. The Design-Build Team shall have no claim for additional compensation or for an extension of contract time for any reason resulting from the actual conditions encountered at the site differing from those indicated in any of the information or documents furnished by the Department except as may be allowed under the provisions of the Standard Specifications.

Unless otherwise noted herein, the Design-Build Team shall assume full responsibility, including liability, for the project design, including the use of portions of the Department design, modification of such design, or other designs as may be submitted by the Design-Build Team.

The Design-Build Team shall be fully and totally responsible for the accuracy and completeness of all work performed under this contract, and shall indemnify and hold the Department harmless for any additional costs and all claims against the Department or the State which may arise due to errors or omissions of the Department in furnishing any preliminary project designs and information, and of the Design-Build Team in performing the work.

The published volume entitled *North Carolina Department of Transportation, Raleigh, Standard Specifications for Roads and Structures, JANUARY 2006*, as well as, all design manuals, policy and procedures manuals, and AASHTO publications and guidelines referenced in the Request For Proposal, with all amendments and supplements thereto, are by reference, incorporated and made part of this contract; that, except as herein modified, all the design, construction and Construction Engineering Inspection included in this contract is to be done in accordance with the documents noted above and under the direction of the Engineer.

If the Design-Build Proposal is accepted and the award is made, the Technical Proposal submitted by the Design-Build Team is by reference, incorporated and made part of this contract. The contract is valid only when signed either by the Contract Officer or such other person as may be designated by the Secretary to sign for the Department of Transportation. The conditions and provisions herein cannot be changed except by written approval as allowed by the Request For Proposal.

Accompanying the Design-Build Proposal shall be a bid bond secured by a corporate surety, or certified check payable to the order of the Department of Transportation, for five percent of the total bid price, which deposit is to be forfeited as liquidated damages in case this bid is accepted and the Design-Build Team shall fail to provide the required payment and performance bonds with the Department of Transportation, under the condition of this proposal, within 14 calendar days after the written notice of award is received by them, as provided in the Standard Specifications; otherwise said deposit will be returned to the Design-Build Team.

**TO  
BE  
SEALED  
IN  
FINAL  
RFP**

*State Alternative Delivery  
Engineer*

**TO  
BE  
SEALED  
IN  
FINAL  
RFP**

*State Contract Officer*

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Execution of Bid, Noncollusion Affidavit & Debarment Certification Signature Sheets  
(yellow sheets)

## **PROJECT SPECIAL PROVISIONS**

### **CONTRACT TIME AND LIQUIDATED DAMAGES**

The date of availability for this contract is **April 2, 2007**.

The completion date for this contract is defined as the date proposed in the Technical Proposal by the proposer who is awarded the project. The completion date thus proposed shall not be later than **July 1, 2008**.

The actual date proposed by the Design-Build Team is (to be filled in by NCDOT after award).

When observation periods are required by the special provisions, they are not a part of the work to be completed by the completion date and/or intermediate contract times. Should an observation period extend beyond the final completion date, the acceptable completion of the observation period shall be a part of the work covered by the performance and payment bonds.

The liquidated damages for this contract are Ten Thousand Dollars (\$10,000.00) per calendar day.

Where the Design-Build Team who is awarded the contract has proposed a completion date for the contract as required above then the proposed date will become contract requirements.

### **INTERMEDIATE CONTRACT TIME No. 1 AND LIQUIDATED DAMAGES**

The Contractor shall complete all work except the placement of Ultra-thin hot mix asphalt, Polyurea pavement markings and snowplowable pavement markers and shall place and maintain traffic on same.

The date of availability for this Intermediate Contract Time No. 1 is **April 2, 2007**.

The completion date for this Intermediate Contract Time No. 1 is **November 15, 2007**.

The liquidated damages for this Intermediate Contract Time No. 1 are Twenty Thousand Dollars (\$20,000.00) per calendar day.

### **TRAFFIC CONTROL LIQUIDATED DAMAGES**

(7-13-04)

DB1 G11

**Refer to the Traffic Control Scope of Work for more information on the following time restrictions and liquidated damages:**

Liquidated Damages for **Intermediate Contract Time No. 2** for lane narrowing, lane closure, holiday and special event restrictions for I-40 are \$10,000.00 per hour.

Liquidated Damages for **Intermediate Contract Time No. 3** for I-40 ramp and loop closure time restrictions, are \$2,500.00 per hour.

**COMPENSATION** (10-31-06)

Full compensation for **all** work performed under this contract shall be included in the lump sum amount bid for “Traffic Control” except for the other items listed in the Itemized Proposal Sheet which shall be at the unit and lump sum prices bid by the Design-Build Team.

All other references to pay items, basis of payment, and measurements for the purpose of payment found in the plans or the *Standard Specifications* shall be considered null and void.

**TOWING AND MOTORIST ASSISTANCE PRICE ADJUSTMENT** (10-30-06)

The Design-Build Team shall provide a lump sum price adjustment for towing and motorist assistance in accordance with the Towing and Motorist Assistance Project Special Provision found elsewhere in this RFP. All costs associated with providing towing and motorist assistance shall be included in the lump sum price adjustment.

The towing and motorist assistance shall be delineated on the Itemized Proposal Sheet as an add alternate with the corresponding lump sum price adjustment.

After the contract is awarded, the towing and motorist assistance alternate lump sum price adjustment will be reviewed by the Department. The acceptance or rejection of the towing and motorist assistance alternate resides solely at the Department's discretion. The Department will notify the successful bidder within 15 days of the contract award as to the Department's intent to reject or accept the towing and motorist assistance lump sum price adjustment. The addition of an alternative accepted will be by supplemental agreement and will be at the increased amount bid on the Itemized Proposal Sheet.

**PROJECT SCHEDULE**

8-3-05

DB1 G12

**Description**

Perform the work of developing, implementing, monitoring, updating and revising a Project Schedule. Utilize this Project Schedule in coordinating work activities with subcontractors, vendors, suppliers, NCDOT, and others, as may be needed, to construct the project.

**Design-Build Team’s Scheduling Representative**

Designate a Design-Build Team authorized representative responsible for developing, updating, and revising the Design-Build Team’s Project Schedule. The scheduling representative should attend all schedule related meetings and be capable of providing and presenting information related to the Project Schedule, updates, revisions and related impacts to construction activities, milestones and overall progress.

## **Project Schedule**

The Design-Build Team shall submit a Project Schedule for review within thirty (30) calendar days of receiving the Notice of Award. The Department will review the Project Schedule within seven (7) calendar days of receipt. The Design-Build Team shall make any necessary corrections or adjustments to the Project Schedule as necessitated by the Department's review within seven (7) calendar days. The Department will review the revised Project Schedule within seven (7) calendar days of receipt.

The Department's review of the Project Schedule in no way attests to the validity of the assumptions, constraints, resource allocations, production rates or any other aspect of the Project Schedule. The Design-Build Team is solely responsible for the planning and execution of work in order to meet project milestones and contract completion dates.

The Design-Build Team shall develop a Project Schedule containing the following items:

1. A time scale diagram with milestone dates and, within each milestone, major work activities clearly labeled.
2. A cash curve corresponding to the milestones and work activities established above.

Major Milestones are derived from the project construction phasing and should include, at minimum, the following:

- Date of availability
- Start of construction
- Intermediate completion dates or times
- Seasonal limitation durations
- Traffic shifts
- Detour installation
- Road openings
- Beginning and end of each traffic control phase or work area
- Construction completion date
- Contract completion date

As part of the project schedule package, the Design-Build Team shall provide a written narrative that explains the sequence of work, the controlling operation or operations, intermediate completion dates, milestones, project phasing, anticipated work schedule, and estimated resources. In addition, the Design-Build Team shall explain how permit requirements, environmental requirements, submittal tracking, and coordination with subcontractors, and other entities will be performed.

The Design-Build Team shall provide a written narrative each month detailing the work and percentage of work completed, anticipated sequence of upcoming work (2 month forecast), controlling operation/s, interim completion dates/times, and milestones. If any milestones are exceeded or will not be attained, the Design-Build Team shall provide in the written narrative



details of the delay; controlling operation affected, impacts to other operations; revisions to future interim completion dates and milestones; and remedial action necessary to get the project back to the original completion date.

**FUEL PRICE ADJUSTMENT:**

(11-15-05) (Rev 11-21-06)

SP1 G43

Revise the *2006 Standard Specifications* as follows:

Page 1-93 Subarticle 109-8, add the following:

The base index price for DIESEL #2 FUEL is \$ **Price established in Final RFP** per gallon.

Where any of the following are included in the contract, they will be eligible for fuel price adjustment.

The item(s) of work and the fuel factor used in calculating adjustments to be made are as follows:

<b>Description</b>	<b>Units</b>	<b>Fuel Usage Factor Diesel</b>
Unclassified Excavation	Gal/CY	0.29
Borrow Excavation	Gal/CY	0.29
Aggregate Base Course	Gal/Ton	0.55
Asphalt Concrete Base Course, Type ____	Gal/Ton	2.90
Asphalt Concrete Intermediate Course, Type ____	Gal/Ton	2.90
Asphalt Concrete Surface Course, Type ____	Gal/Ton	2.90
Open-Graded Asphalt Friction Course	Gal/Ton	2.90
Sand Asphalt Surface Course, Type ____	Gal/Ton	2.90
Aggregate for Cement Treated Base Course	Gal/Ton	0.55
Portland Cement for Cement Treated Base Course	Gal/Ton	0.55
____ In. Portland Cement Concrete Pavement	Gal/SY	0.245
Concrete Shoulders Adjacent to ____ In. Pavement	Gal/SY	0.245

**EXECUTION OF SIGNATURE SHEETS AND DEBARMENT CERTIFICATION**

(9-7-05)

DB1 G52

The Proposer's attention is directed to the various sheets in the Request For Proposal which are to be signed by the Proposer. A list of these sheets is shown below. The signature sheets are located behind the Itemized Proposal Sheet(s) in this Request For Proposal. The NCDOT bid bond form is available on-line at: <http://ncdot.org/doh/forms/files/bidbond.pdf> or by contacting the Records and Documents office at 919-250-4124.

1. Applicable Signature Sheets: 1, 2, 3, 4, 5, or 6 (Bid)
2. Bid Bond

The Proposer shall certify to the best of his knowledge all subcontractors, material suppliers and vendors utilized herein current status concerning suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency, in accordance with the "Debarment Certification" located behind the *Execution of Bid Noncollusion Affidavit and Debarment Certification* signature sheets in this RFP. Execution of the bid signature sheets in conjunction with any applicable statements concerning exceptions, when such statements have been made on the "Debarment Certification", constitutes the Proposer's certification of "status" under penalty of perjury under the laws of the United States.

**SUBMISSION OF DESIGN-BUILD PROPOSAL** (Federally Funded Projects)

DB1 G55

The Proposer's attention is directed that each Proposer's Design-Build Proposal shall comply with the following requirements in order for that Design-Build Proposal to be responsible and considered for award.

1. The Proposer shall be prequalified with the Department prior to submitting a Design-Build Proposal.
2. The Proposer shall deliver the Design-Build Proposal to the place indicated, and prior to the time indicated in this Request for Proposal.
3. The Design-Build Proposal documents shall be signed by an authorized employee of the Proposer.
4. The Design-Build Proposal shall be accompanied by Bid surety in the form of a Bid bond or Bid deposit.
5. If Disadvantaged Business Enterprises (DBE) goals are established for this contract, the Proposer shall complete the form Listing of DBE Subcontractors contained elsewhere in this RFP in accordance with the Project Special Provision entitled Disadvantaged Business Enterprises.
6. The Design-Build Proposal shall address all the requirements as specified in this Request for Proposal document.

In addition to the above requirements, failure to comply with any of the requirements of Articles 102-8 of the *Standard Special Provisions*, Division 1 (found elsewhere in this RFP) or Articles 102-9, 102-10, or 102-11 of the *Standard Specifications* may result in a Design-Build Proposal being rejected.

**SCHEDULE OF ESTIMATED COMPLETION PROGRESS**

(10-6-05)

DB1 G58

The Design-Build Team's attention is directed to the Standard Special Provision entitled "Availability Of Funds - Termination Of Contracts" included elsewhere in this RFP. The

Department of Transportation's schedule of estimated completion progress for this project as required by that Standard Special Provision is as follows:

<u>Fiscal Year</u>	<u>Progress (Dollar Value)</u>
2007 (07/01/06 – 06/30/07)	29 % of Total Amount Bid
2008 (07/01/07 – 06/30/08)	71 % of Total Amount Bid

The Design-Build Team shall also furnish its own progress schedule in accordance with Project Special Provision entitled PROJECT SCHEDULE found elsewhere in this RFP. Any acceleration of the progress as shown by the Design-Build Team's progress schedule over the progress as shown above shall be subject to the approval of the Engineer.

### **DISADVANTAGED BUSINESS ENTERPRISE**

(2/24/04)

DB1 G61

#### **Policy**

It is the policy of the North Carolina Department of Transportation that Disadvantaged Business Enterprises (DBE) shall have the opportunity to participate in the performance of contracts financed in whole or in part by Federal Funds in order to create a level playing field.

**The Design-Build Team is also encouraged to give every opportunity to allow DBE participation in Supplemental Agreements.**

#### **Obligation**

The Design-Build Team, subcontractor, and sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Design-Build Team shall carry out applicable requirements of 49 CFR 26 in the award and administration of federally assisted contracts as approved by the Federal Highway Administration. Failure by the Design-Build Team 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 Department deems necessary.

This obligation shall be incorporated into any subsequent contract at any level that is executed under the terms of this contract.

#### **Goals**

The following goal for participation by Disadvantaged Business Enterprise (DBE) is established for this contract:

**Disadvantaged Business Enterprises**

**5 % of the construction costs**

This goal is to be met through utilization of highway construction contractors. Utilization of DBE firms performing design-related functions or Construction Engineering and Inspection are

not included in this goal. DBE utilization for engineering related services is expected and is credited through the technical scoring process.

The Design-Build Team shall exercise all necessary and reasonable steps to ensure that Disadvantaged Business Enterprises participate in at least the percentage of the contract as set forth above as goals for this contract.

Only those firms certified by the Department can be counted toward this contract goal. The Department will provide oversight and direction in carrying forth this program.

### **Listing Of DBE Subcontractors**

All Proposers, at the time the Price Proposal is submitted, must also submit a listing of DBE participation on the appropriate form (or facsimile thereof) contained elsewhere in this RFP in order for the bid to be considered responsive. Proposers must indicate the total dollar value of DBE participation for the contract. In the event the Proposer has no DBE participation, he is still required to indicate this on the forms by entering the word or number zero. Blank forms will not be deemed to represent zero participation. **PROPOSALS SUBMITTED WHICH DO NOT HAVE DBE PARTICIPATION INDICATED ON THE APPROPRIATE FORM WILL NOT BE READ PUBLICLY.** Those Proposals will not be considered for award by the Department and they will be returned to the Proposer.

Only those DBE firms with current certification by the Department will be considered acceptable for listing in the Proposer's submittal of DBE participation.

- A. The Design-Build Team shall indicate on the form for listing of DBE subcontractors contained elsewhere in this RFP the following required information:

#### REQUIRED INFORMATION

1. The names and addresses of DBE firms committed to participate in the contract
2. The types of work to be performed by each DBE firm; and
3. The total dollar amount to be paid to each DBE based on agreed prices.

Failure to indicate the required information on the specified form will cause the proposal to be considered nonresponsive and it may be rejected.

The Proposer is required to submit written documentation of the Proposer's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal and written confirmation from each DBE, listed in the proposal form, indicating their participation in the contract.

The Department will not allow any substitutions, deletions, or other alterations to the listing of firms committed for DBE participation and/or the respective listed contract item

numbers after opening of bids. The Department will not allow adjustments to total dollar amount of DBE participation after the opening of bids that would result in the DBE participation being less than the contract goal. The only exceptions to the requirements of this paragraph will be: (1) to allow for replacement of a DBE firm that had been decertified after opening of bids, and (2) to allow alteration of the listed contract item numbers subject to the Proposer submitting sufficient documentation to verify an obvious error in the initial submittal.

- B. If the DBE participation submitted in the proposal by the apparent lowest responsive Proposer in response to Paragraph A does not meet or exceed the DBE contract goal, the apparent lowest responsive Proposer must submit information to satisfy the North Carolina Department of Transportation that sufficient Good Faith efforts have been made to meet the contract goals. One complete set and nine (9) copies of this information must be received in the office of the State Contractual Services Engineer no later than 12:00 noon of the sixth day following opening of Price Proposals. Where the information submitted includes repetitious solicitation letters it will be acceptable to submit a sample representative letter along with a distribution list of the firms being solicited. Documentation of DBE quotations shall be a part of the Good Faith effort submittal as necessary to demonstrate compliance with the factors listed below which the Department considers in judging Good Faith efforts. This documentation may include written subcontractor quotations, telephone log notations of verbal quotations, or other types of quotation documentation.

Where the Proposer fails to provide this information by the deadline, the Department may impose one or more of the following sanctions: (1) disqualify the Design-Build Team and any affiliated companies from further bidding for a period of time of no more than 90 days from the date of disqualification as established in notification by certified mail, (2) disqualify the Design-Build Team and any affiliated companies for award of all contracts for which bids or proposals have been received and opened, (3) disqualify the Design-Build Team from the contract in question. Additionally, the Proposal may be considered non responsive and no stipend may be paid.

The Department will consider the following factors in judging whether or not the Proposer has made adequate Good Faith effort:

1. Whether the Proposer attended any pre-bid meetings that were scheduled by the Department to inform DBEs of subcontracting opportunities.
2. Whether the Proposer provided solicitations through all reasonable and available means (e.g. advertising in newspapers owned and targeted to the Disadvantaged) at least 10 days prior to bid opening. Whether the Proposer provided written notice to all DBEs listed in the NCDOT DBE directory, within the Divisions and surrounding Divisions where the project is located, that specialize in the areas of work (as noted in the DBE Directory) that the Proposer will be subcontracting.

3. Whether the Proposer followed up initial solicitations of interests by contacting DBEs to determine with certainty whether they were interested. If a reasonable amount of DBEs within the targeted Divisions do not provide an intent to quote or no DBEs specialize in the subcontracted areas, the Proposer must notify DBEs outside of the targeted Divisions that specialize in the subcontracted areas, as well as call the project Compliance Officer in the Office of Civil Rights to give notification of the Proposer's inability to get DBE quotes.
4. Whether the Proposer selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Design-Build Team might otherwise perform these work items with its own forces.
5. Whether the Proposer provided interested DBEs with adequate and timely information about the plans, specifications and requirements of the contract
6. Whether the Proposer negotiated in good faith with interested DBEs not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.
7. Whether quotations were received from interested DBE firms but rejected as unacceptable without sound reasons why the quotations were considered unacceptable. The fact that the DBE firms quotation for the work is not the lowest quotation received will not in itself be considered as a sound reason for rejecting the quotation as unacceptable. The fact that the Proposer has the ability and/or desire to perform the contract work with its own forces will not be considered as sound reason for rejecting a DBE quote. Nothing in this provision shall be construed to require the Design-Build Team to accept unreasonable quotes in order to satisfy contract goals.
8. Whether the Proposer specifically negotiated with subcontractors to assume part of the responsibility to meet the contract DBE goal when the work to be sublet includes potential for DBE participation.
9. Whether the Proposer made any efforts and/or offered assistance to interested DBEs in obtaining the necessary equipment, supplies, materials, insurance, and/or bonding to satisfy the work requirements in the bid proposal.
10. Any other evidence that the Proposer submits which show that the Proposer has made reasonable Good Faith efforts to include DBE participation.

In the event one Proposer is the apparent low Proposer on more than one project within the same letting located in the same geographic area of the state, as a part of the Good

Faith effort the Department will consider allowing the Proposer to combine the DBE participation as long as the overall goal value of all projects is achieved.

Where the apparent lowest responsive Proposer fails to submit sufficient participation by DBE firms to meet the contract goal and upon a determination by the Goal Compliance Committee based upon the information submitted that the apparent lowest responsive Proposer failed to make sufficient reasonable efforts to meet the contract goal, the Proposer will be offered the opportunity to meet in person for administrative reconsideration. A committee appointed by the Department will hear administrative reconsideration. Members of this committee will be officials who did not take part in the original determination by the Goal Compliance Committee. The Proposer will have the opportunity to present written documentation or argument concerning the issue of whether it met the goal or made an adequate Good Faith effort. The Proposer will receive a written decision on the reconsideration. Explaining the basis for finding that the Proposer did or did not meet the goal or made adequate Good Faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department.

In the event that the Department does not award the contract to the apparent lowest responsive Proposer, the Department reserves the right to award the contract to the next lowest responsive Proposer that can satisfy the Department that the contract goal can be met or that adequate Good Faith efforts have been made to meet the goal.

### **DBE Directory**

A searchable list of businesses that are DBE certified by the North Carolina Department of Transportation is available at the following website:

**<http://apps.dot.state.nc.us/Vendor/Directory/Cert.aspx>**

Only those DBE firms with current certification may be listed in the proposal form.

The listing of an individual firm in the Department's directory shall not be construed as an endorsement of the firms' capability to perform certain work.

### **Replacement OF DBEs**

#### **A. Performance Related**

If any DBE Subcontractor submitted on the form for listing of DBE Subcontractors, contained elsewhere in this proposal form, is terminated or fails to complete its work on the contract for any reason, the Design-Build Team shall take all necessary, reasonable steps to replace the DBE Subcontractor with another DBE Subcontractor to perform at least the same amount of work of the contract as the DBE that was terminated.

To demonstrate necessary, reasonable Good Faith efforts, the Design-Build Team shall document the steps it has taken to replace any DBE Subcontractor who is unable to perform successfully with another DBE Subcontractor. Such documentation shall include but not be limited to the following:

1. Copies of written notification to DBEs that their interest is solicited in subcontracting the work defaulted by the previous DBE Subcontractor or in subcontracting other items of work in the contract.
2. Efforts to negotiate with DBEs for specific subbids including, at a minimum:
  - a. The names, addresses, and telephone numbers of DBEs who were contacted;
  - b. A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed; and
3. For each DBE contacted but rejected as unqualified, the reasons for the Design-Build Team's conclusion.
4. Efforts made to assist the DBEs contacted, if needed, in obtaining bonding or insurance required by the Design-Build Team.

The Design-Build Team shall not terminate a DBE subcontractor listed in the proposal form for convenience or perform the work with its own forces or those of an affiliate without the written approval of the Engineer. If the Design-Build Team fails to demonstrate reasonable efforts to replace a DBE firm that does not perform as intended or completes the work with its own forces without the Engineer's approval, the Design-Build Team will be disqualified from further bidding for a period of up to 6 months after notification by certified mail.

#### B. Decertification

1. If a Design-Build Team has listed a DBE firm in its Design-Build Proposal and that DBE Subcontractor is subsequently decertified by the Department after a Request for Subcontract has been approved, then the Department will not require the Design-Build Team to solicit replacement DBE participation equal to the remaining work to be performed by the decertified firm. The participation equal to the remaining work performed by the decertified firm will count toward the contract goal but may not be counted toward the overall program goal.
2. If a Design-Build Team has listed a DBE firm in its Design-Build Proposal and the DBE firm is decertified prior to the Department approving a Request for Subcontract for the named DBE firm, the Design-Build Team shall take all necessary and reasonable steps to replace the DBE Subcontractor with another DBE Subcontractor to perform at least the same amount of work to meet the contract goal or demonstrate that it has made a Good Faith effort to do so.



**Definitions**

For purposes of this provision the following definitions will apply:

- A. Socially and economically disadvantaged individuals means a person who has a net worth of \$750,000.00 or less and is a citizen or lawful permanent resident of the United States and who is:
1. A Black American
  2. A Hispanic American
  3. A Subcontinent Asian American
  4. A Native American
  5. An Asian-Pacific American
  6. A Woman
  7. Members of other groups, or other individuals found to be economically and socially disadvantaged by the Small Business Administration under Section 8(d) of the Small Business Act, as amended (15 U.S.C. 637(d)).
  8. Members of other groups, or other individuals found to be economically and socially disadvantaged by the N. C. Department of Transportation under the Criteria for Disadvantaged Business Enterprises as published by the Department.
- B. Disadvantaged Business Enterprise (DBE) means a for-profit small business concern.
1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and
  2. Whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**Counting DBE Participation Toward Meeting The DBE Goal**

- A. If a firm is determined to be an eligible DBE firm and certified by the Department, the total dollar value of the participation by the DBE will be counted toward the goal. The total dollar value of participation by a certified DBE will be based upon the value of work actually performed by the DBE and the actual payments to DBE firms by the Design-Build Team.

- B. When a DBE performs as a participant in a joint venture, the Design-Build Team may count toward its DBE goal a portion of the total value of participation with the DBE in the joint venture, that portion of the total dollar value being a distinct clearly defined portion of work that the DBE performs with its forces.
- C. 1. The Design-Build Team may count toward its DBE goal only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.
2. Consistent with normal industry practices, a DBE may enter into subcontracts. Work that a DBE subcontracts to another DBE firm may be counted toward the contract goal. Work that a DBE subcontracts to a non-DBE firm does not count toward the contract goal. If a DBE Design-Build Team or Subcontractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. The Department's decision on the rebuttal of this presumption is subject to review by the Federal Highway Administration but is not administratively appealable to USDOT.
3. The following factors will be used to determine if a DBE trucking firm is performing a commercially useful function.
- a. The DBE firm must be responsible for the management and supervision of the entire trucking operation
  - b. The DBE must itself own and operate at least one fully licensed, insured and operational truck
  - c. The DBE will receive full credit for all trucks it owns, insures, operates, and employs drivers
  - d. The DBE will receive full credit for all trucks leased from a certified DBE firm
  - e. The DBE will only receive credit for the fees or commission for trucks leased from a non-DBE firm
  - f. Others may use trucks during the term of the lease so long as the lease gives priority to the DBE for the use of the truck(s).

The DBE may present evidence to rebut this presumption to the Department for commercially useful functions.

- D. A Design-Build Team may count toward its DBE goal 60 percent of its expenditures for materials and supplies required to complete the contract and obtained from a DBE regular dealer and 100 percent of such expenditures to a DBE manufacturer.
1. For purposes of this provision, a manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Design-Build Team.
  2. For purposes of this provision, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment.
  3. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section.
- E. A Design-Build Team may count toward its DBE goal the following expenditures to DBE firms that are not manufacturers or regular dealers:
1. The fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided the fees or commissions are determined to be reasonable and not excessive as compared with fees and commissions customarily allowed for similar services.
  2. The fees or commissions charged for assistance in the procurement of the materials and supplies, or for transportation charges for the delivery of materials or supplies required on a job site (but not the cost of the materials and supplies themselves), toward DBE goals, provided the fees are not from a manufacturer or regular dealer and provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

## Reports

All requests for subcontracts involving DBE subcontractors shall be accompanied by a certification executed by both the Design-Build Team and the DBE Subcontractor attesting to the agreed upon unit prices and extensions for the affected contract items. This document shall be on the Department's Form RS-1-D, or in lieu of using the Department's Form, copies of the actual executed agreement between the Design-Build Team and the DBE Subcontractor may be submitted. In any event, the Department reserves the right to require copies of actual subcontract agreements involving DBE Subcontractors.

The RS-1-D certification forms may be obtained from the Department's Resident Engineer.

These certifications shall be considered a part of the project records, and consequently will be subject to penalties under Federal Law associated with falsifications of records related to projects.

### **Reporting Disadvantaged Business Enterprise Participation**

When payments are made to Disadvantaged Business Enterprise firms, including material suppliers, contractors at all levels (prime, subcontractor, or second tier subcontractor) shall provide the Engineer with an accounting of said payments. This accounting shall be furnished to the Engineer for any given month by the end of the following month. Failure to submit this information accordingly may result in (1) withholding of money due in the next partial pay estimate; or (2) removal of an approved Design-Build team member from the Department's appropriate prequalified list or (3) the removal of other entities from the approved subcontractors list. The accounting shall list for each payment made to a Disadvantaged Business Enterprise firm the following:

- DOT Project Number
- Payee Design-Build Team Name
- Receiving Design-Build Team or Material Supplier
- DBE Certification Basis, e.g., Woman Owned, Native American, African American, etc.
- Amount of Payment
- Date of Payment

A responsible fiscal officer of the payee Design-Build Team, subcontractor, or second tier subcontractor who can attest to the date and amounts of the payments shall certify that the accounting is correct. A copy of an acceptable report may be obtained from the Engineer.

### **CERTIFICATION FOR FEDERAL-AID CONTRACTS**

(3-21-90)

DB1 G85

The Proposer certifies, by signing and submitting a Design-Build Proposal, to the best of his or her knowledge and belief, that:

- (1) 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.
- (2) 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.

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 Section 1352, *Title 31, U.S. Code*. 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.

The Proposer also agrees by submitting a Design-Build Proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

### **U.S. DEPARTMENT OF TRANSPORTATION HOTLINE**

(11-22-94)

DB1 G100

To report bid rigging activities call: **1-800-424-9071**

The U.S. Department of Transportation (DOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

### **SUBMISSION OF RECORDS - FEDERAL-AID PROJECTS**

(12-15-98)

DB1 G106

The Design-Build Team's attention is directed to the Standard Special Provisions entitled "Required Contract Provisions - Federal-Aid Construction Contracts" contained elsewhere in this Design-Build Package.

This project is located on the National Highway System. If the final construction cost of this project equals or exceeds **One Million Dollars**, the Design-Build Team must submit federal form FHWA-47.

### **SUBSURFACE INFORMATION:**

(7-1-95)

DB1 G112

There is **no** subsurface information available on this project.

**BID DOCUMENTATION**

(5-6-04)

DB1 G142

**General**

The successful Proposer (Design-Build Team) shall submit the original, unaltered bid documentation or a certified copy of the original, unaltered bid documentation used to prepare the Price Proposal for this contract to the Department. Such documentation shall be placed in escrow with a banking institution or other bonded document storage facility selected by the Department and preserved by that institution or facility as specified in the following sections of this provision.

**Bid Documentation**

The terms "bid documentation" as used in this provision means all written information, working papers, computer printouts and diskettes, charts, and all other data compilations which contain or reflect information, data, and calculations used by the Proposer in the preparation of their Price Proposal. The term "bid documentation" includes, but is not limited to, Design-Build Team equipment rates, Design-Build Team overhead rates, labor rates, efficiency or productivity factors, arithmetical calculations, and quotations from subcontractors and material suppliers to the extent that such rates and quotations were used by the Proposer in formulating and determining the bid. The term "bid documentation" also includes any manuals, which are standard to the industry used by the Proposer in determining the bid. Such manuals may be included in the bid documentation by reference. Such reference shall include the name and date of the publication and the publisher. The term does not include bid documents provided by the Department for use by the Proposer in bidding on this project.

**Submittal of Bid Documentation**

A representative of the Proposer shall deliver the original, unaltered bid documentation or a certified copy of the original, unaltered bid documentation to the Department, in a container suitable for sealing, within ten (10) days after the notice of award is received by the Proposer. Bid documentation will be considered a certified copy if the Proposer includes a letter to the Department from a chief officer of the company stating that the enclosed documentation is an EXACT copy of the original documentation. The letter must be signed by a chief officer of the company, have the person's name and title typed below the signature, and the signature MUST be notarized at the bottom of the letter. The Department will not execute the contract until the original, unaltered bid documentation or a certified copy of the original, unaltered bid documentation has been received by the Department. The container shall be clearly marked "Bid Documentation" and shall also show on the face of the container the Proposer's name, Proposer's address, the date of submittal, the Project Number, and the County.

**Affidavit**

In addition to the bid documentation, an affidavit signed under oath by an individual authorized by the Proposer to execute the bid shall be included. The affidavit shall list each bid document with sufficient specificity so a comparison may be made between the list and the bid

documentation to ensure that all of the bid documentation listed in the affidavit has been enclosed. The affidavit shall attest that the affiant has personally examined the bid documentation, that the affidavit lists all of the documents used by the Proposer to determine the bid for this project, and that all such bid documentation has been included.

### **Verification**

Upon delivery of the bid documentation, the Department's Contract Officer and the Proposer's representative will verify the accuracy and completeness of the bid documentation compared to the affidavit. Should a discrepancy exist, the Proposer's representative shall immediately furnish the Department's Contract Officer with any other needed bid documentation. The Department's Contract Officer upon determining that the bid documentation is complete will, in the presence of the Proposer's representative, immediately place the complete bid documentation and affidavit in the container and seal it. Both parties will deliver the sealed container to a banking institution or other bonded document storage facility selected by the Department for placement in a safety deposit box, vault, or other secure accommodation.

### **Duration and Use**

The bid documentation and affidavit shall remain in escrow until sixty (60) calendar days from the time the Design-Build Team receives the final estimate; or until such time as the Design-Build Team gives written notice of intent to file a claim, files a written claim, files a written and verified claim, or initiates litigation against the Department related to the contract; or until authorized in writing by the Design-Build Team. Upon the giving of written notice of intent to file a claim, filing a written claim, filing a written and verified claim, or the initiation of litigation by the Design-Build Team against the Department, or receipt of a letter from the Design-Build Team authorizing release, the Department may obtain the release and custody of the bid documentation. If the bid documentation remains in escrow sixty (60) calendar days after the time the Design-Build Team receives the final estimate and the Design-Build Team has not filed a written claim, filed a written and verified claim, or has not initiated litigation against the Department related to the contract, the Department shall instruct the banking institution or other bonded document storage facility to release the sealed container to the Design-Build Team.

The Proposer certifies and agrees that the sealed container placed in escrow contains all of the bid documentation used to determine the bid and that no other bid documentation shall be relevant or material in litigation over claims brought by the Design-Build Team arising out of this contract.

### **Failure to Provide Bid Documentation**

The Proposer's failure to provide the original, unaltered bid documentation or a certified copy of the original, unaltered bid documentation within ten (10) days after the notice of award is received by the Proposer may be just cause for rescinding the award of the contract and may result in the removal of the Proposer from the Department's appropriate prequalified list for a period up to 180 days. Award may then be made to the next lowest responsible Proposer or the

work may be readvertised and constructed under the contract or otherwise, as the Board of Transportation may decide.

### **Escrow Agreement**

The Proposer will be required to sign an Escrow Agreement within ten (10) days after the notice of award is received by the Proposer. A copy of this Escrow Agreement document will be mailed to the Proposer with the notice of award for informational purposes. The Proposer and Department will sign the Escrow Agreement at the time that the bid documentation is delivered to a Banking Institution or other facility as outlined above. The Proposer's failure to sign the Escrow Agreement at the time the bid documentation is delivered may be just cause for rescinding the award of the contract and may result in the removal of the Proposer from the Department's appropriate prequalified list for a period up to 180 days. Award may then be made to the next lowest responsible Proposer or the work may be readvertised and constructed under the contract or otherwise, as the Board of Transportation may decide.

### **Confidentiality Of Bid Documentation**

The bid documentation and affidavit in escrow are, and will remain, the property of the Proposer. The Department has no interest in, or right to, the bid documentation and affidavit other than to verify the contents and legibility of the bid documentation unless the Design-Build Team gives written notice of intent to file a claim, files a written claim, files a written and verified claim, or initiates litigation against the Department. In the event of such written notice of intent to file a claim, filing of a written claim, filing a written and verified claim, or initiation of litigation against the Department, or receipt of a letter from the Design-Build Team authorizing release, the bid documentation and affidavit may become the property of the Department for use in considering any claim or in litigation as the Department may deem appropriate.

Any portion or portions of the bid documentation designated by the Proposer as a "trade secret" at the time the bid documentation is delivered to the Department's Contract Officer shall be protected from disclosure as provided by *General Statutes 132-1.2*.

### **Cost and Escrow Instructions**

The cost of the escrow will be borne by the Department. The Department will provide escrow instructions to the banking institution or other bonded document storage facility consistent with this provision.

### **Payment**

There will be no separate payment for all costs of compilation of the data, container, or verification of the bid documentation. Payment at the lump sum price for the Design-Build project will be full compensation for all such costs.



**OUTSOURCING OUTSIDE THE USA**

(9/21/04)

DB1 G150

All work on consultant contracts, services contracts, and construction contracts shall be performed in the United States of America. No work shall be outsourced outside of the United States of America.

*Outsourcing* for the purpose of this provision is defined as the practice of subcontracting labor, work, services, staffing, or personnel to entities located outside of the United States.

The North Carolina Secretary of Transportation shall approve exceptions to this provision in writing.

**ACT OF GOD**

(12-19-06)

SP 1 G151

Revise the *2006 Standard Specifications* as follows:

Page 1-69, 107-18 Contractor's Responsibility for Work, in the first paragraph, last sentence, replace the word *legally* with the word ***contractually***.

**PRICE ADJUSTMENTS FOR ASPHALT BINDER**

(11-21-00)

DB6 R25

Adjustments will be made to the payments due the Design-Build Team for each grade of asphalt binder when it has been determined that the monthly average terminal F.O.B. Selling Price of asphalt binder, Grade PG 64-22, has fluctuated from the Base Price Index for Asphalt Binder included in this Project Special Provision. The methods for calculating a Base Price Index, for calculating the monthly average terminal F.O.B. Selling Price and for determining the terminals used are in accordance with procedures on file with the Department's Construction Unit.

When it is determined that the monthly average terminal F.O.B. Selling Price of asphalt binder on the first business day of the calendar month during which the last day of the partial payment period occurs, varies either upward or downward from the Base Price Index, the partial payment for that period will be adjusted. The partial payment will be adjusted by adding the difference (+ or -) of the base price index subtracted from the monthly selling price multiplied by the total theoretical quantity of asphalt binder authorized for use in the plant mix placed during the partial payment period involved.

The Base Price Index for this project is \$ **PRICE TO BE INCLUDED IN FINAL RFP** per ton

**PRICE ADJUSTMENTS - ASPHALT CONCRETE PLANT MIX**

(2-6-06)

DB6 R26

Revise the *2006 Standard Specifications* as follows:

Page 6-27, Article 609-8 and Page 6-49, Article 610-13

Add the following paragraph before the first paragraph:

The “Asphalt Price” used to calculate any price adjustments set forth in this section shall be \$35 per theoretical ton. This price shall apply for all mix types.

## **GUARANTEE FOR PAVEMENTS**

### **Description**

Construct Asphalt Concrete Surface Course Type S9.5D and Ultrathin Wearing Surface in accordance with the *2006 Standard Specifications*, plans, and special provisions subject to a 5-year guarantee period.

“Guarantee” shall mean that the Design-Build Team is responsible for performance of the Asphalt Concrete Surface Course, Type S9.5D and Ultrathin Wearing Surface for a period of 5-years after final acceptance of the project in accordance with Article 105-17 of the *2006 Standard Specifications*. This includes continued responsibility for performing all remedial work associated with pavement distresses exceeding the allowable level of service determined in accordance with Table 1 of this provision.

### **Dispute Review Committee**

A Dispute Review Committee shall be assembled to resolve issues or disputes relating to guarantee responsibility. This Dispute Review Committee shall be comprised of two members appointed by the Design-Build Team, two members appointed by the Department and one member mutually agreed upon by the Design-Build Team and the Department who shall also serve as chairman of the committee. Any costs associated with assembling the Dispute Review Committee shall be shared equally among the Department and the Design-Build Team. Decisions rendered by the Dispute Review Committee shall require a simple majority, with a vote of all five members being required. The Dispute Review Committee shall make a recommendation to the Chief Engineer or his designee within 30 calendar days of receiving a written dispute resolution request.

### **Pavement Evaluation**

The Department’s Flexible Pavement Condition Survey Program, along with observations by the Engineer, shall be used as the basis for determining the extent and the magnitude of the pavement distresses occurring within the guarantee period of the project. For evaluation purposes, the project shall be subdivided into LOTS of 1,000 feet per lane. The Department may conduct a survey on a LOT by LOT basis of the pavement following the final acceptance of the project, and at intermediate times throughout the guarantee period. The final survey, if determined by the Engineer to be necessary, shall be conducted no later than 45 calendar days before the end of the guarantee period. All surveys shall be conducted at no cost to the Design-Build Team.

The parameters that shall be used to evaluate performance are ride quality, surface condition and material quality. These parameters shall be evaluated annually for pavement features and prior to the expiration of the guarantee period. All evaluations and condition surveys shall be conducted by the Department at no cost to the Design-Build Team.

The Design-Build Team shall be advised if the Department believes remedial action is required. The results of pavement evaluation and pavement condition surveys shall be made available to the Design-Build Team within 30 calendar days of the completion of the survey.

If intermediate or final survey findings are to be disputed by the Design-Build Team, written notification shall be provided to the Engineer within 30 calendar days of the date of receipt of the survey.

During the guarantee period, the Design-Build Team may monitor the project using non-destructive procedures. The Design-Build Team shall not conduct any coring, milling or other destructive procedures without prior written approval of the Engineer.

### **Pavement Condition Survey Performance Parameters**

1. **Ride Quality:** Ride quality shall be evaluated based upon the ride quality specified in the contract. The same ride quality shall be expected during and at the end of the guarantee period as at final acceptance. If these criteria are not met the Design-Build Team shall be responsible for corrective action to bring this parameter within the limits.

Prior to final acceptance, the Design-Build Team shall run the Hearne Straightedge test to establish the rideability and smoothness baseline criteria for the pavement guarantee period.

2. **Surface Condition:** Final acceptance shall permit no identifiable distress in the surface condition. The surface condition during and at the end of the guarantee period shall be better than the surface condition that requires corrective action as described in Table 1 of this provision. Surface conditions that are outside the allowable limits of Table 1 for Asphalt Pavement, shall require corrective action.
3. **Material Quality:** The material quality shall be evaluated based upon the materials specified in the contract. The same material quality shall be expected during and at the end of the guarantee period as at final acceptance. Materials not meeting the contract requirements shall be removed and replaced with materials meeting the contract requirements.

**Table 1. Required corrective action for levels of distress for Asphalt Concrete Pavement**

<b>Distress Type</b>	<b>Allowable Level of Service</b>	<b>Allowable extent of Severity</b>	<b>Corrective Action</b>
Rutting and Wear	Less than ¼ inch	LOT	Mill and fill with Asphalt Concrete Pavement
Alligator Cracking	Low Severity	Less than 10% of each LOT for both wheel paths	Pavement repair required(see Roadway Std. Drawing 654.01)
Longitudinal Cracking	Less than ¼ inch	Less than 20% of each LOT	Crack seal required
Transverse Cracking (including reflection cracking)	Less than ¼ inch	Less than 4 cracks per 100 feet	Crack seal required

During the guarantee period, the Design-Build Team shall perform all necessary remedial work described within this Section at no cost to the Department. Should an impasse develop, in any regard, as to the need for remedial work or the extent required, the Chief Engineer shall render a final decision within 14 calendar days after receiving recommendations from the Dispute Review Committee.

Remedial work shall not apply if any one of the following factors is found to be beyond the scope of the Contract:

- a. Determination that the pavement design thickness is deficient. The Department shall make available a copy of the original pavement design thickness package and design traffic report to the Design-Build Team upon request.
- b. Determination that the Accumulated ESALs (Number of 18 Kip Equivalent Single Axle Loads in the design lane) have exceeded 16 million ESALs (the Accumulated ESALs used by the Department for design purposes for the guarantee period). In calculating ESALs, the Average Annual Daily Traffic (AADT) shall be obtained from the Department's traffic count data and the T24 (Percent Heavy Trucks during a 24-hour period) shall be obtained from the Department's traffic classification survey data.
- c. Determination that the deficiency was due to the failure of the existing underlying layers that were not part of the Contract work.
- d. Determination that the deficiency was the responsibility of a third party or its actions, unless the third party was performing work included in the Contract.

If a measured distress value indicates remedial action is required per Table 1, the Design-Build Team shall begin remedial work within 45 calendar days of written notification by the Department. The Chief Engineer shall determine the allowable duration for the completion of the remedial work, but not to exceed 6 months. However, after each survey, if the Engineer determines the extent and magnitude of pavement distresses in any areas shall not affect the traffic safety, strength of pavement structure or highway aesthetics, the remedial work associated with the pavement distresses may be deferred until later in the guarantee period.

In the event remedial action is necessary and forensic information is required to determine the source of the distress, the Department may core and / or trench the pavement. The Design-Build Team shall not be responsible for damages to the pavement as a result of any forensic activities conducted by the Department.

The Design-Build Team shall perform all remedial work that is determined by the Department to be their responsibility. If, in the opinion of the Engineer, the problem poses an immediate danger to the traveling public and the Design-Build Team cannot begin remedial work within 72 hours of written notification, the Engineer shall have the remedial work performed by other forces. The Design-Build Team shall be responsible for all incurred costs of the work performed by other forces should the problem (remedial work) be determined to be the responsibility of the Design-Build Team. Remedial work performed by other forces does not alter any of the requirements, responsibilities or obligations of the Design-Build Team.

The Design-Build Team shall complete all remedial work to the satisfaction of the Engineer. Any disputes regarding the adequacy of the remedial work shall be resolved by the Chief Engineer within 14 calendar days after receiving written recommendations from the Dispute Review Committee. Approval of remedial work does not relieve the Design-Build Team from continuing responsibility under the provisions of this Specification.

Notify the Engineer in writing prior to beginning any remedial work. Meet the requirements of the Department's *2006 Standard Specifications for Roads and Structures* and implemented modifications thereto when performing any remedial work. Perform all signing and traffic control in accordance with the current edition of the Department's Standards. Provide Maintenance of Traffic during remedial work at no additional cost to the Department. Lane closure restrictions listed in the original Contract shall apply to remedial work. Written request(s) to obtain permission for lane closure(s) for either forensic investigation or remedial work must be made to the Engineer 48 hours in advance of any lane closures. Do not perform any lane closures until written permission is given by the Engineer.

If remedial work necessitates a corrective action to overlying asphalt layers, pavement markings, signal loops, adjacent lane(s), roadway shoulders, or other affected Contract work, perform these corrective actions using similar products at no additional cost to the Department.

### **Design-Build Team's Failure to Perform**

Should the Design-Build Team fail to timely submit any dispute to the Dispute Review Committee, fail to satisfactorily perform any remedial work, or fail to compensate the

Department for any remedial work performed by others determined to be the Design-Build Team's responsibility in accordance with this Specification, the Department shall remove the responsible party from the Department's prequalified bidder's list, for a minimum of 6 months or until the remedial work has been satisfactorily performed (or full and complete payment for remedial work performed by others is made to the Department), whichever is longer. Should the responsible party choose to challenge its removal from the prequalified bidder's list and the Department's action is upheld, responsible party will have its removal from the Department's prequalified bidder's list extended for an additional minimum of 6 months.

Removal of the responsible party from the prequalified bidder's list shall prevent the responsible party from performing any work for the Department including bidding on any projects (including Purchase Orders), performing as a subcontractor, or as a material supplier.

The performance of remedial work in conjunction with the guarantee is not an obligation of the Design-Build Team's bond required by G.S. 44A-33.

### **QUALITY CONTROL PLAN**

The Design-Build Team shall include in their Technical Proposal a Quality Control Plan to ensure that the completed project meets or exceeds contract requirements. The Quality Control Plan shall describe the Design-Build Team's quality procedures and shall describe any processes which go beyond that specified in the contract. The plan shall also address the Design-Build Team's organizational procedures for consistently delivering the requirements of the contract.

In the Technical Proposal provide the Design-Build Team's Quality Control Plan for performing construction on the project. The plan shall include at least the following:

- A construction organization chart for the project, showing the relationships between functions shown on the chart and the functional relationships with subcontractors.
- Describe the overall strengths of the construction team and their ability to fulfill the construction management requirements of this project.
- Document the name, authority, relevant experience, and qualifications of person with overall responsibility for quality control.
- Indicate how the Design-Build Team intends to divide the project into work segments to enable optimum construction performance.
- Identify the persons responsible and accountable for monitoring operations and quality control processes and activities, to include stopping production or making adjustments to the operations when warranted.
- The Design-Build Team's plan and procedures to insure timely delivery of materials to achieve the project schedule.
- Describe how the Design-Build Team will comply with the quality control requirements for construction.
- Describe the proposed techniques for removing the concrete overlay, cleaning the existing surface, and placing the asphalt material.
- Describe what techniques and operations will be utilized to achieve satisfactory ride quality of the two asphalt surface lifts and the ride quality of the final surface application.
- Describe the proposed equipment allocation.

- Describe the alternate plans necessary should a piece of equipment breakdown, or immediate material shortage occur.
- Describe how the laboratory quality control personnel, roadway quality control personnel, and construction personnel will communicate and coordinate to ensure the level of quality being delivered.
- Describe how forecasted weather conditions will effect production decisions.
- Describe the proposed methods for transporting and placing the materials.
- Describe any special procedures that will be utilized for performing work at night.
- Describe corrective action(s) that will be utilized for pavement surfaces that do not meet the final surface testing requirements.
- Describe the methods that will be utilized to inspect the existing concrete pavement overlay in determining the areas in need of patching.
- Describe the means and methods that will be utilized to remove loose pavement, clean the remaining surface and fill the voids.
- Describe the means and methods that will be utilized for making emergency repairs. This should include pavement removal, cleaning and filling processes as well as traffic control methods that will be utilized in making the emergency repairs.

The Design-Build Team shall monitor on-site and off-site construction operations and materials and workmanship such that the quality of workmanship and materials meets or exceeds contract requirements.

### **FINAL SURFACE TESTING - ASPHALT PAVEMENTS**

Perform acceptance testing of the longitudinal profile of the finished mainline travel lane S9.5D pavement surface in accordance with these provisions using a North Carolina Hearne Straightedge (Model No. 1). Furnish and operate the straightedge to determine and record the longitudinal profile of the pavement on a continuous graph. Final surface testing is an integral part of the paving operation and is subject to observation and inspection by the Engineer as deemed necessary. The Department reserves the right to run acceptance testing on the Ultrathin Wearing Surface if detriment to ride quality occurs, as compared to the results of the acceptance testing on the underlying pavement.

Push the straightedge manually over the pavement at a speed not exceeding 2 miles per hour. For all lanes, take profiles in the right wheel path approximately 3 feet from the right edge of pavement in the same direction as the paving operation, unless otherwise approved due to traffic control or safety considerations. Make one pass of the straightedge in each full width travel lane. The full lane width should be comparable in ride quality to the area evaluated with the Hearne Straightedge. If deviations exist at other locations across the lane width, utilize a 10 foot non-mobile straightedge or the Hearne Straightedge to evaluate which areas may require corrective action. Take profiles of the pavement placed prior to opening a travel lane to traffic unless otherwise authorized by the Engineer. Take profiles over the entire length of final surface travel lane pavement exclusive of structures, approach slabs, paved shoulders, loops, and tapers or other irregular shaped areas of pavement, unless otherwise approved by the Engineer.

At the beginning and end of each day's testing operations, and at such other times as determined necessary by the Engineer, operate the straightedge over a calibration strip so that the Engineer can verify correct operation of the straightedge. The calibration strip must be a 100 foot section of pavement that is reasonably level and smooth. Submit each day's calibration graphs with that day's test section graphs to the Engineer. Calibrate the straightedge in accordance with the current NCDOT procedure titled "North Carolina Hearne Straightedge - Calibration and Determination of Cumulative Straightedge Index". Copies of this procedure may be obtained from the Department's Pavement Construction Section.

Plot the straightedge graph at a horizontal scale of approximately 25 feet per inch with the vertical scale plotted at a true scale. Record station numbers and references (bridges, approach slabs, culverts, etc.) on the graphs, and distances between references/stations must not exceed 100 feet. Have the operator record the Date, Project Number, Lane Location, Wheel Path Location, Type Mix, and Operator's Name on the graph.

Upon completion of each day's testing, evaluate the graph, calculate the Cumulative Straightedge Index (CSI), and determine which lots, if any, require corrective action. Document the evaluation of each lot on a QA/QC-7 form. Submit the graphs along with the completed QA/QC-7 forms to the Engineer, within 24 hours after profiles are completed, for verification of the results. The Engineer will furnish results of their acceptance evaluation to the Design-Build Team within 48 hours of receiving the graphs. In the event of discrepancies, the Engineer's evaluation of the graphs will prevail for acceptance purposes. The Engineer will retain all graphs and forms.

Use blanking bands of 0.2 inches, 0.3 inches, and 0.4 inches to evaluate the graph for acceptance. The 0.2 inch and 0.3 inch blanking bands are used to determine the Straightedge Index (SEI), which is a number that indicates the deviations that exceed each of the 0.2 inch and 0.3 inch bands within a 100 ft test section. The Cumulative Straightedge Index (CSI) is a number representing the total of the SEIs for one lot, which consist of not more than 25 consecutive test sections. In addition, the 0.4 inch blanking band is used to further evaluate deviations on an individual basis. The Cumulative Straightedge Index (CSI) will be determined by the Engineer in accordance with the current procedure titled "North Carolina Hearne Straightedge - Calibration and Determination of Cumulative Straightedge Index".

The pavement will be accepted for surface smoothness on a lot by lot basis. A test section is the length of pavement that was placed during each nightly or weekend lane closure or 2500 feet, whichever is less. A lot will consist of 3 consecutive test sections, except that separate lots will be established for each travel lane, unless otherwise approved by the Engineer.

If during the evaluation of the graphs, a lot (mainline travel lanes) requires corrective action, then proceed on limited production for unsatisfactory laydown in accordance with Article 610-12. Proceeding on limited production is based upon the Design-Build Team's initial evaluation of the straightedge test results and must begin immediately upon obtaining those results. Additionally, the Engineer may direct the Design-Build Team to proceed on limited production in accordance with Article 610-12 due to unsatisfactory laydown or workmanship.



Limited production for unsatisfactory laydown is defined as being restricted to the production, placement, compaction, and final surface testing of a sufficient quantity of mix necessary to construct a test section of pavement at the laydown width. Once this test section is complete, the final surface testing graphs will be evaluated jointly by the Design-Build Team and the Engineer. Remain on limited production until such time as acceptable laydown results are obtained or until three consecutive test sections have been attempted without achieving acceptable laydown results. The Engineer will determine if normal production may resume based upon the CSI for the limited production lot and any adjustments to the equipment, placement methods, and/or personnel performing the work. Once on limited production, the Engineer may require the Design-Build Team to evaluate the smoothness of the previous asphalt layer and take appropriate action to reduce and/or eliminate corrective measures on the final surface course. Additionally, the Design-Build Team may be required to demonstrate acceptable laydown techniques off the project limits prior to proceeding on the project.

If the Design-Build Team fails to achieve satisfactory laydown results after three consecutive test sections have been attempted, cease production of that mix type until such time as the cause of the unsatisfactory laydown results can be determined.

As an exception, the Engineer may grant approval to produce a different mix design of the same mix type if the cause is related to mix problem(s) rather than laydown procedures. If production of a new mix design is allowed, proceed under the limited production procedures detailed above.

After initially proceeding under limited production, the Design-Build Team shall immediately notify the Engineer if any additional lot on the project requires corrective action. The Engineer will determine if limited production procedures are warranted for continued production.

If the Design-Build Team does not operate by the limited production procedures as specified above, the lot, which requires corrective action, will be considered unacceptable and may be subject to removal and replacement. Mix placed under the limited production procedures for unsatisfactory laydown will be evaluated for acceptance in accordance with Article 105-3.

The acceptance criteria for the Cumulative Straightedge Index (CSI) test results per lot is as follows:

<b>Acceptance Criteria for Travel Lanes</b> (Obtained by adding SE Index of up to 25 consecutive 100 feet sections)		
*CSI	ACCEPTANCE CATEGORY	CORRECTIVE ACTION
0-0	Acceptable	None
1-0 or 2-0	Acceptable	None
3-0 or 4-0	Acceptable	None
1-1, 2-1, 5-0 or 6-0	Acceptable	None
3-1, 4-1, 5-1 or 6-1	Acceptable	Required
Any other Number	Unacceptable	Required

**\*Either Before or After Corrective Actions**

Correct any deviation that exceeds a 0.4 inch blanking band such that the deviation is reduced to 0.3 inches or less.

Corrective actions shall be performed at the Design-Build Team's expense and shall be presented for evaluation and approval by the Engineer prior to proceeding. Any corrective action performed shall not reduce the integrity or durability of the pavement that is to remain in place. Corrective action for deviation repair may consist of overlaying or removing and replacing. Scraping of the pavement with any blade type device will not be allowed as a corrective action. Provide overlays of the same type mix, full roadway width, and to the length and depth established by the Engineer. Tapering of the longitudinal edges of the overlay will not be allowed.

Corrective actions will not be allowed for lots having a CSI of 40 or better. Take corrective actions as specified if the CSI indicates "Required" corrective action. The CSI after corrective action shall meet or exceed "Acceptable" requirements.

Where corrective action is required, the test section(s) requiring corrective action will be retested, unless the Engineer directs the retesting of the entire lot.

Furnish the North Carolina Hearne Straightedge(s) necessary to perform this work. Maintain responsibility for all costs relating to the procurement, handling, and maintenance of these devices. The Department has entered into a license agreement with a manufacturer to fabricate, sell, and distribute the N.C. Hearne Straightedge. The Department's Pavement Construction Section may be contacted for the name of the current manufacturer and the approximate price of the straightedge.

No direct payment will be made for the work covered by this section. Payment at the contract prices for the various items covered by those sections of the specifications directly applicable to the work constructed will be full compensation for all work covered by this section including, but not limited to, performing testing in accordance with this specification, any corrective work required as a result of this testing and any additional traffic control as may be necessary.

### **PATCHING CONCRETE PAVEMENT SPALLS**

10-27-06

SPI

#### **Description**

Perform inspection of the existing concrete pavement to determine crumbling or popped out areas and perform pavement repairs prior to milling and paving operations throughout the life of the contract.

#### **Definitions**

*Crumbling* is defined as areas of existing pavement having multiple fractures 2” or less in size.

*Pop-outs* are defined as areas where the surface of the existing pavement has broken and created depressions in the surface greater than 1” in depth.

*Emergency Repairs* are defined as pop-outs that are 1 sq. ft. or larger in area.

#### **Materials**

Refer to Section 10

Asphalt Concrete Surface Course, Type S9.5B

Cold patch asphalt concrete may be used as a temporary repair when the weather, temperature or seasonal limitations prohibit placing Asphalt Concrete Surface Course, Type S9.5B. The Design-Build Team shall replace all temporary repairs with the repairs required by the Roadway Plans in accordance with the project special provisions.

#### **Construction Methods**

Perform a visual inspection of each lane of the existing pavement on at least a weekly basis to locate areas of the existing pavement that have crumbled or popped out. In addition to patching areas that were identified during the inspection process, patch any areas that are identified by the Engineer. Patching operations shall occur within the timeframes noted below:

- Patch any emergency repair areas immediately upon identification or notification.
- Patch any popped out areas greater than 1” in depth within 24 hours of identification or notification.

- Patch all other areas not identified above within 48 hours of identification or notification.

Perform pavement repairs, in areas of crumbled or popped out pavement by removing all loose pavement, cleaning the remaining surface and filling the voids with an approved pavement material and compacting that material. Areas that are patched shall be level within  $\pm 1/4$  inch of the surrounding pavement.

### **Measurement and Payment**

There will be no direct payment for the work covered by this provision. All costs associated for work in this provision shall be included in the lump sum price for the Concrete Bonded Overlay Removal pay item.

### **CONCRETE BONDED OVERLAY REMOVAL**

Perform the work of removing the existing concrete bonded overlay at the locations, depths, widths, and details shown on the plans. After the milling operation, clean the remaining surface, sound the remaining concrete pavement, remove any unsound material, and dispose of the removed material.

### **Construction Methods**

Mechanically remove the concrete bonded overlay from the underlying concrete pavement by either milling or grinding to the minimum depths indicated on the plans to remove the entire bonded overlay without significant overcutting. Multiple milling passes may be required. This work will include, but is not limited to, milling and remilling the concrete bonded overlay at the locations, depths, widths, and details shown on the plans; thoroughly cleaning the milled surface; loading; hauling; and disposal of the milled material.

Operate the milling or grinding equipment in such a manner as to prevent damage to the underlying and adjacent pavement structure, transverse joints, paved surfaces outside the milled area, structure approach slabs, and any other appurtenances. Produce milled pavement surfaces that are reasonably smooth and free of excessive scarification marks, gouges, ridges, continuous grooves, or other damage.

After the initial removal operation, visually inspect the remaining concrete surface to determine if additional pavement removal is needed. The Engineer will determine areas requiring additional pavement removal.

Thoroughly clean the milled pavement surface of all loose aggregate particles, dust, and other objectionable material. Ensure that all loose or detached material is removed and the remaining concrete is clean and sound.

Conduct pavement removal operations in a manner that effectively minimizes the amount of dust being emitted. Disposing or wasting of oversize pieces of pavement or loose aggregate material

will not be permitted within the right of way. Plan and conduct the operation so it is safe for persons and property adjacent to the work including the traveling public.

Repair, level or patch with hot asphalt plant mix, any area which is not uniform in depth or cross-slope prior to paving surface mix.

Perform any milling of asphalt pavement in accordance with section 607 of the *2006 Standard Specifications*.

Dispose of milled material in accordance with section 802 of the *2006 Standard Specifications* unless otherwise approved by the Engineer.

Use a self-propelled unit capable of removing the existing concrete bonded overlay to the depths, widths, and details shown on the plans. Use milling machines designed and built exclusively for concrete pavement milling operations and with sufficient power, traction, and stability to accurately maintain depth of cut and slope. Use milling machines equipped with an electronic control system which will automatically control the longitudinal profile and cross-slope of the milled pavement surface through the use of either a mobile grade reference(s), an erected stringline(s), joint matching shoe(s), slope control systems, or other methods or combination of approved methods. Use a machine capable of leaving a uniform surface with minimal damage to the underlying and adjacent concrete pavement.

Equip the milling equipment with a means of effectively limiting the amount of dust escaping from the removal operation in accordance with local, State, and Federal air pollution control laws and regulations.

End each nightly and weekend operation at an existing joint or saw-cut to provide a clean break.

### **Measurement and Payment**

All costs associated for work in this section, as well as the Patching Concrete Pavement Spalls Project Special Provision, shall be paid for at the contract lump sum price for the Concrete Bonded Overlay Removal pay item.

Where the depth of milling varies from the depths shown on the plans, no adjustment will be made in the contract lump sum price for Concrete Bonded Overlay Removal.

Payment will be made under:

<b>Pay Item</b>	<b>Pay Unit</b>
Concrete Bonded Overlay Removal	Lump Sum

## **TOWING AND MOTORIST ASSISTANCE**

Provide Towing and Motorist Assistance during all construction operations. The Towing Service shall provide coverage for both directions of I-40 within the project limits and for any congestion that extends beyond the project limits. Motorist Assistance shall be provided for the same locations noted above, as well as for all alternate routes designated by the Department and proposed by the Design-Build Team.

### **Towing of Disabled Vehicles**

The Design-Build Team shall be responsible for providing a towing service that relocates disabled vehicles to one of two pre-arranged locations within the project limits, but outside of the construction activities.

When a disabled vehicle has been identified, the Design-Build Team shall immediately place a Tow Sticker on the vehicle. (The Department will provide the lime green Tow Stickers.) Prior to adhering the sticker, the Design-Build Team shall provide pertinent information on the sticker, including the designated tow location and the signature and agency of the person authorizing the tow.

The tow vehicle shall arrive within **30 minutes** of notification to tow a disabled vehicle displaying a lime green sticker. The towing company shall tow only vehicles displaying a lime-green sticker.

For all vehicles towed, the Design-Build Team shall keep a record of the approximate vehicle location, vehicle type, including make and color, and the vehicle license plate number. For all vehicles towed, the towing company shall maintain a record of the information on the Tow Stickers, including the exact time the vehicle was removed and the exact location of where the vehicle was towed. The towing company shall immediately give this information to the Resident Engineer. Within 30 minutes of a vehicle being towed, the Design-Build Team shall contact the Highway Patrol and Durham Police Department; and provide them with all the information necessary for the Highway Patrol Database.

The towing company shall provide tow vehicles capable of towing automobiles and light trucks (up to 10,000 pound gross vehicle weight) and medium and heavy-duty trucks (greater than 10,000 pound gross vehicle weight). All tow vehicles shall be able to tow using the "wheel lift" method and the conventional boom lift method.

Prior to any construction, the Design-Build Team shall arrange and attend a towing coordination meeting. The Design-Build Team shall coordinate this meeting with the Division and the State Alternative Delivery Engineer. The meeting shall determine at least one eastbound and one westbound location for vehicles being towed, confirm towing requirements and determine how specific towing information will be conveyed to the appropriate personnel.

On the project web site, the Department will provide information on the towing operation, including directions on how to recover a towed vehicle.

### **Motorist Assistance**

The Design-Build Team shall provide Motorist Assistance consisting of a “service patrol” that provides services that will assist typical disabled motorists. As a minimum, the Motorist Assistance shall change flat tires, provide enough gas to reach a gas station, provide air for tires, jump start a battery and move a vehicle out of a travel lane to the motorist free of charge. In addition to providing service to disabled motorists, the “service patrol” shall immediately report any observed slowing or queuing traffic to the Triangle Traffic Management Center.

During construction activities, including traffic control set-up, construction operation and until the queues are cleared resulting from the construction operation, the Motorist Assistance shall patrol the project limits and areas approaching the project limits. These patrol routes shall include I-40, NC 147 (the Durham Freeway), NC 54, US 15-501, and Fayetteville Road. The Motorist Assistance shall patrol each route a minimum of once per hour when the work zone is active.

During times that the Department and / or the Design-Build Team is publicizing alternate routes, the Motorist Assistance shall patrol the recommended alternate routes. As a minimum the alternate routes shall include the following:

- I-85 from I-40 to US 70
- NC 147 from I-85 to I-40
- US 70 from I-540 to I-85
- US 15-501 from I-40 to NC 147
- I-540 from I-40 to US 70

The Motorist Assistance shall patrol each route noted above a minimum of once per hour while the alternate route is being publicized.

The Technical Proposal shall provide information on the Motorist Assistance coverage, including the number and types of vehicles allocated, locations of command stations and number of personnel.

### **Measurement and Payment**

Motorist Assistance, as defined above, will be provided either by the Design-Build Team or the Department (Reference the Towing and Motorist Assistance Price Adjustment Project Special Provision found elsewhere in this RFP).

If included in the contract, all compensation for providing towing and motorist assistance shall be the lump sum price adjustment indicated on the Itemized Proposal Sheet, by execution of a Supplemental Agreement.

**GENERAL**

The State will not be bound by oral explanations or instructions given at any time during the bidding process or after award. Only information that is received in response to this RFP will be evaluated; reference to information previously submitted will not suffice as a response to this solicitation.

**NO CONTACT CLAUSE**

To ensure that information is distributed equitably to all short-listed Design-Build Teams, all questions and requests for information shall be directed to the State Contract Officer through the Design-Build e-mail address. This precludes any Design-Build Team Member, or representative, from contacting representatives of the Department, other State Agencies or Federal Agencies either by phone, e-mail or in person concerning the Design-Build Project.

**USE OF TERMS**

Throughout this Request For Proposal and all manuals, documents and standards referred to in the Request For Proposal the terms Contractor, Bidder, Design-Builder, Design-Build Team, Team, Firm, Company, and Proposer are synonymous. Throughout this Request For Proposal and all manuals, documents and standards referred to in the Request For Proposal, the terms NCDOT, Department, Engineer, and State are synonymous.

**DESIGN REFERENCES**

Design references developed and published by NCDOT and those developed and published by other agencies and adopted for use by NCDOT which are to be used in the design of this project may be obtained by contacting the Contract Office of the Project Services Unit. Standard prices for materials, which the Department normally sells for a fee, will be in effect. The Design-Build Team is responsible for designing in accordance with the applicable documents and current revisions and supplements thereto.

**REVIEW OF SUBMITTALS**

Major design milestones and required design submittals shall be identified as activities on a CPM, bar chart, or other scheduling tool. This schedule shall be submitted to the State Alternative Delivery Engineer and Resident Engineer concurrently with the first design submittal, or within 30 days of the contract award, whichever is earlier. The schedule shall be revised and resubmitted as design milestones change or as directed by the State Alternative Delivery Engineer. Submittals will be reviewed within 10 working days (15 days for temporary structures, overhead sign assemblies, MSE walls, and temporary shoring) from the date of receipt by NCDOT unless otherwise stipulated in the scope of work. All submittals shall be prepared and submitted in accordance with the "*Design-Build Submittal Guidelines*", which by reference are incorporated and made a part of this contract. All submittals shall be made simultaneously to the State Alternative Delivery Engineer and the Resident Engineer. The Department will not accept subsequent submittals until prior submittal reviews have been completed for that item. The Design-Build Team shall inform the State Alternative Delivery Engineer in writing of any proposed changes to the NCDOT final designs, Technical Proposal and / or previously reviewed



submittals and obtain approval prior to incorporation. The Design-Build Team shall prioritize submittals in the event that multiple submittals are made based on the current schedule. All submittals shall include pertinent Special Provisions. No work shall be performed prior to Department review of the design submittals.

## **OVERVIEW**

The Design-Build Team shall perform all work in accordance with the Department's signed and sealed Roadway Plans and develop associated Traffic Control Plans.

Project services shall include but are not limited to:

- **Design Services** – Development of Traffic Control Plans.
- **Construction Services** – Necessary to build and ensure workmanship of the designed facility.
- **Construction Engineering Inspection will be provided by NCDOT Division Personnel.**

## **DESIGN, AND CONSTRUCTION PERFORMED BY DESIGN-BUILD TEAM**

The Design-Build Team shall be fully and totally responsible for the accuracy and completeness of all work performed under this contract and shall save the State harmless and shall be fully liable for any additional costs and all claims against the State which may arise due to errors, omissions and negligence of the Design-Build Team in performing the work.

There shall be no assignment, subletting or transfer of the interest of the Design-Build Team in any of the work covered by the Contract without the written consent of the State, except that the Design-Build Team may, with prior notification of such action to the State, sublet property searches and related services without further approval of the State.

The Design-Build Team shall certify all plans, specifications, estimates and engineering data furnished by the Team.

All work by the Design-Build Team shall be performed in a manner satisfactory to the State and in accordance with the established customs, practices, and procedures of the North Carolina Department of Transportation, and in conformity with the standards adopted by the American Association of State Highway Transportation Officials, and approved by the U.S. Secretary of Transportation as provided in *Title 23, U.S. Code*, Section 109 (b). The decision of the Engineer/State/Department shall control in all questions regarding location, type of design, dimension of design, and similar questions.

Alternate designs, details, or construction practices (such as those employed by other states, but not standard practice in NC) are subject to Department review and will be evaluated on a case by case basis.

The Design-Build Team shall not change team members, subconsultants or subcontractors identified in the Statement of Qualifications (SOQ) or Technical Proposal without written consent of the Engineer. In addition, subconsultants and subcontractors not identified in the SOQ or Technical Proposal shall not perform any work without written consent by the Engineer.

Individual offices of the Design-Build Team not identified in the Statement of Qualifications or the Technical Proposal submittal shall not perform any work without written consent by the Engineer. Failure to comply with this requirement may be justification for removing the Team from further consideration for this project and disqualification from submitting on future Design-Build Projects.

The Department shall prequalify all firms for the work they are identified to perform. Design firms and Natural Systems firms are prequalified by the particular office performing the work. If the work shall be performed by an office other than the one that is prequalified, that office shall be prequalified prior to any design submittals.

### **ETHICS POLICY**

Employees employed by the Design-Build Team or employees employed by any subconsultant for the Design-Build Team to provide services for this project shall comply with the Department's ethics policy. Failure to comply with the ethics policy will result in the employee's removal from the project and may result in removal of the Company from the Department's appropriate prequalified list.

### **APPROVAL OF PERSONNEL**

The Department will have the right to approve or reject any personnel, assigned to a project by the Design-Build Team.

The Design-Build Team or any subcontractor for the Design-Build Team which are employed to provide services for this project shall not discuss employment opportunities or engage the services of any person or persons, now in the employment of the State during the time of this contract, without written consent of the State.

In the event of engagement, the Design-Build Team or their subcontractors shall restrict such person or persons from working on any of the Design-Build Team's contracted projects in which the person or persons were "formerly involved" while employed by the State. The restriction period shall be for the duration of the contracted project with which the person was involved. *Former Involvement* shall be defined as active participation in any of the following activities:

- Drafting the contract
- Defining the scope of the contract
- Selection of the Design-Build Team
- Negotiation of the cost of the contract (including calculating manhours or fees); and
- Administration of the contract.

An exception to these terms may be granted when recommended by the Secretary and approved by the Board of Transportation.

Failure to comply with the terms stated above in this section shall be grounds for termination of this contract and/or not being considered for selection of work on future contracts for a period of one year.

**SUBMITTAL OF TECHNICAL AND PRICE PROPOSALS**

**GENERAL**

Technical and Price Proposals will be accepted until **4:00 P.M. Local Time on Thursday, February 8, 2007**, at the office of the State Contract Officer:

Mr. Randy A. Garris, PE  
NCDOT - Project Services Unit  
1020 Birch Ridge Drive  
Century Center Complex Bldg. B  
Raleigh, NC 27610

**No Proposals will be accepted after the time specified.**

Proposals shall be submitted in 2 separate, sealed parcels containing the Technical Proposal in one and the Price Proposal in the other parcel.

**TECHNICAL PROPOSAL**

Technical Proposals shall be submitted in a sealed package. The outer wrapping shall clearly indicate the following information:

Technical Proposal  
Submitted By: (Design-Build Team's name)  
Contract Number C201650  
TIP Number I-3306BB  
Durham / Orange County  
I-40 from west of Orange County Line to NC 147

Technical Proposal Requirements  
12 Copies  
8 ½ inch by 11 inch pages  
No fold-out sheets allowed  
Printed on one side only  
Double-spaced  
Font size 12

No more than 50 pages, excluding the 11 inch by 17 inch appropriate plan sheets

Key Project Team members, identified in the Statement For Qualifications, shall not be modified in the Technical Proposal without written approval of the Department. Any such request should be sent to the attention of Mr. Randy Garris, PE, at the address below:

NCDOT-Project Services Unit  
Century Center-Building B  
1020 Birch Ridge Drive  
Raleigh, NC 27610

**PRICE PROPOSAL**

Price Proposals shall be submitted in a sealed package. The outer wrapping will clearly indicate the following information:

Price Proposal  
Submitted by (Design-Build Team's Name)  
Contract Number C201650  
TIP Number I-3306BB  
Durham / Orange County  
I-40 from west of Orange County Line to NC 147

The Price Proposal shall be submitted by returning the Request For Proposal with the item sheets completed, and all required signatures and bonds. Failure to execute the required documents may render the proposal non-responsive.

**EVALUATIONS**

Technical Proposals shall address the technical elements of the design and construction of the project. The Technical Review Committee will consider the understanding of the project, the anticipated problems and the solutions to those problems.

The Design-Build Team's Technical Proposal shall be developed using narratives, tables, charts, plots, drawings and sketches as appropriate. The purpose of the Technical Proposal is to document the firm's understanding of the project, their selection of appropriate design criteria, and their approach for completing all design and construction activities.

The award of the Design-Build contract does not in any way imply that the Department accepts or approves the details of the Technical Proposal submitted by the Design-Build Team. Decisions based on cost alone will not establish the design standards for the project. The proposal will be evaluated in each of the following areas:

EVALUATION FACTORS	POINTS
1. Management	16
2. Quality Management & Quality Control Plan	30
3. Schedule and Milestones	20
4. Maintenance of Traffic and Safety Plan	30
5. Oral Interview	4

**TECHNICAL PROPOSAL EVALUATION CRITERIA****1. Management – 16 points*****Design-Build Team Management – 4 points***

- Describe the Design-Build Team's concept of design management. The proposal shall identify key positions and subordinate organizational units.

- Describe the plan for the coordination of traffic maintenance, constructability and environmental responsibility. Include a brief discussion on plans for the disposal or use of the concrete removed from the project.
- Provide a narrative description of the proposed location of the design office(s) and their respective responsibilities.
- Describe how the designs developed by different firms and offices will be integrated.
- Describe how design personnel will interface with the construction personnel.
- Describe the overall strengths of the Design-Build Team and their ability to fulfill the design requirements of this project.

### ***Construction Management - 10 Points***

- Describe the Design-Build Team's concept of the project construction management organization and how it interrelates with the other elements of the Design-Build Team's organization for the project.
- Provide a brief narrative description of the Design-Build Team's proposed plan for performing construction on the project. This description shall include at least the following:
  - A construction organization chart for the project, showing the relationships between functions shown on the chart and the functional relationships with subcontractors.
  - The chart shall indicate how the Design-Build Team intends to divide the project into work segments to enable optimum construction performance.
  - Descriptions of those categories of work that the Design-Build Team anticipates will be performed by the Design-Build Team's own direct labor force and those categories that will be performed by subcontractors.
  - The Design-Build Team's plans and procedures to insure timely deliveries of materials to achieve the project schedule.
- Describe the overall strengths of the construction team and their ability to fulfill the construction management requirements of this project.

### ***Disadvantaged Business Enterprises (DBE) - 2 Points***

- Describe the Design-Build Team's approach to ensuring that DBE will have opportunity to participate in the design aspect of the project.
- DBE firms, to be utilized in the design shall be noted in the RFP submittal.
- It is expected that DBE design will be at least 5% of the overall design cost.
- The overall approach to ensuring DBE participation in all areas of work also needs to be addressed.

## **2. Quality Management & Quality Control Plan - 30 Points**

- Provide a Quality Control Plan in accordance with the Quality Control Plan Project Special Provision found elsewhere in this RFP.
- Describe how the Design-Build Team will comply with the quality control requirements for both design and construction. Specifically, include a narrative

describing the Design-Build Team's understanding of the Department's construction quality control philosophy for this project and how the Design-Build Team will implement it.

- The Design-Build Team should detail the number of inspectors they expect the Department to furnish, during various phases, to allow satisfactory progress of project construction.
- Describe what techniques and operations will be utilized to achieve satisfactory ride quality of both the surface course and the overlay.
- Identify the persons responsible and accountable for monitoring operations and quality control processes and activities, to include stopping production or making adjustments to the operations when warranted.

### 3. **Schedule and Milestones – 20 points**

- Provide a schedule for the project including both design and construction. The schedule shall show the sequence and continuity of operations, as well as the month of delivery of usable segments of the project.
- The schedule shall also include the Design-Build Team's final completion date. **This date shall be clearly indicated on the Project Schedule and labeled "Final Completion Date"**.

### 4. **Maintenance of Traffic and Safety Plan – 30 points**

#### *Maintenance of Traffic*

- Describe any traffic control measures that will be used for each construction phase.
- Describe the number of weekend lane closures that will be required to meet the schedule outlined in the RFP or as otherwise proposed by the Design-Build Team. For each proposed weekend closure, describe the purpose of these weekend lane closures, their duration, and the number of lanes that require closure.
- Commit to a queue length at which the Design-Build Team will suspend or modify their own operations, and complete operations necessary to immediately remove the lane closure(s).
- Describe the Design-Build Team's contingency plan for traffic control, incident management, and excessive queue lengths. Fully describe operational changes and mitigation methods to be initiated at the prescribed thresholds.
- Discuss the number of Ramp Closures required and the traffic control plans during ramp closures.
- Describe how traffic will be maintained as appropriate and describe the Design-Build Team's understanding of any time restrictions noted in the RFP.

#### *Safety Plan*

- Describe the safety considerations specific to the project.
- Discuss the Design-Build Team's overall approach to safety.

- Describe any proposed improvements that will be made prior to or during construction that will enhance the safety of the work force and/or travelling public both during and after the construction of the project.

#### 5. Oral Interview – 4 points

- The Design-Build Team's Project Management Team shall present a brief introduction of the project team and design / construction approach.
- Introductory comments shall be held to no more than 20 minutes.
- The Department will use this interview to ask specific questions about the Team's background, philosophies, and approach to the project.
- Presentation, questions, and answers shall not exceed 60 minutes. No more than 10 people from the Design-Build Team may attend.

The Department will use the information presented in the oral interview to assist in the evaluation of the Technical Proposal.

### ***SELECTION PROCEDURE***

There will be a Technical Review Committee (TRC) composed of Project Managers, and three or more senior personnel from involved engineering groups that will evaluate the Technical Proposal on the basis of the criteria provided in the Request For Proposal.

The selection of a Design-Build Team will involve both technical quality and price. The Technical Proposals will be presented to the TRC for evaluation. The TRC shall first determine whether the proposals are responsive to the requirements of the Request For Proposal. Each responsive Technical Proposal shall be evaluated based on the rating criteria provided in the Request For Proposal. The TRC will submit an overall Technical Proposal score for each firm to the State Contract Officer. A maximum quality credit percentage will be assigned for each project, as determined by the TRC.

#### Quality Credit Evaluation Factors for Technical Proposals

Management	16
Quality Management & Quality Control Plan	30
Schedule and Milestones	20
Maintenance of Traffic and Safety Plan	30
Oral Interview	4
<b>Maximum Score</b>	<b>100</b>

The State Contract Officer will use a table based on the maximum quality credit percentage to assign a Quality Credit Percentage to each proposal based on the proposal's overall technical score. The maximum percentage for this project will be **20%**.

## Quality Credit Percentage for Technical Proposals

Technical Score	Quality Credit (%)	Technical Score	Quality Credit (%)
100	20.00	84	9.33
99	19.33	83	8.67
98	18.67	82	8.00
97	18.00	81	7.33
96	17.33	80	6.67
95	16.67	79	6.00
94	16.00	78	5.33
93	15.33	77	4.67
92	14.67	76	4.00
91	14.00	75	3.33
90	13.33	74	2.67
89	12.67	73	2.00
88	12.00	72	1.33
87	11.33	71	0.67
86	10.67	70	0.00
85	10.00		

If any of the Technical Proposals were considered non-responsive, the manager of the Contract Office will notify those Design-Build Teams of that fact. The Manager of the Contract Office shall publicly open the sealed Price Proposals and multiply each Design-Build Team's Price Proposal by the Quality Credit Percentage earned by the Design-Build Team's Technical Proposal to obtain the Quality Value of each Design-Build Team's Technical Proposal. The Quality Value will then be subtracted from each Design-Build Team's Price Proposal to obtain an Adjusted Price based upon Price and Quality combined. Unless all Proposals are rejected, the Department will recommend to the State Transportation Board that the Design-Build Team having the lowest adjusted price be awarded the contract. The cost of the design-build contract will be the amount received as the Price Proposal.

The following table shows an example of the calculations involved in this process.

## As Example of Calculating Quality Adjusted Price Ranking

Proposal	Technical Score	Quality Credit (%)	Price Proposal (\$)	Quality Value (\$)	Adjusted Price (\$)
A	95	16.67	3,000,000	500,100	2,499,900
B	90	13.33	2,900,000	386,570	2,513,430
C *	90	13.33	2,800,000	373,240	2,426,760
D	80	6.67	2,700,000	180,090	2,519,910
E	70	0.00	2,600,000	0	2,600,000
* Successful Design-Build Team – Contract Cost \$2,800,000					



### **Opening of Price Proposals**

Prior to opening the Price Proposals, the State Contract Officer will provide to each Design-Build Team their technical score in a sealed envelope. The sealed envelope will contain that Team's score only.

At the time and date specified the State Contract Officer will open the Price Proposals and calculate the percentage difference between the Price Proposals submitted and the Engineer's Estimate.

Should all of the Price Proposals be within an acceptable range or below the Engineer's Estimate the State Contract Officer will proceed to calculate the quality credit and publicly read the Price Proposal, technical score, and adjusted price as outlined in the selection procedure above.

Should any one or more of the Price Proposals be within an acceptable range or below the Engineer's Estimate and the remaining Price Proposals exceed an acceptable range of the Engineer's Estimate the State Contract Officer will go to a separate location to calculate the quality credit and determine if the Design-Build Team with the lowest adjusted price is within an acceptable range of the Engineer's Estimate. Should the Price Proposal of the Design-Build Team with the lowest adjusted price be within an acceptable range of the Engineer's Estimate or below the Engineer's Estimate the State Contract Officer will proceed to publicly read the Price Proposals, technical scores, and adjusted prices. Should the Price Proposal of the Design-Build Team with the lowest adjusted price exceed an acceptable range of the Engineer's Estimate the State Contract Officer will publicly read the Price Proposals only and the Department will then determine whether to proceed to request a Best and Final Offer (BAFO) as outlined below.

Should all Price Proposals submitted exceed an acceptable range of the Engineer's Estimate the State Contract Officer will publicly read the Price Proposals only. The Department will then determine whether to proceed to request a Best and Final Offer (BAFO) as outlined below.

Provided the Department elects to proceed to request a Best and Final Offer (BAFO), at the date and time specified, the State Contract Officer will open the Best and Final Offer Price Proposals and proceed to publicly read all Price Proposals, technical scores and adjusted prices.

### **Best and Final Offer**

In the event initial Price Proposals exceed an acceptable range of the Engineer's Estimate or if the Department feels it is necessary for any reason the Department may choose to make amendments to the details of the RFP and request a Best and Final Offer from all of the previously short-listed teams. Alternately, the Department may choose to redistribute to the short-listed Design-Build Teams another RFP for the project with no amendments to the RFP scope.

After receipt of the redistributed RFP, the Design-Build Team has the option of changing their Technical Proposal details. If the Design-Build Team changes any component of the Technical Proposal, the TRC will review those amended components of the Technical Proposal and reevaluate the scores accordingly. The Design-Build Team shall highlight the changes to bring

them to the Department's attention. A revised total score will be calculated, if appropriate, based on these amendments to the Technical Proposal.

Additional oral interviews will not be held. The Design-Build Teams shall submit both a revised Price Proposal and a revised Technical Proposal (if applicable) at the time, place, and date specified in the redistributed RFP. A revised Quality Credit Percentage (if required) and Adjusted Price will be determined. This will constitute the Design-Build Team's Best and Final Offer. Award of the project may be made to the Design-Build Team with the lowest adjusted price on this Best and Final Offer for the project.

**DESIGN-BUILD SCOPE OF WORK**

- The Design-Build Team shall be responsible for the development of the Traffic Control Plans and certain public information and incident management activities (Reference the Traffic Control, the Public Information and the Incident Management Scopes of Work).
- The Department will provide signed and sealed plans for the roadway design and pavement design. The Department is responsible for the accuracy and completeness of all signed and sealed plans provided and shall be fully liable for any additional costs due to errors in these plans.
- Electronic files will be furnished to the Design-Build Team.
- Widening and / or temporary pavement shall not be allowed.
- The nightly and weekend operation limits of the concrete bonded overlay removal and asphalt replacement shall be identical.
- The nightly and weekend installation of the 5/8-inch thick Ultrathin Wearing Surface shall not terminate at locations that create drainage safety concerns.

**TRAFFIC CONTROL SCOPE OF WORK** (11/20/06)**I. Traffic Control Plans****A. Design Parameters**

The Design-Build Team shall prepare the Traffic Control Plans for this project following the parameters listed below:

1. For each direction of I-40, maintain a minimum of one 12-foot wide lane and a minimum 3-foot inside and outside shoulders when lane closures are used.
2. Limited weekend lane closures are permissible subject to the restrictions of this scope of work. The Design-Build Team shall clearly indicate in their Technical Proposal how many weekend lane closures they intend to utilize to meet the schedule outlined in this RFP or as otherwise proposed by the Design-Build Team. The number of weekend lane closures so described will be the maximum that the Design-Build Team may utilize during the project. Additional weekend lane closures will be subject to liquidated damages for Intermediate Contract Time No. 2.
3. For I-40 Ramps and Loops
  - Maintain a minimum of one 12-foot lane for acceleration and deceleration lane from I-40 with a minimum of 3-foot inside and outside shoulders.
  - Temporary alignments for acceleration lanes shall not be designed to require a stop sign condition.
  - When a deceleration or acceleration lane can not be maintained to meet design standards, an alternate route is required and the ramp / loop shall be closed following the time restrictions and requirements for Intermediate Contract Time No. 3.
4. The Design-Build Team shall not close any direction of I-40 to traffic at any time.
5. **Queues shall not exceed four miles** from the point of congestion without the Design-Build Team implementing their Traffic Management Plan. The Design-Build Team shall provide a Traffic Management Plan in the Technical Proposal that provides information on how the Team will minimize the delay to the motoring public and addresses the following as a minimum:
  - Provide a list of measures to minimize queues beyond four miles.
  - Provide a list of resolutions on how the queues in excess of four miles will be reduced. If construction or maintenance of traffic operations cause queues in excess of four miles, the Design-Build Team shall immediately implement these alternate plans and resolutions to bring queues under four miles. The Department reserves the right to suspend operations if the queue length exceeds four miles.
  - Provide a queue length such that when this queue length is exceeded, the Design-Build Team is committed to suspending operations and immediately completing all work necessary to remove the lane closure(s). Provide operational changes and

mitigation methods to be initiated by the Design-Build Team for any additional queue length thresholds.

- Provide detailed information on how the Design-Build Team will monitor queue lengths during lane closures. The Design-Build Team shall immediately notify the Resident Engineer's Office and the Triangle Management Center (TMC) when a queue is four miles in length or more.
  - The Design-Build Team shall be responsible for investigating the feasibility of all options which includes, but is not limited to, researching traffic volumes, researching alternate route traffic capacities, conducting traffic analyses, construction methods, and following the appropriate design manual or department policies.
6. Advance notice of all maintenance of traffic operations will be required per the Public Information Scope of Work.
  7. Alternate Route signing will be required when lane narrowing or closures, ramp or loop closures and/or weekend lane narrowing or closures are utilized. At a minimum, alternate routes shall be signed for use of I-85 and NC 147. The signs shall be designed for permanent installation, showing the words "ALTERNATE ROUTE", the I-40 interstate shield and directional arrow. Install a set of 3 flags on the top of each sign to bring attention to the signs. When the project is completed, the contractor shall remove the flags from all alternate route signs.
  8. When using lane or shoulder closures, standard or skinny drums shall be 3 feet from the edge of the travel lane spaced no more than 40 feet apart. The Design-Build Team will be responsible for providing a safe clear zone behind the drums for all construction operations. Any time traffic is shifted to the shoulder, the Design-Build Team shall be responsible for minimizing the need for the motorist to drive on the rumble strip.
  9. At a minimum, three changeable message signs (CMS board) will be required per direction of I-40 and/or may be in operation 24 hours a day, seven days a week for the life of the project. At a minimum, CMS boards will be required to provide information for alternate routes, ramp and/or loop detours and when lane closures are utilized. All messages used on the CMS boards shall be approved by the Resident Engineer and Alternate Delivery Engineer prior to use and be included in the Traffic Control plans.
  10. The Department will provide a temporary speed reduction ordinance to 55 mph and \$250 speeding penalty ordinance when lane closure operations are in use on I-40. A No Parking Ordinance for I-40 will be in effect for the entire project at all times. The Design-Build Team shall include details in the Traffic Control Plans and install signing when appropriate. See Section II, I. for more information on the requirements for these ordinances.
  11. All temporary alignments shall be designed for a minimum of 65 mph. Roadway Standard Drawing 1101.11 can be used for straight line tapers, shifts and merge

- temporary patterns. All other temporary designs shall meet the requirements of the *NC DOT Roadway Design Manual, 2004 ASSHTO A Policy on Geometric Design of Highways and Streets, and 2002 Highway Capacity Manual*.
12. The Design-Build Team is encouraged to coordinate with law enforcement, to have them onsite during construction operations, especially when lane closures are used. The Technical Proposal shall specify when the Design-Build Team would have law enforcement on site.
  13. No splitting of traffic in the same direction will be allowed, (i.e. separation by any type of barrier, bridge piers, existing median, etc.).
  14. The Final Pavement Marking Plan for this project will be provided. The Design-Build Team shall be responsible for final pavement markings and markers plan design and installation that are needed outside the project limits shown in the Final Pavement Marking plan provided.
  15. The Design-Build team shall install Flexible Delineators at all interchanges within the projects limits
- The Staging Concept shall meet the requirements of the RFP before the first phase submittal can be submitted. Construction shall not begin until the first phase submittal meets the requirements of the RFP. Construction shall not begin on subsequent phase submittals until they meet the requirements of the RFP, the “Guidelines for Preparation of Traffic Control and Pavement Marking Plans for Design-Build Projects”, and the “Design-Build Submittal Guidelines”.

#### **B. Traffic Control Plan requirements:**

The Design Build Team shall select a Private Engineering Firm (PEF) that has experience designing and sealing Traffic Control plans for projects comparable to this project. The PEF shall be on the Work Zone Traffic Control List of Qualified Firms. The Technical Proposal shall list projects, including description and similarity, to the subject project.

The development of Traffic Control Plans shall adhere to the “Design-Build Submittal Guidelines” and the “Guidelines for Preparation of Traffic Control and Pavement Marking Plans for Design-Build Projects”, which by reference are incorporated herein and made a part of the contract. These documents are available on the Design-Build web site.

Follow the “Guidelines for Preparation of Traffic Control and Pavement Marking Plans” for information on how revisions must be processed. If a revision is accepted, the Design-Build Team may be required to provide a revised staging concept and full set of sealed Traffic Control plans to replace the existing set.

The following Work Zone Traffic Control Web site will also have information that may be required during the design process:

**<http://www.ncdot.org/doh/preconstruct/wztc/>**

**II. Project Operations Requirements**

The following are Time Restrictions and notes that shall be included with the Traffic Control Plans General Notes:

**A. Time Restrictions**

**1. Intermediate Contract Time No. 2 for Lane Narrowing, Closure, Holiday and Special Event Restrictions.**

The Design-Build Team shall maintain existing traffic patterns as a minimum, and shall not close or narrow a lane during the times below:

<b>Road name</b>	<b>Times</b>
I-40 Eastbound from the western project limits to the NC54 Interchange  -AND-  I-40 Eastbound from -L- Station 325+00 to 375+00  -AND-  I-40 Westbound from NC 147 to Fayetteville Rd. Interchange	From 6:00 a.m. to 8:00 p.m. Monday thru Friday  From 8:00 a.m. to 8:00 p.m. Saturday and Sunday
All other areas of I-40	From 6:00 a.m. to 8:00 p.m. Monday thru Friday

The Design-Build Team shall not install or remove any traffic control devices required for narrowing or closing a lane during the times listed above.

During holidays, holiday weekends, special events, or any other time when traffic is unusually heavy on any of the roadways listed above, the Design-Build Team shall not close or narrow a lane of traffic, detain the traffic flow or alter the traffic flow. As a minimum, these requirements / restrictions apply to the following schedules:

- (a) For New Year's, between the hours of 6:00 a.m. December 31<sup>st</sup> to 8:00 p.m. January 3rd. If New Year's Day is on a Friday, Saturday, or Monday, then until 8:00 p.m. the following Tuesday.
- (b) For Easter, between the hours of 6:00 a.m. Thursday and 8:00 p.m. Monday.
- (c) For Memorial Day, between the hours of 6:00 a.m. Friday to 8:00 p.m. Tuesday.

- (d) For Independence Day, between the hours of 6:00 a.m. July 3<sup>rd</sup> and 8:00 p.m. July 6<sup>th</sup>. If Independence Day is on a Friday, Saturday, Sunday or Monday, then between the hours of 6:00 a.m. the Thursday before Independence Day and 8:00 p.m. the Tuesday after Independence Day.
- (e) For Labor Day, between the hours of 6:00 a.m. Friday to 8:00 p.m. Tuesday.
- (f) For Thanksgiving, between the hours of 6:00 a.m. Tuesday to 8:00 p.m. Monday.
- (g) For Christmas, between the hours of 6:00 a.m. the Friday before the week of Christmas Day and 8:00 p.m. the following Tuesday after the week of Christmas.
- (h) For special events at area universities that may cause unusually heavy amounts of traffic, such as football games, graduation, fair, concerts, events at the RBC Center, etc. Six hours prior to the event for the WB direction of travel and six hours after the event for the EB direction of travel for the event deemed a high traffic event by the Resident Engineer.
- (i) For nights or weekends during which girders are being erected or other operations performed for the construction of the City of Durham's replacement pedestrian bridge over the Durham Freeway (NC147).

**Liquidated Damages Intermediate Contract No. 2 for the above lane narrowing, lane closure, holiday and special event restrictions for I-40 are \$10,000.00 per hour for this Intermediate Contract Time.**

**2. Intermediate Contract Time No. 3 for I-40 EB or WB Interchange Closure Restrictions for Construction Operations.**

The Design-Build Team shall maintain the existing traffic pattern as a minimum and follow the holiday and special event time restrictions listed in Intermediate Contract Time No. 2.

Reconstruction of the outside lane and acceleration or deceleration lane in the area of the interchange shall be completed at the same time, following the time restrictions listed below:

From 6:00 a.m. Friday to 8:00 p.m. Sunday  
and  
Monday through Thursday, from 6:00 a.m. to 8:00 p.m.

Do not close any ramp or loop more than two (2) times.

The Design-Build Team shall provide detour routes when interchange closures are being conducted. All devices for the detour route shall be in place prior to the ramp or loop being closed.

An exit and entrance ramp / loop at the same interchange, in the same direction can be closed simultaneously. Ramps / loops in the opposite direction for the same interchange shall remain open. The Design-Build Team shall not close an adjacent interchange in the same operation.



**Liquidated Damages for Intermediate Contract Time No. 3 the above I-40 interchange closure time restrictions, are \$2,500.00 per hour for this Intermediate Contract Time.**

#### **B. Lane, Shoulder and Ramp Closure Requirements**

Remove lane closure devices from the lane when work is not being performed behind the lane closure, or when a lane closure is no longer needed.

When personnel and / or equipment are working within 40 feet of an open travel lane, the Design-Build Team shall close the nearest open shoulder using NCDOT 2006 *Roadway Standard Drawings* No. 1101.04, unless the work area is protected by approved temporary traffic barrier or guardrail. Traffic Control Devices shall be placed a minimum of 2 feet from the edge of travel lane unless otherwise stated elsewhere in this scope of work.

When personnel and / or equipment are working on the shoulder adjacent to an undivided facility, and within 5 feet of an open travel lane, the Design-Build Team shall close the nearest open travel lane, using NCDOT 2006 *Roadway Standard Drawing* No. 1101.02, unless the work area is protected by barrier or guardrail.

When personnel and / or equipment are working on the shoulder adjacent to a divided facility and within 10 feet of an open travel lane, the Design-Build Team shall close the nearest open travel lane using NCDOT 2006 *Roadway Standard Drawings* No. 1101.02.

When personnel and / or equipment are working within a lane of travel of an undivided or divided facility, close the lane using the appropriate roadway standard drawing from the NCDOT 2006 *Roadway Standard Drawings*. Conduct the work so that all personnel and / or equipment remain within the closed travel lane.

Do not perform work involving heavy equipment within 15 ft of the edge of a travel lane when work is being performed behind a lane closure on the opposite side of the travelway.

Do not install more than 3 (three) miles of lane closure on I-40, measured from the beginning of the merge taper to the end of the lane closure.

Do not install more than 1 (one) lane closure, in any one direction on I-40.

#### **C. Pavement Edge Drop off Requirements**

Drop offs between open travel lanes shall not be permitted.

#### **D. Traffic Pattern Alterations**

Notify the Resident Engineer twenty-one (21) calendar days prior to any traffic pattern alteration. Reference the Public Information Scope of Work for providing information to the public.

## **E. Signing**

Install advance work zone warning signs when work is within 100 feet from the edge of travel lane, and no more than three days prior to the beginning of construction.

When no work is being conducted for a period longer than one week, the Design-Build Team shall remove or cover all advance work zone warning signs, as directed by the Resident Engineer, at no cost to the Department.

The Design-Build Team shall cover or remove all detour route signs within and off the project limits when not needed.

The Design-Build Team shall ensure that all necessary signing including the appropriate route markers and CMS boards are in place prior to altering any traffic pattern. For detours, cover conflicting signing during the use of the detour route.

CMS boards shall be used 3 days prior to any weekend lane narrowing or closure, or for any ramp or loop closure. At least two (2) CMS boards in each direction of I-40 and one (1) CMS board in each direction of the -Y- line that may be effected is required.

All messaging provided on CMS boards shall be approved by the State Alternate Delivery Systems Engineer and/or the Resident Engineer.

The Design-Build Team shall maintain all Guide Signs throughout the life of the project and remove any Guide Signs when they are no longer applicable.

The Department will provide a detail that illustrates where to install speed reduction and \$250 penalty signs when utilizing a lane closure. The penalty signs shall also be installed on existing speed limit signs throughout the project limits.

No Parking signs shall be installed 1000 ft. before the Begin Road Work sign as required by the Advance Work Zone warning signs for freeways, on all on-ramps within the project limits, and roughly every 3000 ft. for each direction of I-40 within the project limits.

## **F. Traffic Control Devices**

Use traffic control devices that conform to all NCDOT requirements listed on the Department's Approved Products List as shown on the NCDOT's Work Zone Traffic Control Unit Web site. Use of devices not shown on the Approved Product List shall require approval from the State Alternative Delivery Engineer.

Place drums 10-feet on-center in radii, and 10-feet off the edge of an open travelway, when lane closures are not in effect.

Place Type III barricades, with "ROAD CLOSED" sign R11-2 attached, of sufficient length to close entire ramp or loop. The Design-Build Team shall stagger or overlap barricades to allow for ingress or egress.

Place sets of three drums perpendicular to the edge of the travelway on 1000-foot centers when unopened lanes are closed to traffic. These drums shall be in addition to channelizing devices.

At the completion of the project all temporary traffic control devices shall be removed by the Design-Build Team.

**G. Pavement Markings, Markers and Delineation**

General notes of pavement marking and marker installation:

- The Design-Build Team shall use pavement marking and marker products that conform to all NCDOT’s requirements and specifications, as listed on the Department’s Approved Products List located on the NCDOT’s Traffic Control Web site.
- The Design-Build Team shall install pavement markings and markers in accordance with NCDOT’s 2006 *Standard Specifications for Roads and Structures*, and in accordance with the manufacturer’s procedures and specifications.
- Tie proposed pavement marking lines to existing pavement marking lines.
- Replace any pavement markings that have been damaged by the end of each day's operation.
- Removal of all pavement markings from the final wearing surface shall be accomplished by using water blasting, sand blasting, shot blasting systems or other approved systems to minimize damage to the road surface. All methods shall be required to remove 100% of the pavement marking without removing more than 1/32 inch (0.8 mm) of the pavement surface.

Notes for temporary pavement marking and marker installation:

- The Design-Build Team shall install a minimum of two layers of paint, temporary pavement markings and temporary raised markers on the interim surface (S9.5D) by the completion date for Intermediate Contract Time #1. The Design-Build Team shall install one layer of paint and temporary pavement markers on the ultrathin bonded wearing course. The Design-Build Team will be required to maintain the retro-reflectivity readings provided below and install additional applications as needed until the final pavement markings are placed.
- Temporary pavement marking and marker material requirements

<b>Road</b>	<b>Marking</b>	<b>Marker</b>
All Roads, Ramps and Structures	Maintain the following minimum retro-reflectivity readings: White: 200 mcd/lux/m <sup>2</sup> Yellow: 175 mcd/lux/m <sup>2</sup>	Temporary Raised

- The Department will inspect retro-reflectivity of pavement markings periodically for minimum requirements. Failure to meet retro-reflectivity requirements will require re-application.

Notes for final pavement marking, marker and delineation installation:

- The Design-Build Team shall install pavement markings and pavement markers on the final surface as shown in the Final Pavement Marking plan and where required outside the plan limits as follows:

Road	Marking	Marker
I-40 including Ramps and loops	Polyurea with a minimum of standard beads	Snowplowable, Permanent Raised markers on Bridge decks

- All US and interstate routes require 50% wider final pavement markings, i.e., lane lines, edge lines and skips shall be 6 inches.

**H. Temporary/Final Signals**

No proposed signals are required for this project and temporary signals shall not be used.

**I. Miscellaneous**

Provide portable temporary lighting to conduct night work in accordance with the NCDOT *Standard Specifications for Roads and Structures*.

Police may be used to maintain traffic through work areas and/or intersections. The Contractor shall be responsible for coordinating with the law enforcement agency if they will be used. The Traffic Control Staging Concept shall address when police will be used, where they will be used, duration and why. Utilize Officers who are outfitted with law enforcement uniforms and marked Vehicles, which are equipped with proper lights mounted on top of the vehicle, and agency emblems.

Coordinate with the Resident Engineer in charge of any project in the vicinity of this project for any work that may effect the construction and the Traffic Control of this project.

Guidelines for speed reduction, \$250 speeding penalty and No Parking ordinances are located on the Work Zone Traffic Control Web site. The Traffic Control Plans shall be designed to eliminate the need for any other ordinances. The ordinances shall be provided on the date of availability. Signs for these ordinances can not be used until a copy of the ordinances have been provided to the Resident Engineer.

**INCIDENT MANAGEMENT & TRAVELER INFORMATION****SCOPE OF WORK** (11-16-06)

The Design-Build Team shall minimize the impact on traffic flow in and approaching the work zone and coordinate with NCDOT to provide real time information to the public about traffic flow in and approaching the work zone.

**DEPARTMENT RESPONSIBILITIES**

- Staff the NCDOT Transportation Management Center (TMC) 24 hours a day, 7 days a week. This center will operate NCDOT owned permanent ITS devices in the Triangle, dispatch the Incident Management Assistance Patrol IMAP and any other NCDOT contracted towing or service patrols and coordinate with other NCDOT operations affected by the project and affected by traffic diverted away from the project in the Triangle and across the state. Real-time traffic camera images are available in the TMC for locations around the Triangle, including I-40 between Wade Avenue and the Orange / Durham County Line.
- Show information about the impacts of the work zone on traffic flow on the Department's Traveler Information Management System (TIMS) website ([www.ncdot.org](http://www.ncdot.org), click on Road Conditions). NCDOT will populate the TIMS website based on information from the Contractor to reflect real time traffic flow conditions for the work zone and approaches to the work zone. (Note: The TIMS website currently displays real time travel speeds and travel times for I-40 from Exit 270 – 297 and provides automated incident alerts to media subscribers.) NCDOT will allow the Contractor space for one person in the NCDOT TMC during the project. The Contractor will not be allowed to operate any NCDOT equipment. The Contractor may also, at his own expense, obtain a live video feed of traffic cameras from the Triangle TMC.
- Provide information about the impacts of the work zone on traffic flow on “511” the state's toll free traveler information hotline. The information on 511 will be read from the information in TIMS. The Department shall provide the 511 sign design to the Design-Build Team.
- Provide information about the impacts of the work zone on traffic flow on NCDOT owned permanent Dynamic Message Signs, Highway Advisory Radios, and portable CB Wizards located throughout the Triangle and in other areas of the state. Messages will be posted in accordance with the latest NCDOT Dynamic Message Sign Policy as needed to provide advanced and real time information about delays and alternate routes to avoid the work zone.
- NCDOT will facilitate monthly Interagency Team Meetings with all affected law enforcement and emergency response agencies in the area. Additional team meetings may also be held after major incidents.
- NCDOT will provide Incident Management Assistance Patrols (IMAP) (i.e. service patrols) on I-40 within and east of the project limits from 6 AM to 9 PM, Monday through Friday.

The Department will also provide IMAP service on other routes in the Triangle during these hours.

- In the event queues are in excess of 4 miles, NCDOT will provide:
  - “Special Alert” banner on TIMS website home page
  - A “floodgate” message on 511 that plays before the main menu
  - Alerts to the NC Trucking Association
  - Information on Dynamic Message Signs, including local and regional alternate route information, as appropriate
  - Provide regional alternate route information

### **DESIGN-BUILD TEAM RESPONSIBILITIES FOR WORK ACTIVITIES**

- Provide accurate and timely information to the Resident Engineer’s Office and the Transportation Management Center on traffic conditions in and approaching the work zone and strategies in use to improve traffic flow and provide traveler information.
- Attend Interagency Team meetings to provide updates on the work zone to the agencies and participate in after-incident critiques for incidents in / near the project.
- Place “CALL 511” signs every 4 miles throughout and approaching the work zone in each direction. These signs shall remain in place at the end of the project. These signs are approximately 4’x 6’. The Design-Build Team shall adhere to the sign design provided by the Department.
- The Design-Build Team shall provide, upon notification by law enforcement or NCDOT, a fully-operated backhoe, rubber tire loader, dump truck and sweeper to assist with incident clearance to expedite traffic flow during construction activities.
- The Design-Build Team shall include in the Technical Proposal whether or not they desire to have access to the TMC or obtain a live video feed from the TMC at the Design-Build Team’s expense.
- The Design-Build Team shall include in the Technical Proposal a Traffic Management Plan that conveys how traffic queues will be mitigated when construction is producing queues in excess of 4 miles.
- The Design-Build Team shall inform the Department, in writing, at least 3 days in advance of any construction activity that will need to be posted on the Dynamic Message Sign, Highway Advisory Radios, and CB Wizards.

**PUBLIC INFORMATION SCOPE OF WORK** (11-20-06)

NCDOT will take the lead role on this project and be responsible for a portion of the public information efforts through the Construction Unit's IMPACT Team. The NCDOT responsibilities include organizing public meetings; providing media announcements; developing and producing informational print materials; soliciting and administering advertisements, as deemed necessary. NCDOT will be responsible for mailings to the identified target audiences, including development and postage.

The Design-Build Team shall coordinate with the Department to promote public awareness for this project. The Design-Build Team's responsibilities shall include providing advance notice to the Department of upcoming project impacts, attending and / or speaking at public meetings providing details surrounding the impacts to the public (if meetings are deemed necessary by the Department), and hand distributing informational materials to target audiences. Distribution of materials includes, but is not limited to, the resources necessary to hand deliver informational materials to target audiences affected by the project.

The Design-Build Team shall hold an initial project coordination meeting with NCDOT one month prior to start of construction to discuss project impacts to the public. At the coordination meeting, the Design-Build Team will discuss their Traffic Control Plans, proposed sequence of construction and traveler information. This information will be used by the Department to create a Public Information Plan.

The Design-Build Team shall inform the Department at least 3 weeks in advance of any construction activity that will have significant impact on the public, including the start of construction, major traffic shifts, ramp closures, weekend lane closures, detours and project completion.

The Design-Build Team and NCDOT will develop the specific list of target audiences for this project. The following groups are identified as typical target audiences to receive informational materials:

- Governmental Agencies
- Municipalities Directly Effected by Construction
- Transportation Services
- Emergency Services
- Hospitals
- Neighborhood Groups and Private Homes
- Industry and Businesses
- Chamber of Commerce
- Universities
- Individual Schools Effected by the Project
- County / City School Systems
- Any other organization as deemed necessary by the Department.

The amount of public involvement required for this project is based on the Design-Build Team's Traffic Control Plans and construction details. As a minimum, the Design-Build Team shall be responsible for the hand distribution of printed materials as previously noted for, at a minimum, the beginning of construction and all road / ramp closures with detour routes.

The Design-Build Team shall include in their lump sum price bid for Traffic Control, all costs associated with their involvement in Public Information scope of work.

The Department will provide a web site for this project. The Design-Build Team may request to have information incorporated into the project web site through the Construction Unit's IMPACT Team.



## STANDARD SPECIAL PROVISIONS

### **PLANT AND PEST QUARANTINES**

#### **(Imported Fire Ant, Gypsy Moth, Witchweed, And Other Noxious Weeds)**

(3-18-03)

DB1 G130

#### **Within Quarantined Area**

This project may be within a county regulated for plant and/or pests. If the project or any part of the Design Build Team's operations is located within a quarantined area, thoroughly clean all equipment prior to moving out of the quarantined area. Comply with federal/state regulations by obtaining a certificate or limited permit for any regulated article moving from the quarantined area.

#### **Originating in a Quarantined County**

Obtain a certificate or limited permit issued by the N.C. Department of Agriculture/United States Department of Agriculture. Have the certificate or limited permit accompany the article when it arrives at the project site.

#### **Contact**

Contact the N.C. Department of Agriculture/United States Department of Agriculture at 1-800-206-9333, 919-733-6932, or <http://www.ncagr.com/plantind/> to determine those specific project sites located in the quarantined area or for any regulated article used on this project originating in a quarantined county.

#### **Regulated Articles Include**

1. Soil, sand, gravel, compost, peat, humus, muck, and decomposed manure, separately or with other articles. This includes movement of articles listed above that may be associated with cut/waste, ditch pulling, and shoulder cutting.
2. Plants with roots including grass sod.
3. Plant crowns and roots.
4. Bulbs, corms, rhizomes, and tubers of ornamental plants.
5. Hay, straw, fodder, and plant litter of any kind.
6. Clearing and grubbing debris.
7. Used agricultural cultivating and harvesting equipment.
8. Used earth-moving equipment.
9. Any other products, articles, or means of conveyance, of any character, if determined by an inspector to present a hazard of spreading imported fire ant, gypsy moth, witchweed or other noxious weeds.

### **ASPHALT PAVEMENTS - SUPERPAVE**

(9-19-06)

SP6 R01

Revise the *2006 Standard Specifications* as follows:

Page 6-2, Article 600-9 Measurement and Payment

Delete the second paragraph.

Page 6-12, 609-5(C)2(c) add after (AASHTO T 209):

*or ASTM D 2041*

Page 6-13, last line on page & Page 6-14, Subarticle 609-5(C)(2)(e), delete and substitute the following:

(e) Retained Tensile Strength (TSR) - (AASHTO T 283 Modified), add subarticle (1) Option 1 before the first paragraph.

(1) Option 1

Add subarticle (2) Option 2 and the following sentence as the first sentence of the second paragraph:

(2) Option 2

Mix sampled from truck at plant with one set of specimens prepared by the Contractor and then tested jointly by QA and QC at a mutually agreed upon lab site within the first 7 calendar days after beginning production of each new mix design.

Page 6-28, 610-3(A) Mix Design-General, third sentence of the fourth paragraph:

Substitute 20% for 15%

First, second and third sentences of the fifth paragraph:

Substitute 20% for 15%

Page 6-44, 610-8, third full paragraph, replace the first sentence with the following:

Use the 30 foot minimum length mobile grade reference system or the non-contacting laser or sonar type ski *with at least four referencing stations mounted on the paver at a minimum length of 24 feet* to control the longitudinal profile when placing the initial lanes and all adjacent lanes of all layers, including resurfacing and asphalt in-lays, unless otherwise specified or approved.

Page 6-54, Article 620-4, add the following pay item:

<b>Pay Item</b>	<b>Pay Unit</b>
Asphalt Binder for Plant Mix, Grade PG 70-28	Ton

Page 6-69, Table 660-1 **Material Application Rates and Temperatures**, add the following:

Type of Coat	Grade of Asphalt	Asphalt Rate gal/yd <sup>2</sup>	Application Temperature °F	Aggregate Size	Aggregate Rate lb./sq. yd. Total
Sand Seal	CRS-2 or CRS-2P	0.22-0.30	150-175	Blotting Sand	12-15

Page 6-75, 660-9(B), add the following as sub-item (5)

(5) Sand Seal

Place the fully required amount of asphalt material in one application and immediately cover with the seal coat aggregate. Uniformly spread the fully required amount of aggregate in one application and correct all non-uniform areas prior to rolling.

Immediately after the aggregate has been uniformly spread, perform rolling.

When directed, broom excess aggregate material from the surface of the seal coat.

When the sand seal is to be constructed for temporary sealing purposes only and will not be used by traffic, other grades of asphalt material meeting the requirements of Articles 1020-6 and 1020-7 may be used in lieu of the grade of asphalt required by Table 660-1 when approved.

Page 10-41, Table 1012-1, add the following:

Mix Type	Course Aggregate Angularity <sup>(b)</sup> ASTM D5821	Fine Aggregate Angularity % Minimum AASHTO T304 Method A	Sand Equivalent % Minimum AASHTO T176	Flat & Elongated 5:1 Ratio % Maximum ASTM D4791 Section 8.4
S 9.5 D	100/100	45	50	10

Page 10-45, Replace Table 1012-2 with the following:

**TABLE 1012-2**  
**NEW SOURCE RAP GRADATION and BINDER TOLERANCES**  
(Apply Tolerances to Mix Design Data)

Mix Type	0-20% RAP			21-25% RAP			26%+ RAP		
	Base	Inter.	Surf.	Base	Inter.	Surf.	Base	Inter.	Surf.
P <sub>b</sub> , %		± 0.7%			± 0.4%			± 0.3%	
1 1/2"	±10	-	-	±7	-	-	±5	-	-
3/4"	±10	±10	-	±7	±7	-	±5	±5	-
1/2"	-	±10	±6	-	±7	±3	-	±5	±2
3/8"	-	-	±8	-	-	±5	-	-	±4
No. 4	±10	-	±10	±7	-	±7	±5	-	±5
No. 8	±8	±8	±8	±5	±5	±5	±4	±4	±4
No.16	±8	±8	±8	±5	±5	±5	±4	±4	±4
No. 30	±8	±8	±8	±5	±5	±5	±4	±4	±4
No. 50	-	-	±8	-	-	±5	-	-	±4
No. 200	±4	±4	±4	±2	±2	±2	±1.5	±1.5	±1.5

**ASPHALT BINDER CONTENT OF ASPHALT PLANT MIXES**

(10-6-05)

DB6 R15

The approximate asphalt binder content of the asphalt concrete plant mixtures used on this project will be as follows:

Asphalt Concrete Base Course	Type B 25.0_	4.3%
Asphalt Concrete Intermediate Course	Type I 19.0_	4.7%
Asphalt Concrete Surface Course	Type S 4.75_	7.0%
Asphalt Concrete Surface Course	Type SF 9.5_	6.5%
Asphalt Concrete Surface Course	Type S 9.5_	6.0%
Asphalt Concrete Surface Course	Type S 12.5_	5.5%

The actual asphalt binder content will be established during construction by the Engineer within the limits established in *the Standard Specifications* or Project Special Provisions.

**STREET SIGNS AND MARKERS AND ROUTE MARKERS**

(7-1-95)

DB9 R01

Move any existing street signs, markers, and route markers out of the construction limits of the project and install the street signs and markers and route markers so that they will be visible to the traveling public if there is sufficient right of way for these signs and markers outside of the construction limits.

Near the completion of the project and when so directed by the Engineer, move the signs and markers and install them in their proper location in regard to the finished pavement of the project.

Stockpile any signs or markers that cannot be relocated due to lack of right of way, or any signs and markers that will no longer be applicable after the construction of the project, at locations directed by the Engineer for removal by others.

The Design Builder will be responsible to the owners for any damage to any street signs and markers or route markers during the above described operations.

**AGGREGATE PRODUCTION**

(11-20-01)

DB10 R05

Provide aggregate from a producer who utilizes the current Aggregate Quality Control/Quality Assurance Program that is in effect at the time of shipment.

No price adjustment is allowed to Design-Build Team or producers who utilize the program. Participation in the program does not relieve the producer of the responsibility of complying with all requirements of the Standard Specifications. Copies of this procedure are available upon request from the Materials and Test Unit.

**CONCRETE BRICK AND BLOCK PRODUCTION**

(11-20-01)

DB10 R10

Provide concrete brick and block from a producer who utilizes the current Solid Concrete Masonry Brick/Unit Quality Control/Quality Assurance Program that is in effect on the date that material is received on the project.

No price adjustment is allowed to Design-Build Team or producers who utilize the program. Participation in the program does not relieve the producer of the responsibility of complying with all requirements of the Standard Specifications. Copies of this procedure are available upon request from the Materials and Test Unit.

**AGGREGATES FOR ASPHALT PAVEMENTS AND SURFACE TREATMENTS****(Ultra-Thin):**

(7-18-06)

SP10 R15

Revise the *2006 Standard Specifications* as follows:

Page 10-40, Subarticle 1012-1(A), add the following at the end of the last paragraph, last sentence:

or ultra-thin bonded wearing course.

Page 10-41, Table 1012-1, add the following as the last row of the Table:

<i>UBWC</i>	<i>100/85</i>	<i>40</i>	<i>45</i>	<i>10</i>
-------------	---------------	-----------	-----------	-----------

Page 10-42, Subarticle 1012-1(B)(6), add as the last sentence:

The percentage loss for aggregate used in UBWC shall be no more than 35%.

**GLASS BEADS**

(7-18-06)

SP10 R35

Revise the *Standard Specifications* as follows:

Page 10-223, 1087-4(C) Gradation & Roundness

Replace the second sentence of the first paragraph with the following:

*All Drop-On and Intermixed Glass Beads shall be tested in accordance with ASTM D1155.*

Delete the last paragraph.

**AVAILABILITY OF FUNDS - TERMINATION OF CONTRACTS**

In accordance with *General Statute 143-28.1 (6), Subsection (5) of G.S. 143-28.1* is hereby incorporated verbatim in this contract. *General Statute. 143-28.1(5)* is as follows:

“(5). Amounts Obligated - Payments subject to the Availability of Funds - Termination of Contracts. Highway maintenance and construction appropriations may be obligated in the amount of allotments made to the Department of Transportation by the Office of State Budget and Management for the estimated payments for maintenance and construction contract work to be performed in the appropriation fiscal year. The allotments shall be multi-year allotments and shall be based on estimated revenues and shall be subject to the maximum contract authority contained in subdivision (2) above. Payment for highway maintenance and construction work performed pursuant to contract in any fiscal year other than the current fiscal year will be subject to appropriations by the General Assembly. Highway maintenance and construction contracts shall contain a schedule of estimated completion progress and any acceleration of this progress shall be subject to the approval of the Department of Transportation provided funds are available. The State reserves the right to terminate or suspend any highway maintenance or construction contract and any highway maintenance or construction contract shall be so terminated or suspended if funds will not be available for payment of the work to be performed during that fiscal year pursuant to the contract. In the event of termination of any contract, the Design-Builder shall be given a written notice of termination at least 60 days before completion of schedule work for which funds are available. In the event of termination, the Design-Builder shall be paid for the work already performed in accordance with the contract specifications”.

Payment will be made on any contract terminated pursuant to the special provision in accordance with Section 108-13 Item 5 of the Standard Special Provisions, Division 1 found elsewhere in this RFP.

**NCDOT GENERAL SEED SPECIFICATION FOR SEED QUALITY**

(10-17-06)

Z-3

Seed shall be sampled and tested by the North Carolina Department of Agriculture and Consumer Services, Seed Testing Laboratory. When said samples are collected, the vendor shall supply an independent laboratory report for each lot to be tested. Results from seed so sampled shall be final. Seed not meeting the specifications shall be rejected by the Department of Transportation and shall not be delivered to North Carolina Department of Transportation warehouses. If seed has been delivered it shall be available for pickup and replacement at the supplier's expense.

Any re-labeling required by the North Carolina Department of Agriculture and Consumer Services, Seed Testing Laboratory, that would cause the label to reflect as otherwise specified herein shall be rejected by the North Carolina Department of Transportation.

Seed shall be free from seeds of the noxious weeds Johnsongrass, Balloonvine, Jimsonweed, Witchweed, Itchgrass, Serrated Tussock, Showy Crotalaria, Smooth Crotalaria, Sicklepod, Sandbur, Wild Onion, and Wild Garlic. Seed shall not be labeled with the above weed species on the seed analysis label. Tolerances as applied by the Association of Official Seed Analysts will NOT be allowed for the above noxious weeds except for Wild Onion and Wild Garlic.

Tolerances established by the Association of Official Seed Analysts will generally be recognized. However, for the purpose of figuring pure live seed, the found pure seed and found germination percentages as reported by the North Carolina Department of Agriculture and Consumer Services, Seed Testing Laboratory will be used. Allowances, as established by the NCDOT, will be recognized for minimum pure live seed as listed on the following pages.

The specifications for restricted noxious weed seed refers to the number per pound as follows:

<u>Restricted Noxious Weed</u>	<u>Limitations per Lb. Of Seed</u>	<u>Restricted Noxious Weed</u>	<u>Limitations per Lb. of Seed</u>
Blessed Thistle	4 seeds	Bermudagrass	27 seeds
Cocklebur	4 seeds	Cornflower (Ragged Robin)	27 seeds
Spurred Anoda	4 seeds	Texas Panicum	27 seeds
Velvetleaf	4 seeds	Bracted Plantain	54 seeds
Morning-glory	8 seeds	Buckhorn Plantain	54 seeds
Corn Cockle	10 seeds	Broadleaf Dock	54 seeds
Wild Radish	12 seeds	Curly Dock	54 seeds
Purple Nutsedge	27 seeds	Dodder	54 seeds
Yellow Nutsedge	27 seeds	Giant Foxtail	54 seeds
Canada Thistle	27 seeds	Horsenettle	54 seeds
Field Bindweed	27 seeds	Quackgrass	54 seeds
Hedge Bindweed	27 seeds	Wild Mustard	54 seeds

Seed of Pensacola Bahiagrass shall not contain more than 7% inert matter, Kentucky Bluegrass, Centipede and Fine or Hard Fescue shall not contain more than 5% inert matter whereas a maximum of 2% inert matter will be allowed on all other kinds of seed. In addition, all seed

shall not contain more than 2% other crop seed nor more than 1% total weed seed. The germination rate as tested by the North Carolina Department of Agriculture shall not fall below 70%, which includes both dormant and hard seed. Seed shall be labeled with not more than 7%, 5% or 2% inert matter (according to above specifications), 2% other crop seed and 1% total weed seed.

Exceptions may be made for minimum pure live seed allowances when cases of seed variety shortages are verified. Pure live seed percentages will be applied in a verified shortage situation. Those purchase orders of deficient seed lots will be credited with the percentage that the seed is deficient.

**FURTHER SPECIFICATIONS FOR EACH SEED GROUP ARE GIVE BELOW:**

Minimum 85% pure live seed; maximum 1% total weed seed; maximum 2% total other crop seed; maximum 144 restricted noxious weed seed per pound. Seed less than 83% pure live seed will not be approved.

Sericea Lespedeza  
Oats (seeds)

Minimum 80% pure live seed; maximum 1% total weed seed; maximum 2% total other crop; maximum 144 restricted noxious weed seed per pound. Seed less than 78% pure live seed will not be approved.

Tall Fescue (all approved varieties)	Bermudagrass
Kobe Lespedeza	Browntop Millet
Korean Lespedeza	German Millet - Strain R
Weeping Lovegrass	Clover - Red/White/Crimson
Carpetgrass	

Minimum 78% pure live seed; maximum 1% total weed seed; maximum 2% total other crop seed; maximum 144 restricted noxious weed seed per pound. Seed less than 76% pure live seed will not be approved.

Common or Sweet Sundangrass

Minimum 76% pure live seed; maximum 1% total weed seed; maximum 2% total other crop seed; maximum 144 restricted noxious weed seed per pound. Seed less than 74% pure live seed will not be approved.

Rye (grain; all varieties)  
Kentucky Bluegrass (all approved varieties)  
Hard Fescue (all approved varieties)  
Shrub (bicolor) Lespedeza



Minimum 70% pure live seed; maximum 1% total weed seed; maximum 2% total other crop seed; maximum 144 restricted noxious weed seed per pound. Seed less than 70% pure live seed will not be approved.

Centipedegrass

Crownvetch

Pensacola Bahiagrass

Japanese Millet

Reed Canary Grass

Zoysia

Minimum 70% pure live seed; maximum 1% total weed seed; maximum 2% total other crop seed; maximum 5% inert matter; maximum 144 restricted noxious weed seed per pound.

Barnyard Grass

Big Bluestem

Little Bluestem

Bristly Locust

Birdsfoot Trefoil

Indiangrass

Orchardgrass

Switchgrass

Yellow Blossom Sweet Clover

## STANDARD SPECIAL PROVISION

### ERRATA

(12-19-06)

Z-4

Revise the *Standard Specifications for Roads and Structures July 2006* on all projects as follows:

#### Division 1

- Page 1-1, replace AREA - American Railway Engineering Association with *American Railway Engineering and Maintenance of Way Association*.
- Page 1-7, remove –L- in middle of page after INVITATION TO BID and before LABORATORY.
- Page 1-25, (R) move 2nd paragraph to left margin. It is not a part of this subarticle, but part of the entire article.

#### Division 2

- Page 2-23, Subarticle 235-4(B)(9), at the end of the sentence, replace finished greater with finished *grade*.

#### Division 3

- Page 3-13, Article 340-4, Second paragraph, change Flowable Backfill to Flowable *Fill*

#### Division 4

- Page 4-70, 442-13(B) Second sentence, change SSPC Guide 6I to SSPC Guide *6*.
- Pages 4-72, 4-74, 4-76, at the top of the page, substitute the heading Section 452 with Section *450*.
- Page 4-79, at the top of the page, substitute the heading Section 450 with Section *452*
- Page 4-80, change 452-7 to 452-*6* at the top of the page.
- Page 4-80, change Pay Item \_\_\_Steel Pile Retaining Walls, to *Sheet* Pile Retaining Walls.

#### Division 6

- Page 6-3, Article 600-9, 2nd Paragraph on this page, replace 818-5 with 818-*4*.
- Pages 6-30 and 31, Subarticle 610-3(A)(13) Move 2 paragraphs from the margin to the right under the number (13).
- Page 6-43, Article 610-8, 4th paragraph, remove the first *the*
- Page 6-44, 2nd full paragraph, 1<sup>st</sup> sentence, delete the first *and* and add *transverse* just before cross-slope control.
- Page 6-51, at the top of the page, add *610-14* on the same line, and just before the heading MAINTENANCE.
- Page 6-53, Article 620-4 sixth paragraph, second line; the word that should be *which*.
- Page 6-66, title, Replace EXISTNG with **EXISTING**

- Page 6-67, at the top of the page, substitute the heading Section 654 with Section **657**.
- Page 6-89, Add a period at the end of the last sentence at the bottom of the page.
- Page 6-90, Article 663-5, first paragraph, first sentence, change 50oF to **50°F**; third paragraph, fourth sentence change 325oF to **325°F**.

**Division 7**

- Page 7-12, at the top of the page, substitute the heading Section 710 with Section **700**.
- Page 7-15, Article 710-9, 4th paragraph, last line, change 710-11(B) to **710-10(B)**.

**Division 8**

- Page 8-13, Article 808-3, 4th Paragraph, third line, replace Eexcavation with **Excavation**
- Page 8-35, Article 848-2, Item: Replace Cncrete with **Concrete**

**Division 9**

- Page 9-2, add **901-3** just before CONSTRUCTION METHODS

**Division 10**

- Page 10-12, near bottom of page add **(C)** before Proportioning and Mixing of Modified Compositions, which should be bold type.
- Page 10-28, at the top of the page, substitute Section 1006 for 1005.
- Pages 10-56, 10-58, 10-60 at the top of the page, substitute Section 1018 with Section **1020**.
- Page 10-100, Table 1056-1, replace on the line for Trapezoidal Tear Strength:

Type 1	Type 2	Type 3		Type 4
		Class A	Class B	Soil Stabilization
<b>45 lb</b>	<b>75 lb</b>	--	--	<b>75 lb</b>

- Page 10-116, Subarticle 1070-10, first paragraph, second sentence, add **or** just before cold-forged sleeve.
- Pages 10-136 through 10-147, at the top of the page, substitute Section 1074 with Section **1072**.
- Page 10-211, at the top of the page, substitute Section 1081 with Section **1082**.
- Page 10-229, add **1088-6 BLANK** on the line above 1088-7 TUBULAR MARKERS.
- Page 10-244, add **1089-10 BLANK** and **1089-11 BLANK** on the lines just above 1089-12 FLAGGER.
- Page 10-272, delete Article 1098-6 in its entirety. Renumber Articles 1098-7 through 1098-17 as Articles 1098-6 through 1098-16 consecutively.

**Division 12**

- Page 12-21 Add **1266-2** just before the heading MATERIALS.

**Division 15**

- Page 15-2 add **1500-4** just before the heading WEEKEND, NIGHT AND HOLIDAY WORK.
- Page 15-4, Subarticle 1505-3(A)(2), replace the 2nd line with the following: ***Provide shielding or shoring as required under Section 150 or as required elsewhere in the contract.***
- Page 15-5, add **1505-6** on the same line and just before the heading MEASUREMENT AND PAYMENT. (Remove the period after PAYMENT.)
- Page 15-6, Article 1505-6(3), delete *in Section 1175* and replace it with *elsewhere in the contract*.
- Page 15-8, add 1510-4 on the same line and just before the heading MEASUREMENT AND PAYMENT.
- Page 15-10, substitute **BLANK** for CONSTRUCTION REQUIREMENTS on the same line and just before 1515-4.
- Page 15-10, substitute **CONSTRUCTION REQUIREMENTS** for General Requirements
- Page 15-13, Article 1520-3, 8th paragraph, add ***pipe*** after diameter.
- Page 15-22, add **1540-3** on the same line and just before the heading CONSTRUCTION REQUIREMENTS

**Division 16**

- Page 16-12, Subarticle 1632-1(C) ¼ Inch hardware cloth, change the minimum width from 24 inches to 48 inches.

**END**

**STANDARD SPECIAL PROVISION**

**AWARD OF CONTRACT**

(6-28-77)

Z-6

“The North Carolina Department of Transportation, in accordance with the provisions of *Title VI of the Civil Rights Act of 1964* (78 Stat. 252) and the Regulations of the Department of Transportation (*49 C.F.R., Part 21*), issued pursuant to such act, hereby notifies all bidders that it will affirmatively insure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the ground of race, color, or national origin”.

**STANDARD SPECIAL PROVISION****MINORITY AND FEMALE EMPLOYMENT REQUIREMENTS**

Z-7

**NOTICE OF REQUIREMENTS FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (*EXECUTIVE NUMBER 11246*)**

1. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, see as shown on the attached sheet entitled "Employment Goals for Minority and Female participation".

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 shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in *41 CFR Part 60-4* shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in *41 CFR 60-4.3(a)*, and its effort 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 shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project or the sole purpose of meeting the Contractor's goals shall 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. As used in this Notice and in the contract resulting from this solicitation, the "covered area" is the county or counties shown on the cover sheet of the proposal form and contract.

**EMPLOYMENT GOALS FOR MINORITY  
AND FEMALE PARTICIPATION**

Economic Areas

**Area 023 29.7%**

Bertie County  
Camden County  
Chowan County  
Gates County  
Hertford County  
Pasquotank County  
Perquimans County

**Area 024 31.7%**

Beaufort County  
Carteret County  
Craven County  
Dare County  
Edgecombe County  
Green County  
Halifax County  
Hyde County  
Jones County  
Lenoir County  
Martin County  
Nash County  
Northampton County  
Pamlico County  
Pitt County  
Tyrrell County  
Washington County  
Wayne County  
Wilson County

**Area 025 23.5%**

Columbus County  
Duplin County  
Onslow County  
Pender County

**Area 026 33.5%**

Bladen County  
Hoke County  
Richmond County  
Robeson County  
Sampson County  
Scotland County

**Area 027 24.7%**

Chatham County  
Franklin County  
Granville County  
Harnett County  
Johnston County  
Lee County  
Person County  
Vance County  
Warren County

**Area 028 15.5%**

Alleghany County  
Ashe County  
Caswell County  
Davie County  
Montgomery County  
Moore County  
Rockingham County  
Surry County  
Watauga County  
Wilkes County

**Area 029 15.7%**

Alexander County  
Anson County  
Burke County  
Cabarrus County  
Caldwell County  
Catawba County  
Cleveland County  
Iredell County  
Lincoln County  
Polk County  
Rowan County  
Rutherford County  
Stanly County

**Area 0480 8.5%**

Buncombe County  
Madison County

**Area 030 6.3%**

Avery County  
Cherokee County  
Clay County  
Graham County  
Haywood County  
Henderson County  
Jackson County  
McDowell County  
Macon County  
Mitchell County  
Swain County  
Transylvania County  
Yancey County



**SMSA Areas**

**Area 5720 26.6%**

Currituck County

**Area 9200 20.7%**

Brunswick County

New Hanover County

**Area 2560 24.2%**

Cumberland County

**Area 6640 22.8%**

Durham County

Orange County

Wake County

**Area 1300 16.2%**

Alamance County

**Area 3120 16.4%**

Davidson County

Forsyth County

Guilford County

Randolph County

Stokes County

Yadkin County

**Area 1520 18.3%**

Gaston County

Mecklenburg County

Union County

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**Goals for Female**

**Participation in Each Trade**

(Statewide) 6.9%



## **Required Contract Provisions Federal-Aid Construction Contracts**

FHWA-1273 Electronic Version – March 10, 1994

Z-8

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
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- V. Statement and Payrolls
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- VII. Subletting or Assigning the Contract
- VIII. Safety: Accident Prevention
- IX. False Statements Concerning Highway Projects
- X. Implementation of Clean Air Act and Federal Water Pollution Control Act
- XI. Certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion
- XII. Certification Regarding Use of Contract Funds for Lobbying

### **Attachments**

- A. Employment Preferences for Appalachian Contracts (included in Appalachian contracts only)

#### **I. GENERAL**

1. 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.
2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.
3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.
4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:
  - Section I, paragraph 2;
  - Section IV, paragraphs 1, 2, 3, 4, and 7;
  - Section V, paragraphs 1 and 2a through 2g.
5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 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 DOL, or the contractor's employees or their representatives.
6. **Selection of Labor:** During the performance of this contract, the contractor shall not:
  - a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
  - b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

#### **II. NONDISCRIMINATION**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

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 and 41 CFR 60) 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 Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American 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 State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
  - b. The contractor will accept as his 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, preapprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO 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 minority group employees.
  - 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 minority groups 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 minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group 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, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)
  - c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group 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 his 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 his avenues of appeal.
6. **Training and Promotion:**
  - a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
  - 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. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
  - 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 minority group and women employees 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 his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect

referrals by such unions of minority and female employees. 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 best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
  - b. The contractor will use best 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 SHA 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 minority and women 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 minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) 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 SHA.
8. **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.
- a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.
  - b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.
  - c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.
9. **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 completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.
- a. The records kept by the contractor shall document the following:
    1. The number 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;
    3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
    4. The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.
  - b. The contractors will submit an annual report to the SHA 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. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

### III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

- a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.
- b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).
- c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

**IV. PAYMENT OF PREDETERMINED MINIMUM WAGE**

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

**1. General:**

- a. All mechanics and laborers 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 (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) 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. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, 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 paragraphs 4 and 5 of this Section IV.
- b. 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.
- c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

**2. Classification:**

- a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.
- b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:
  1. the work to be performed by the additional classification requested is not performed by a classification in the wage determination;
  2. the additional classification is utilized in the area by the construction industry;
  3. the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
  4. with respect to helpers, when such a classification prevails in the area in which the work is performed.
- c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional classification 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 DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour 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.
- d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional 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. Said 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.
- e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

**3. Payment of Fringe Benefits:**

- a. 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 or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.
- b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a 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.

**4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:**

a. Apprentices:

1. 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 DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/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 Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.
2. The allowable ratio of apprentices to journeyman-level employees 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 employee 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 listed in 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 or subcontractor 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-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.
3. 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 journeyman-level 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 for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.
4. In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

1. 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 DOL, Employment and Training Administration.
2. The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. 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.
3. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level 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-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.
4. In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor 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. Helpers:

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under a approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

**5. 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.

**6. Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor 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, as 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 SHA contracting officer 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.

**7. Overtime Requirements:**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

**8. Violation:**

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her 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, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

**9. Withholding for Unpaid Wages and Liquidated Damages:**

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies 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 8 above.

**V. STATEMENTS AND PAYROLLS**

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

**1. Compliance with Copeland Regulations (29 CFR 3):**

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

**2. Payrolls and Payroll Records:**

- a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.
- b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof 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. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph 3b, has found 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 and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.
- c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers, described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this

Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

- d. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
  1. that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;
  2. that such 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 the Regulations, 29 CFR 3;
  3. that each laborer or mechanic has been paid not less than the applicable wage rate and fringe benefits or cash equivalent for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- e. 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 2d of this Section V.
- f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.
- g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, 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 SHA, the FHWA, the DOL, or all may, after written notice to the contractor, sponsor, applicant, or owner, take such actions 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.

#### VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:
  - a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.
  - b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.
  - c. furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to furnishing materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.
2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

#### VII. SUBLETTING OR ASSIGNING THE CONTRACT

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 State. 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).
  - a. "Its own organization" shall be construed to include only workers employed and paid directly 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, assignee, or agent of the prime contractor.
  - 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 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 VII 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 SHA 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 SHA 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 SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

**VIII. SAFETY: ACCIDENT PREVENTION**

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 SHA 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. 333).
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. 333).

**IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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, the following notice 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:

**NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS**

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 not more than \$10,000 or imprisoned not more than 5 years or both."*

**X. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*, as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.
3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

**XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. **Instructions for Certification - Primary Covered Transactions:**



(Applicable to all Federal-aid contracts - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary 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 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 primary 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 department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary 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," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary 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 primary 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 Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.
- i. 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.
- 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.

\* \* \* \* \*

#### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement 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;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
  - d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary 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 Covered Transactions:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

- 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," "primary covered transaction," "participant," "person," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- 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.
- 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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- 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 Covered Transactions:**

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 participation in this transaction 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.

\* \* \* \* \*

**XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

(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 his or her bid or proposal that he or she 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.

**GENERAL DECISION NC030011 NC11**

Z-12

Date: June 13, 2003

General Decision Number NC030011

Superseded General Decision No. NC020011

State: North Carolina

Construction Type: HIGHWAY

**COUNTIES:**

Alamance	Durham	Orange
Alexander	Forsyth	Randolph
Buncombe	Franklin	Rowan
Burke	Gaston	Stokes
Cabarrus	Guilford	Union
Catawba	Lincoln	Wake
Cumberland	Mecklenburg	Yadkin
Davidson	New Hanover	
Davie	Onslow	

HIGHWAY CONSTRUCTION PROJECTS (does not include tunnels, building structures in rest area projects, railroad construction, and, bascule, suspension and spandrel arch bridges, bridges designed for commercial navigation, and bridges involving marine construction, and other major bridges).

Modification Number      Publication Date  
 0                                      06/13/2003

**COUNTIES:**

Alamance	Durham	Orange
Alexander	Forsyth	Randolph
Buncombe	Franklin	Rowan
Burke	Gaston	Stokes
Cabarrus	Guilford	Union
Catawba	Lincoln	Wake
Cumberland	Mecklenburg	Yadkin
Davidson	New Hanover	
Davie	Onslow	

SUNC3002A 02/12/1990

	Rates	Fringes
Carpenter	7.63	
Concrete Finisher	7.52	
Electrician	10.26	
Ironworkers (reinforcing)	9.76	
<b>LABORER</b>		
Common	5.33	
Asphalt Lay Down Man	5.60	

Asphalt Raker	6.14	
Form Setter (road)	8.57	
Mason (brick, block, stone)	7.44	
Pipe Layer	6.23	
Power Tool Operator	8.28	

POWER EQUIPMENT OPERATORS		
Asphalt Distributor	6.78	
Asphalt Paver	7.47	
Bulldozer	7.33	
Bulldozer (utility)	6.72	
Concrete Curb Machine	7.09	
Concrete Finishing Machine	7.85	
Concrete Paver	6.90	
Crane, Backhoe, Shovel & Dragline (over 1 yd)	8.16	
Crane, Backhoe, Shovel & Dragline(1 yd and over)	6.95	
Drill Operator	7.34	
Grade Checker	5.45	
Gradeall	8.38	
Greaseman	6.49	
Loader	7.09	
Mechanic	8.47	
Motor Grader (Fine Grade)	8.04	
Motor Grader(Rough Grade)	7.68	
Oiler	5.88	
Roller (Finisher)	6.70	
Roller (Rough)	5.65	
Scraper	6.63	
Screed Asphalt	7.09	
Stone Spreader	6.02	
Stripping Machine Operator	6.00	
Subgrade Machine	7.13	
Sweeper	5.80	
Tractor (Utility)	5.47	

TRUCK DRIVERS		
Trucks – Single Rear Axle	5.42	
Trucks – Multi Rear Axle	6.08	
Trucks – Heavy Duty	9.47	

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

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

In the listing above, the "SU" designation means that rates listed under that identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

WAGE DETERMINATION APPEALS PROCESS

Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
 Wage and Hour Division  
 U. S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, D.C. 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
 U.S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, D.C. 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
 U. S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, D.C. 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

**\*\*\* STANDARD SPECIAL PROVISIONS \*\*\***

**DIVISION ONE OF STANDARD SPECIFICATIONS**

**Division One of the 2006 NCDOT Standard Specifications for Roads and Structures (Standard Specifications) shall apply except as follows:**

**Definitions:** Throughout Division One of the *Standard Specifications*, the term “Contractor” is replaced with “Design-Build Team”, the term “Bidder” is replaced with “Proposer,” the term “Bid” is replaced by “Price Proposal,” and the phrase “lowest Responsible Bidder” is replaced with “responsible Proposer with the lowest adjusted price.” The replacement of “Contractor” with “Design-Build Team” does not apply to Article 102-2. The replacement of the above terms also does not apply when the terms are part of a phrase (e.g. bid bond, prime contractor, total amount bid, etc.)

**Deletions:** Articles 102-4, 102-10(C)(2), 102-11(A), 103-2(B), 103-4(B), 104-13, and 108-2 of the *Standard Specifications* are deleted from Design-Build Contracts.

**Modifications:** The remainder of this Standard Special Provision includes modifications to Division One of the *Standard Specifications*.

**SECTION 101  
DEFINITION OF TERMS**

**Page 1-2, Article 101-3, replace and add certain definitions as follows:**

**ADDITIONAL WORK**

Additional work is that which results from a change or alteration in the contract and for which there are contract unit prices in the original contract or an executed supplemental agreement.

**ADVERTISEMENT**

The public advertisement inviting Statements of Qualifications for the design and construction of specific projects.

**AWARD**

The decision of the Board of Transportation to accept the proposal of the selected Design-Build Team for work which is subject to the furnishing of payment and performance bonds, and such other conditions as may be otherwise provided by law, the Request for Proposals, and the *Standard Specifications*.

**CONTRACT**

The executed agreement between the Department of Transportation and the successful proposer, covering the performance of the work and the compensation therefor.

The term contract is all inclusive with reference to all written agreements affecting a contractual relationship and all documents referred to therein. The contract shall specifically

include, but not be limited to, the Request for Proposals, the Technical Proposal, the Price Proposal, the printed contract form and all attachments thereto, the contract bonds, the plans and associated special provisions, the standard specifications and all supplemental specifications thereto, the standard special provisions and the project special provisions contained in the Request for Proposals, and all executed supplemental agreements, all of which shall constitute one instrument.

#### **DATE OF AVAILABILITY**

That date set forth in the Request for Proposals, by which it is anticipated that the Contract will be executed and sufficient design efforts or work sites within the project limits will be available for the Design-Build Team to begin his controlling operations or design.

#### **DESIGN-BUILD**

A form of contracting in which the successful proposer undertakes responsibility for both the design and construction of a project.

#### **DESIGN-BUILD TEAM**

An individual, partnership, joint venture, corporation or other legal entity that furnishes the necessary design and construction services, whether by itself or through subcontracts.

#### **DESIGN-BUILD PROPOSAL**

A proposal to contract consisting of a separately sealed Technical Proposal and a separately sealed Price Proposal submitted in response to a Request for Proposals on a Design-Build project.

#### **PLANS**

The project plans, Standard Drawings, working drawings and supplemental drawings, or reproductions thereof, accepted by the Engineer, which show the location, character, dimensions and details of the work to be performed.

(A) Standard Drawings:

Drawings approved for repetitive use, showing details to be used where appropriate. All Standard Drawings approved by the Department plus subsequent revisions and additions. Standard Drawings are available for purchase from:

Randy A. Garris, PE  
State Contract Officer  
1591 Mail Service Center  
Raleigh, NC 27699-1591

(B) Preliminary Plans:

Department-furnished drawings included along with a Request for Proposals, or as developed by the Design-Build Team.

(C) Project Plans:

Construction drawings prepared, sealed and completed by the Design-Build Team, or as provided by the Department, that contain specific details and dimensions peculiar to the work.

(D) Working Drawings and Supplemental Drawings:

Supplemental design sheets, shop drawings, or similar data which the Design-Build Team is required to submit to the Engineer.

(E) As-Constructed Drawings:

Final drawings prepared by the Design-Build Team, documenting the details and dimensions of the completed work.

**PRICE PROPOSAL**

The offer of a Proposer, submitted on the prescribed forms, to perform the work and furnish the labor and materials at the price quoted.

**PROPOSAL (OR REQUEST FOR PROPOSALS)**

The paper document provided by the Department that the proposer uses to develop his paper offer to perform the work at designated bid prices.

**PROPOSER**

An individual, partnership, firm, corporation, LLC, or joint venture formally submitting a Technical Proposal and Price Proposal in response to a Request for Proposals.

**RIGHT OF WAY**

The land area shown on the plans as right of way within which the project is to be constructed.

**SCHEDULE OF VALUES**

A schedule of work items necessary to complete work, along with the progress of each work item, primarily for the purpose of partial payments.

**TABLE OF QUANTITIES**

A listing of work items (corresponding to the items in the Trns\*port pay item list) that contributes to a project completion. The table shall include estimated quantities for each work item.

**TECHNICAL PROPOSAL**

A submittal from a proposer, in accordance with requirements of the Request for Proposals, for the purpose of final selection.



## **SECTION 102 PROPOSAL REQUIREMENTS AND CONDITIONS**

**Page 1-11, delete Article 102-1 and replace with the following:**

### **102-1 INVITATION TO BID**

After the advertisement has been made, an invitation to bid will be mailed to known prequalified contractors and any other contracting firms, material suppliers, and other interested parties who have requested they be placed on the invitation to bid mailing list informing them that bids will be received for the construction of specific projects. Such invitation will indicate the contract identification number, length, locations, and descriptions; a general summary of the items of work to be performed; and information on how to receive a Request for Qualifications.

All projects will be advertised in daily newspapers throughout the state prior to the bid opening.

**Page 1-15, delete Article 102-3 and replace with the following:**

### **102-3 CONTENTS OF REQUEST FOR PROPOSALS**

A Request for Proposals will be furnished by the Department to the selected proposers from among the respondents to the Request for Qualifications. Each Request for Proposals will be marked on the front cover by the Department with an identifier of the Proposer to whom it is being furnished. This Request for Proposals will state the location of the project and will show a schedule of contract items for which Technical and Price Proposals are invited. It will set forth the date and time Technical and Price Proposals are to be submitted and will be opened. The Request for Proposals will also include any special provisions or requirements that vary from or are not contained in any preliminary plans or standard specifications.

The package will also include the printed contract forms and signature sheets for execution by both parties to the contract. In the event the Proposer is awarded the contract, execution of the Request for Proposals by the Proposer is considered the same as execution of the contract.

The plans, standard specifications, and other documents designated in the Request for Proposals shall be considered a part of the Request for Proposals whether or not they are attached thereto. All papers bound with the proposal are necessary parts thereof and shall not be detached, taken apart, or altered.

The names and identity of each prospective Proposer that receives a copy of the Request for Qualifications for the purposes of submitting a Statement of Qualifications shall be made public, except that a potential Proposer who obtains a Request for Qualifications may, at the time of ordering, request that his name remain confidential.

Up to three copies of the Request for Proposals will be furnished to each prospective Proposer. Additional copies may be purchased for the sum of \$25 each. The copy marked with the Proposer's name and prequalification number shall be returned to the Department.

**Page 1-16, Article 102-6, replace the first paragraph with the following:**

The Proposer shall examine carefully the site of the work contemplated, the preliminary plans and specifications, and the Request for Proposals. The submission of a Technical Proposal and a Price Proposal shall be conclusive evidence that the Proposer has investigated and is satisfied as to the conditions to be encountered; as to the character, quality, and scope of work to be performed; the quantities of materials to be furnished; and as to the conditions and requirements of the proposed contract.

**Page 1-17, delete Article 102-7 and replace with following:****102-7 SUBSURFACE INVESTIGATION REPORT**

The Subsurface Investigation and report was made for the purpose of information only.

If a subsurface investigation report is available on this project, a copy may be obtained by the prospective proposers upon request.

The subsurface investigation on which the report is based was made for the purpose of information only. The various field boring logs, rock cores, and soil test data available may be reviewed or inspected in Raleigh at the office of the Geotechnical Unit. Neither the subsurface investigation report nor the field boring logs, rock cores, or soil test data is part of the contract.

General soil and rock strata descriptions and indicated boundaries are based on a geotechnical interpretation of all available subsurface data and may not necessarily reflect the actual subsurface conditions between borings or between sampled strata within the borehole. The laboratory sample data and the in situ (in-place) test data can be relied on only to the degree of reliability inherent in the standard test method. The observed water levels or soil moisture conditions indicated in the subsurface investigations are as recorded at the time of the investigation. These water levels or soil moisture conditions may vary considerably with time according to climatic conditions including temperature, precipitation, and wind, as well as other nonclimatic factors.

The Proposer is cautioned that details shown in the subsurface investigation report are preliminary only. The Department does not warrant or guarantee the sufficiency or accuracy of the investigation made, nor the interpretations made or opinions of the Department as to the type of materials and conditions that may be encountered. The proposer is cautioned to make such independent subsurface investigations, as he deems necessary to satisfy himself as to conditions to be encountered on this project. The Design-Build Team shall have no claim for additional compensation or for an extension of time for any reason resulting from the actual conditions encountered at the site differing from those indicated in the subsurface investigation.

**Pages 1-17, delete Article 102-8 and replace with the following:****102-8 PREPARATION AND SUBMISSION OF BIDS**

All Price Proposals shall be prepared and submitted in accordance with the following requirements:

1. The Request for Proposals provided by the Department shall be used and shall not be taken apart or altered. The Price Proposal shall be submitted on the same form, which has

been furnished to the Proposer by the Department as identified by the Proposer's name marked on the front cover by the Department.

2. All entries including signatures shall be written in ink.
3. The Proposer shall submit a lump sum or unit price for every item in the Price Proposal. The lump sum or unit prices bid for the various contract items shall be written in figures.
4. An amount bid shall be entered in the Request for Proposals for every item and the price shall be written in figures in the "Amount Bid" column in the Request for Proposals.
5. The total amount bid shall be written in figures in the proper place in the Request for Proposals. The total amount bid shall be determined by adding the amounts bid for each lump sum item.
6. Changes in any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. A representative of the Proposer shall initial the change in ink.
7. The Price Proposal shall be properly executed. In order to constitute proper execution, the Price Proposal shall be executed in strict compliance with the following:
  - a. If a Price Proposal is by an individual, it shall show the name of the individual and shall be signed by the individual with the word "Individually" appearing under the signature. If the individual operates under a firm name, the bid shall be signed in the name of the individual doing business under the firm name.
  - b. If the Price Proposal is by a corporation, it shall be executed in the name of the corporation by the President, Vice President, or Assistant Vice President. It shall be attested by the Secretary or Assistant Secretary. The seal of the corporation shall be affixed. If the Price Proposal is executed on behalf of a corporation in any other manner than as above, a certified copy of the minutes of the Board of Directors of said corporation authorizing the manner and style of execution and the authority of the person executing shall be attached to the Price Proposal or shall be on file with the Department.
  - c. If the Price Proposal is made by a partnership, it shall be executed in the name of the partnership by one of the general partners.
  - d. If the Price Proposal is made by a Limited Liability Company (LLC), it shall be signed by the manager and notarized.
  - e. If the Price Proposal is made by a joint venture, it shall be executed by each of the joint venturers in the appropriate manner set out above. In addition, the execution by the joint venturers shall appear below their names.
  - f. The Price Proposal execution shall be notarized by a notary public whose commission is in effect on the date of execution. Such notarization shall be applicable both to the Price Proposal and to the non-collusion affidavit which is part of the signature sheets.
8. The Price Proposal shall not contain any unauthorized additions, deletions, or conditional bids.

9. The Proposer shall not add any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.
10. The Price Proposal shall be accompanied by a bid bond on the form furnished by the Department or by a bid deposit. The bid bond shall be completely and properly executed in accordance with the requirements of Article 102-11. The bid deposit shall be a certified check or cashier check in accordance with Article 102-11.
11. The Price Proposal shall be placed in a sealed envelope and shall have been delivered to and received by the Department prior to the time specified in the Request for Proposals.

**Page 1-22, delete Article 102-12 and replace with the following:**

**102-12 DELIVERY OF BIDS**

All Price Proposals shall be placed in a sealed envelope having the name and address of the Proposer, and the statement " Price Proposal for the Design/Build of State Highway Project No. \_\_\_\_\_ in \_\_\_\_\_ County(ies)" on the outside of the envelope. If delivered by mail, the sealed envelope shall be placed in another sealed envelope and the outer envelope addressed to the Contract Officer as stated in the Request for Proposals. The outer envelope shall also bear the statement "Price Proposal for the Design/Build of State Highway Project No. \_\_\_\_\_". All Technical Proposals shall be placed in a sealed envelope having the name and address of the Proposer, and the statement "Technical Proposal for the Design/Build of State Highway Project No. \_\_\_\_\_ in \_\_\_\_\_ County(ies)" on the outside of the envelope. If delivered by mail, the sealed envelope shall be placed in another sealed envelope and the outer envelope addressed to the Contract Officer as stated in the Request for Proposal. The outer envelope shall also bear the statement "Technical Proposal for the Design/Build of State Highway Project No. \_\_\_\_\_". If delivered in person on or before the due date, the sealed envelope shall be delivered to the office of the Contract Officer as indicated in the Request for Proposals. Price Proposals and Technical Proposals shall be submitted in accordance with the project special provision "Submittal of Proposals" contained elsewhere in this Request for Proposals.

All Price Proposals and Technical Proposals shall be delivered prior to the time specified in the Request for Proposals. Price proposals and Technical Proposals received after such time will not be accepted and will be returned to the Proposer unopened.

**Pages 1-22, delete Article 102-13 and replace with the following:**

**102-13 WITHDRAWAL OR REVISION OF BIDS**

A Design-Build Team will not be permitted to withdraw its Technical and Price Proposals after they have been submitted to the Department, unless allowed under Article 103-3 or unless otherwise approved by the State Highway Administrator.

**Page 1-23, delete Article 102-14 and replace with the following:**

**102-14 RECEIPT AND OPENING OF BIDS**

Price Proposals will be opened and read publicly at the time and place indicated in the Request for Proposals. The scores of the previously conducted evaluation of the Technical Proposals will also be read publicly in accordance with the procedures outlined in the Request

for Proposals. Proposers, their authorized agents, and other interested parties are invited to be present.

**Page 1-23, Article 102-15, Replace the 1<sup>st</sup> paragraph with the following:**

**102-15 REJECTION OF BIDS**

Any Price Proposal submitted which fails to comply with any of the requirements of Articles 102-8, 102-10 or 102-11, or with the requirements of the project scope and functional specifications shall be considered irregular and may be rejected. A Price Proposal that does not contain costs for all proposal items shall be considered irregular and may be rejected.

**SECTION 103  
AWARD AND EXECUTION OF CONTRACT**

**Page 1-25, delete Article 103-1 and replace with the following:**

**103-1 CONSIDERATION OF PRICE PROPOSALS**

After the Price Proposals are opened and read, they will be tabulated. The Price Proposal and score of the Technical Proposal will be made available in accordance with procedures outlined in the Request for Proposals. In the event of errors, omissions, or discrepancies in the costs, corrections to the Price Proposal will be made in accordance with the provisions of Article 103-2. Such corrected costs will be used to determine the lowest adjusted price.

After the reading of the Price Proposals and technical scores, the Department will calculate the lowest adjusted price as described in the "Selection Procedure" section of the Request for Proposals.

The right is reserved to reject any or all Price Proposals, to waive technicalities, to request the Proposer with the lowest adjusted price to submit an up-to-date financial and operating statement, to advertise for new proposals, or to proceed to do the work otherwise, if in the judgment of the Board, the best interests of the State will be promoted thereby.

**Page 1-26, Subarticle 103-2(A), add items (7) and (8) as follows:**

- (7) Discrepancy in the "Total Amount Bid" and the addition of the "Amount Bid" for each line Item**

In the case of the Total Amount Bid does not equal the summation of each Amount Bid for the line items, the summation of each Amount Bid for the line items shall be deemed to be the correct total for the entire project.

- (8) Omitted Total Amount Bid –Amount Bid Completed**

If the Total Amount Bid is not completed and the Amount Bid for all line items is completed the Total Amount Bid shall be the summation of the Amount Bid for all line items,

**Page 1-29, delete Article 103-6 and replace with the following:**

**103-6 RETURN OF BID BOND OR BID DEPOSIT**

Checks that have been furnished as a bid deposit will be retained until after the contract bonds have been furnished by the successful proposer, at which time Department of Transportation warrants in the equivalent amount of checks that were furnished as a bid deposit will be issued.

Paper bid bonds will be retained by the Department until the contract bonds are furnished by the successful proposer, after which all such bid bonds will be destroyed unless the individual bid bond form contains a note requesting that it be returned to the proposer or the Surety.

**Page 1-30, delete Article 103-9 and replace with the following:**

**103-9 FAILURE TO FURNISH CONTRACT BONDS**

The successful proposer's failure to file acceptable bonds within 14 calendar days after the notice of award is received by him shall be just cause for the forfeiture of the bid bond or bid deposit and rescinding the award of the contract. Award may then be made to the responsible proposer with the next lowest adjusted price or the work may be readvertised and constructed under contract or otherwise, as the Board of Transportation may decide.

**SECTION 104  
SCOPE OF WORK**

**Page 1-30, delete Article 104-1 and replace with the following:**

**104-1 INTENT OF CONTRACT**

The intent of the contract is to prescribe the work or improvements that the Design-Build Team undertakes to perform, in full compliance with the contract. In case the method or character of any part of the work is not covered by the contract, this section shall apply. The Design-Build Team shall perform all work in accordance with the contract or as may be modified by written orders, and shall do such special, additional, extra, and incidental work as may be considered necessary to complete the work to the full intent of the contract. Unless otherwise provided elsewhere in the contract, the Design-Build Team shall furnish all implements, machinery, equipment, tools, materials, supplies, transportation, and labor necessary for the design, prosecution and completion of the work.

**Page 1-31, Article 104-3, replace “plans or details of construction” with “contract” in all instances within this Article.**

**Page 1-40, Article 104-10, replace the 1<sup>st</sup> paragraph with the following:**

**104-10 MAINTENANCE OF THE PROJECT**

The Design-Build Team shall maintain the project from the date of beginning construction on the project until the project is finally accepted. This maintenance shall be continuous and

effective and shall be prosecuted with adequate equipment and forces to the end that all work covered by the contract is kept in satisfactory and acceptable conditions at all times.

## **SECTION 105 CONTROL OF WORK**

**Pages 1-46, delete Article 105-2 and replace with the following:**

### **105-2 PLANS AND WORKING DRAWINGS**

All plans shall be supplemented by such approved working drawings as are necessary to adequately control the work. Working drawings furnished by the Design-Build Team and approved by the Engineer shall consist of such detailed drawings as may be required to adequately control the work. They may include stress sheets, shop drawings, erection drawings, falsework drawings, cofferdam drawings, bending diagrams for reinforcing steel, catalog cuts, or any other supplementary drawings or similar data required of the Design-Build Team. When working drawings are approved by the Engineer, such approval shall not operate to relieve the Design-Build Team of any of his responsibility under the contract for the successful completion of the work.

Changes on shop drawings after approval and/or distribution shall be subject to the approval of the Engineer and he shall be furnished a record of such changes.

**Page 1-47, Article 105-3, add the following after the 3<sup>rd</sup> paragraph:**

The Design-Build Team shall bear all the costs of providing the burden of proof that the nonconforming work is reasonable and adequately addresses the design purpose. The Design-Build Team shall bear all risk for continuing with nonconforming work in question until it is accepted.

The Engineer may impose conditions for acceptance of the nonconforming work. The Design-Build Team shall bear all costs for fulfilling the conditions.

The decisions whether the product satisfies the design purpose, whether the nonconforming work is reasonably acceptable and the conditions for acceptance are at the sole discretion of the Engineer.

**Pages 1-47, delete Article 105-4 and replace with the following:**

### **105-4 COORDINATION OF PLANS, SPECIFICATIONS, SUPPLEMENTAL SPECIFICATIONS, AND SPECIAL PROVISIONS**

The Request for Proposals, all Plans, the Standard Specifications, and all supplementary documents are essential parts of the contract and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work.

In case of discrepancy or conflict, the order in which they govern shall be as follows:

- (A) Request for Proposals
- (B) Technical Proposal from the Design-Build Team
- (C) Accepted Plans and Details from the Design-Build Team

(D) Standard Drawings

(E) Standard Specifications

Where dimensions on the plans are given or can be computed from other given dimensions they shall govern over scaled dimensions.

The Design-Build Team shall take no advantage of any error or omission in the plans, estimated quantities, or specifications. In the event the Design-Build Team discovers an error or omission, he shall immediately notify the Engineer.

**Page 1-50, delete Article 105-9 and replace with the following:**

**105-9 CONSTRUCTION STAKES, LINES, AND GRADES**

The Design-Build Team shall be responsible for any surveying, construction staking and layout required in the performance of the work. He will be responsible for the accuracy of lines, slopes, grades and other engineering work which he provides under this contract. Unless otherwise specified in the Request for Proposals, no measurement or direct payment will be made for this work. The cost shall be considered as included in other contract items.

**SECTION 106  
CONTROL OF MATERIAL**

**Page 1-56, Article 106-2, add the following after the second paragraph:**

The Design-Build Team shall perform Quality Control (QC), that may be used in the acceptance decision, at the frequencies described in the Minimum Sampling Guide. Quality Assurance (QA), verification and Independent Assurance (IA) testing will be performed by the Department. Laboratory testing performed by the Design-Build Team shall be performed by a facility that is approved by the Department and is an AASHTO Accredited facility that participates in the AASHTO Materials Reference Laboratory / Cement and Concrete Reference Laboratory (AMRL/CCRL) proficiency testing program for the tests being performed. Technicians performing sampling and testing shall be qualified in accordance with the Department's training and certification requirements for the specific materials, or in accordance with AMRL/CCRL accreditation requirements.

Prior to beginning construction, the Design-Build Team shall provide a Table of Quantities as described in Article 101-3 of these specifications.

The Table of Quantities Work Items shall correspond to Pay Items as defined in the Standard Specifications. These Work Items have associated Materials and Conversion Factors. For non-standard Work Items, a Generic Work Item with the correct Unit of Measure and in an appropriate category will be used. For example, "GENERIC TRAFFIC CONTROL ITEM – EA" or "GENERIC RETAINING WALL ITEM – LF". For these Generic Work Items, Materials must be defined and appropriate conversion factors submitted

An initial Table of Quantities shall be submitted not less than 30 calendar days after the date of award. The Table of Quantities shall be updated and resubmitted within 14 days of when a set of Plans is sealed as Release for Construction (RFC) plans, and whenever there are substantial changes to the Quantities on previously incorporated RFC plans.



All Materials for Work Items listed in the Table of Quantities shall be sampled and tested at the frequency defined for the corresponding Material Type as defined in the NCDOT Minimum Sampling Guide (MSG). The MSG is available from the NCDOT Materials and Tests Unit web.

**Page 1-58, Article 106-6, replace “specifications” with “contract” as the last word of the 1<sup>st</sup> paragraph.**

**Page 1-58, Article 106-6(C), replace the 2<sup>nd</sup> paragraph with the following:**

Where the Department agrees to inspect or test materials during their production or at the source of supply, the Design-Build Team shall bear the cost of testing performed on materials ordered by him but not incorporated into the project. For items normally pretested by the Department, the Design-Build Team shall provide a minimum of 30 days notice prior to the beginning of production of the items for this project along with final approved shop drawings.

## **SECTION 107 LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**

**Page 1-69, delete Article 107-19 and replace with the following:**

### **107-19 FURNISHING RIGHT OF WAY**

The responsibility for coordinating the securing of all necessary rights of way is as outlined in the Request for Proposals.

## **SECTION 108 PROSECUTION AND PROGRESS**

**Page 1-71, Article 108-1, add the following sentence to the end of the 1<sup>st</sup> paragraph:**

The Design-Build Team shall not commence work prior to execution of the contract by both the Department and the Design-Build Team.

**Page 1-72, delete Article 108-3 and replace with the following:**

### **108-3 PRECONSTRUCTION AND PRE-DESIGN CONFERENCES**

The selected Design-Build Team shall meet with the Engineer for a predesign conference concerning the design phase of the work. This conference shall be held prior to the commencement of work, as it is determined according to Article 108-1, and will be scheduled by the Engineer. At the predesign conference, the Design-Build Team shall furnish authorized signature forms and a list of any proposed subcontractors associated with the design of the project.

A preconstruction conference shall be held at least 10 working days before construction activity begins. This second conference, concerning the construction phase, shall also be scheduled by the Engineer. The Design-Build Team shall give the Engineer a minimum of 45 days notice before he plans to begin construction activities. This will allow the Engineer time

for any environmental agency representatives involved in the permitting process, as well as any other pertinent entities, to be scheduled to attend the preconstruction conference. If the Design-Build Team is responsible for utilities in accordance with Article 105-8 and the Request for Proposals, he shall be responsible for coordinating with the Engineer in scheduling their attendance and for notifying them. The Design-Build Team shall also be responsible for coordinating with the Engineer in scheduling the attendance of subcontractors and others deemed appropriate, and for notifying them.

At the preconstruction conference, a list of any proposed subcontractors and major material suppliers associated with the construction of the project will be submitted.

If the contract has a DBE requirement, the Design-Build Team shall submit copies of completed and signed DBE subcontracts, purchase orders, or invoices to the Department.

The Design-Build Team shall submit a traffic control plan in accordance with Article 1101-5 and the Request for Proposals. The Design-Build Team shall designate an employee who is competent and experienced in traffic control to implement and monitor the traffic control plan. The qualifications of the designated employee must be satisfactory to the Engineer.

The Design-Build Team shall submit a safety plan and designate an employee as Safety Supervisor.

Both plans shall be submitted at the preconstruction conference and must be satisfactory to the Engineer. Should the design plan include activities that would place personnel on the work site, traffic control and safety plans for those activities shall be submitted at the predesign conference.

During the preconstruction conference, the Engineer will designate a Department employee or employees who will be responsible to see that the traffic control plans and any alterations thereto are implemented and monitored to the end that traffic is carried through the work in an effective manner. If approved by the Engineer, the Design-Build Team may designate one employee to be responsible for both the traffic control and safety plans. The Design-Build Team shall not designate its superintendent as the responsible person for either the traffic control plan or the safety plan, unless approved by the Engineer.

If the project requires that Design-Build Team or State personnel work from falsework, within shoring, or in any other hazardous area the Design-Build Team shall submit, as part of the Design-Build Team's safety plan, specific measures it will use to ensure worker safety.

The Design-Build Team shall also submit a program for erosion control and pollution prevention on all projects involving clearing and grubbing, earthwork, structural work, or other construction, when such work is likely to create erosion or pollution problems.

If the Design-Build Team fails to provide the required submissions, the Engineer may order the preconstruction conference suspended until such time as they are furnished. Work shall not begin until the preconstruction conference has been concluded and the safety plan has been approved, unless authorized by the Engineer. The Design-Build Team shall not be entitled to additional compensation or an extension of contract time resulting from any delays due to such a suspension.

The Design-Build Team shall designate a qualified employee as Quality Control Manager. The Quality Control Manager shall be responsible for implementing and monitoring the quality control requirements of the project.

**Page 1-72, Article 108-4, add the following sentence to the end of this article:**

The Design-Build Team shall record the proceedings of these conferences and distribute the final minutes of the conferences to all attendees.

**Page 1-74, Article 108-6, replace “40 percent” with “30 percent” in the 1<sup>st</sup> paragraph.**

**Page 1-74, Article 108-6, delete the second paragraph and replace with the following:**

In any event, the Contractor shall perform with his own organization work amounting to not less than 25% of the difference between the total amount bid and the value of specialty items that have been sublet.

**Pages 1-75, delete Article 108-8 and replace with the following:**

**108-8 FAILURE TO MAINTAIN SATISFACTORY PROGRESS**

The Engineer will check the Design-Build Team’s progress at the time each partial pay request is received. The Design-Build Team’s progress may be considered as unsatisfactory if, according to the Project Schedule, the projected finish date for all work exceeds the scheduled finish date by more than 10%.

When the Design-Build Team's progress is found to be unsatisfactory as described above, the Engineer may make written demand of the Design-Build Team to state in writing the reason for the unsatisfactory progress and produce such supporting data as the Engineer may require or the Design-Build Team may desire to submit. The Engineer will consider the justifications submitted by the Design-Build Team and extensions of the completion date that have or may be allowed in accordance with Article 108-10(B).

When the Design-Build Team cannot satisfactorily justify the unsatisfactory progress the Engineer may invoke one or more of the following sanctions:

1. Withhold anticipated liquidated damages from amounts currently due or which become due.
2. Remove the Design-Build Team and individual managing firms of the Design-Build Team and/or prequalified design firms from the Department’s Prequalified Bidders List.

When any of the above sanctions have been invoked, they shall remain in effect until rescinded by the Engineer.

**Pages 1-79, delete Subarticle 108-10(B) and replace with the following:**

**(B) Completion Date, Intermediate Completion Date, and Intermediate Completion Time Extensions:**

No extension of the completion date, intermediate completion date, or intermediate completion time will be allowed for any reason except as provided for below:

- (1) If supplemental agreements covering the performance of extra work include provisions for an extension of the completion date, intermediate completion date, or intermediate completion time, and the final dollar value of the extra work exceeds the estimated dollar value, the number of days or the number of hours by which the completion date, intermediate completion date, or intermediate completion time was extended will be increased by the percentage which the final dollar value exceeds the estimated value.
- (2) If the Design-Build Team's current controlling operation(s) are delayed by circumstances originating from work required under the contract and beyond his control and without his fault or negligence, he may, at any time prior to the final payment make a written request to the Engineer for an extension of the completion date, intermediate completion date, or intermediate completion time. This request shall include: (a) the circumstances resulting in the alleged delay and documentation of said circumstances as may be required by the Engineer, (b) the controlling operation(s) alleged to have been delayed, (c) the calendar dates or calendar dates and times on which the controlling operation(s) were delayed and (d) the number of calendar days or hours by which he is requesting the completion date, intermediate completion date, or intermediate completion time to be extended.

If the Engineer determines that the controlling operation(s) were delayed because of circumstances beyond the control of and without the fault or negligence of the Design-Build Team, and that the Design-Build Team has pursued the work in accordance with Article 108-1, he will extend the completion date, intermediate completion date, or intermediate completion time unless otherwise precluded by other provisions of the contract. No extension of the completion date, intermediate completion date, or intermediate completion time will be allowed for delays caused by restrictions, limitations or provisions contained in the contract.

- (3) If changes in the work from that originally contemplated in the Request for Proposals are ordered by the Engineer and these changes result in additional work and/or extra work, the Engineer will allow an extension in the completion date, intermediate completion date, or intermediate completion time as he may deem warranted by such changes. It is, however, the Design-Build Team's responsibility to show just cause for an extension in the completion date, intermediate completion date, or intermediate completion time due to the aforesaid conditions.

Submit all requests for extensions of Contract time in writing. Only delays to activities which affect the Contract completion date will be considered for an extension of contract time. No time extensions will be granted until a delay occurs which impacts the project's critical path, consumes all available float, and extends the work beyond the contract completion date. Include in the request a written narrative describing the events, which would require an extension of contract time.

Any extension to the Contract Completion Date will be based on the number of calendar days the Contract Completion Date is impacted as determined by the Engineer's analysis.

The Design-Build Team's plea that insufficient contract time (days), intermediate contract time (days), or intermediate contract time (hours) was specified in the contract will not be

considered as a valid reason for an extension in the completion date, intermediate completion date, or intermediate completion time.

**Page 1-83, Article 108-13, delete bullet (E)(2) in its entirety.**

## **SECTION 109 MEASUREMENT AND PAYMENT**

**Page 1-85, Article 109-2, delete the last sentence of the 1<sup>st</sup> paragraph and replace with the following:**

Payment to the Design-Build Team will be made only for the work completed, certified and accepted in accordance with the terms of the contract.

**Page 1-85, Article 109-3, insert the following prior to the 1<sup>st</sup> paragraph:**

### **DESIGN**

The actual costs for labor will be paid.

### **CONSTRUCTION**

**Pages 1-90, delete Article 109-4 and replace with the following:**

#### **109-4 PARTIAL PAYMENTS**

##### **(A) General:**

Partial payments will be based upon progress estimates prepared by the Engineer at least once each month on the date established by the Engineer. Partial payments may be made twice each month if in the judgment of the Engineer the amount of work performed is sufficient to warrant such payment. No partial payment will be made when the total value of work performed since the last partial payment amounts to less than \$10,000.00. Partial payments will be approximate only and will be subject to correction in the final estimate and payment.

Partial payments for the lump sum design-build price shall be based on a certified Schedule of Values submitted by the successful Design-Build Team and approved by the Engineer. The certification shall indicate the Design-Build Team has reviewed the information submitted and the information accurately represents the work performed for which payment is requested. The certified Schedule of Values shall be submitted not less than 30 calendar days after the date of award. Each item on the certified Schedule of Values shall be assigned a cost and quantity and shall be identified as an activity on the project schedule. A revised certified Schedule of Values shall be submitted with each update of the Project Schedule as described in Article 108-2 or when requested by the Engineer. A certified copy of the Table of Quantities shall also be submitted with each payment request. The certification of the Table of Quantities shall indicate the Design-Build Team has reviewed the information submitted and the information accurately represent the materials for the work performed for which payment is requested.

The Engineer will withhold an amount sufficient to cover anticipated liquidated damages as determined by the Engineer.

**Page 1-92, Subarticle 109-5(D), delete the 4th and 5th paragraphs and replace with the following:**

Partial payments will not be made on seed or any living or perishable plant materials.

Partial payment requests shall not be submitted by the Design-Build Team until those items requested have corresponding signed and sealed RFC plans accepted by the Department.

**Pages 1-94, Article 109-10, add the following as bullets (E) and (F) under the 1<sup>st</sup> paragraph.**

- (E)** As-constructed plans or other submittals as required by the Contract.
- (G)** Documents or guarantees to support any warranty provided by the Design Build Team.

County : Durham

Line #	Item Number	Sec #	Description	Quantity	Unit Cost	Amount
<b>ROADWAY ITEMS</b>						
0001	0000100000-N	800	MOBILIZATION	Lump Sum	L.S.	
0002	1524200000-E	610	ASPHALT CONC SURFACE COURSE, TYPE S9.5D	** 48,540 TON		
0003	1567000000-E	620	ASPHALT BINDER FOR PLANT MIX, GRADE PG 70-28	** 970 TON		
0004	1570000000-E	620	ASPHALT BINDER FOR PLANT MIX, GRADE PG 76-22	** 2,915 TON		
0005	1839110000-E	661	ULTRATHIN HOT MIX ASPHALT, TYPE B	** 18,650 TON		
0006	1839200000-E	661	APPLICATION OF ULTRATHIN HOT MIX ASPHALT	** 532,580 SY		
0007	1891500000-N	SP	GENERIC PAVING ITEM CONCRETE BONDED OVERLAY REMOV- AL	Lump Sum	L.S.	
0008	4589000000-N	SP	GENERIC TRAFFIC CONTROL ITEM TRAFFIC CONTROL	Lump Sum	L.S.	

0908/Nov20/Q603658.0/D14820110000/E8

Total Amount Of Bid For Entire Project :

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**\*\*\*\*\*TOWING AND ASSISTANCE PRICE ADJUSTMENT\*\*\*\*\***  
**(Reference Towing and Motorist Assistance Price Adjustment Project Special Provision)**

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SP	GENERIC MISCELLANEOUS ITEM TOWING AND MOTORIST ASSISTANCE	Lump Sum
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**Total Amount Of Bid for Price Adjustment: \$** \_\_\_\_\_  
**ABOVE AMOUNT IS FOR TOWING AND MOTORIST ASSISTANCE ONLY)**

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## LISTING OF DBE SUBCONTRACTORS

Sheet \_\_\_\_\_ of \_\_\_\_\_

FIRM NAME AND ADDRESS	ITEM NO.	ITEM DESCRIPTION	(*) AGREED UPON UNIT PRICE	DOLLAR VOLUME OF SUBLET ITEM
<b>CONTRACT NO.</b> _____	<b>COUNTY</b> _____	<b>FIRM</b> _____		

**COST OF CONSTRUCTION WORK ONLY**                      \$ \_\_\_\_\_

(\*) The Dollar Volume Shown In This Column Shall be Actual Price Agreed Upon by the Prime Contractor and the DBE Subcontractor, and These Prices Will Be Used to Determine The Percentage of the DBE Participation in this Contract.

\*\*Dollar Volume of DBE Subcontractor \$ \_\_\_\_\_  
 Percentage of Total Construction Cost \_\_\_\_\_ %

\*\*MUST HAVE ENTRY EVEN IF FIGURE TO BE ENTERED IS ZERO.

**EXECUTION OF BID, NONCOLLUSION AFFIDAVIT AND DEBARMENT CERTIFICATION**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of "Status" under penalty of perjury under the laws of the United States in accordance with the Debarment Certification included elsewhere in the proposal form, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

**SIGNATURE OF CONTRACTOR**  
(If a corporation uses this sheet)

\_\_\_\_\_  
(Print full name of corporation)

\_\_\_\_\_  
(Address as Prequalified)

Attest \_\_\_\_\_  
(Secretary)      (Assistant Secretary)  
Delete inappropriate title

By \_\_\_\_\_  
(President)      (Vice President)  
(Asst. Vice President)  
Delete inappropriate title

\_\_\_\_\_  
Print Signer's Name

\_\_\_\_\_  
Print Signer's Name

**NOTE - AFFIDAVIT MUST BE NOTARIZED**

**CORPORATE SEAL**

Subscribed and sworn to before me this the  
\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public)

**NOTARY SEAL:**

of \_\_\_\_\_ County.

State of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

**EXECUTION OF BID, NONCOLLUSION AFFIDAVIT, AND DEBARMENT CERTIFICATION**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of "Status" under penalty of perjury under the laws of the United States in accordance with the Debarment Certification included elsewhere in the proposal form, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

**SIGNATURE OF CONTRACTOR**  
(If a joint venture, use this sheet)

Instructions to Bidders: On Line (1), print the name of each contractor. On Line (2), print the name of one of the joint venturers and execute below in the appropriate manner and furnish in the following lines all information required by Article 102-8 of the Specifications. On Line (3), print the name of the other joint venturer and execute below in the appropriate manner and furnish all information required by said article of the Specifications. For correct form of execution and information required for execution of this sheet by an individual, see Signature Sheets 3 and 4; for a corporation, see Signature Sheet 1; and for a partnership, see Signature Sheet 5.

(1) \_\_\_\_\_ and \_\_\_\_\_  
A Joint Venture

(2) \_\_\_\_\_ (Seal)  
(Name of Contractor)

\_\_\_\_\_  
Witness or Attest By \_\_\_\_\_

\_\_\_\_\_  
Print Signer's Name Print Signer's Name  
If a corporation, affix corporate seal:

and  
(3) \_\_\_\_\_ (Seal)  
(Name of Contractor)

\_\_\_\_\_  
(Address as Prequalified)

\_\_\_\_\_  
Witness or Attest By \_\_\_\_\_

\_\_\_\_\_  
Print Signer's Name Print Signer's Name  
If a corporation, affix corporate seal:

**NOTE - AFFIDAVIT MUST BE NOTARIZED For Line (2) NOTE - AFFIDAVIT MUST BE NOTARIZED For Line (3)**

Subscribed and sworn to before me  
this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Subscribed and sworn to before me  
this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Signature of Notary Public & Seal)

\_\_\_\_\_  
(Signature of Notary Public & Seal)

of \_\_\_\_\_ County.

of \_\_\_\_\_ County.

State of \_\_\_\_\_.

State of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
Signature Sheet 2 (Bid) - Joint Venture

My Commission Expires \_\_\_\_\_.

**EXECUTION OF BID, NONCOLLUSION AFFIDAVIT, AND DEBARMENT CERTIFICATION**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of "Status" under penalty of perjury under the laws of the United States in accordance with the Debarment Certification included elsewhere in the proposal form, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

**SIGNATURE OF CONTRACTOR**  
(If an individual doing business under a firm name, use this sheet)

Name of Contractor \_\_\_\_\_ trading  
(Print individual name)

\_\_\_\_\_  
Witness

and doing business as \_\_\_\_\_  
(Print firm name)

\_\_\_\_\_  
Print Signer's Name

\_\_\_\_\_  
(Address as Prequalified)

Signature of Contractor \_\_\_\_\_  
(Individually)

\_\_\_\_\_  
Print Signer's Name

**NOTE - AFFIDAVIT MUST BE NOTARIZED**

Subscribed and sworn to before me this the \_\_\_\_\_  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**NOTARY SEAL**

\_\_\_\_\_  
(Signature of Notary Public)

of \_\_\_\_\_ County.

State of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

**EXECUTION OF BID, NONCOLLUSION AFFIDAVIT, AND DEBARMENT CERTIFICATION**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of "Status" under penalty of perjury under the laws of the United States in accordance with the Debarment Certification included elsewhere in the proposal form, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

SIGNATURE OF CONTRACTOR

(If an individual doing business in his own name, use this sheet)

Name of Contractor \_\_\_\_\_  
(Print)

\_\_\_\_\_  
(Address as Prequalified)

\_\_\_\_\_  
Witness

Signature of Contractor \_\_\_\_\_  
(Individually)

\_\_\_\_\_  
Print Signer's Name

\_\_\_\_\_  
Print Signer's Name

NOTE - AFFIDAVIT MUST BE NOTARIZED

Subscribed and sworn to before me this the  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NOTARY SEAL

\_\_\_\_\_  
(Signature of Notary Public)

of \_\_\_\_\_ County.

State of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_



**EXECUTION OF BID, NONCOLLUSION AFFIDAVIT, AND DEBARMENT CERTIFICATION**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid, and that the bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the bidder's certification of "Status" under penalty of perjury under the laws of the United States in accordance with the Debarment Certification included elsewhere in the proposal form, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

SIGNATURE OF CONTRACTOR

(If a partnership, use this sheet)

\_\_\_\_\_  
(Print Name of Partnership)

\_\_\_\_\_  
(Address as Prequalified)

\_\_\_\_\_ By \_\_\_\_\_  
Witness Partner

\_\_\_\_\_ Print Signer's Name \_\_\_\_\_ Print Signer's Name

NOTE - AFFIDAVIT MUST BE NOTARIZED

Subscribed and sworn to before me this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NOTARY SEAL

\_\_\_\_\_  
(Signature of Notary Public)

of \_\_\_\_\_ County.

State of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

**EXECUTION OF BID, NONCOLLUSION AFFIDAVIT, AND DEBARMENT CERTIFICATION**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this bid, and that the Bidder intends to do the work with its own bonafide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of "Status" under penalty of perjury under the laws of the United States in accordance with the Debarment Certification included elsewhere in the proposal form, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

**SIGNATURE OF CONTRACTOR**  
(Limited Liability Company, use this sheet)

Name of Contractor \_\_\_\_\_  
(Print firm name)

\_\_\_\_\_  
(Address as Prequalified)

Signature of Manager \_\_\_\_\_  
(Individually)

\_\_\_\_\_  
Print Signer's Name

**NOTE - AFFIDAVIT MUST BE NOTARIZED**

Subscribed and sworn to before me this the  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**NOTARY SEAL**

\_\_\_\_\_  
(Signature of Notary Public)

of \_\_\_\_\_ County.

State of \_\_\_\_\_.

My Commission Expires: \_\_\_\_\_

**Contract No: C 201650**

**County: Durham / Orange**

ACCEPTED BY THE  
DEPARTMENT OF TRANSPORTATION

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Contract Officer

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Date

Execution of Contract and Bonds  
Approved as to Form:

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Attorney General

**DEBARMENT CERTIFICATION OF BIDDERS**

## Instructions &amp; conditions for certification

1. By signing and submitting this proposal, the bidder is providing the certification set out below.
2. The inability of a bidder to provide the certification required below will not necessarily result in denial of participation in this contract. If the certification is not provided, the bidder must submit an explanation (exception) of why it cannot provide the certification set out below. The certification or explanation (exception) will be considered in connection with the Department's determination whether to award the contract. However, failure of the prospective bidder to furnish a certification or an explanation (exception) may be grounds for rejection of the bid.
3. The certification in this provision is a material representation of fact upon which reliance is placed when the Department determines whether or not to award the contract. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department may terminate this contract for cause of default.
4. The prospective bidder shall provide immediate written notice to the Department if at any time the bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this provision, have the meanings set out in the Definitions and Coverage sections of the rules implementing *Executive Order 12540*. A copy of the Federal Rules requiring this certification and detailing the definitions and coverages may be obtained from the Contract Officer of the Department.
6. The bidder agrees by submitting this bid that, should the contract be awarded, 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 contract, unless authorized by the Department.
7. The prospective bidder further agrees by submitting this proposal that it will include the Federal-Aid Provision titled "Required Contract Provisions Federal-Aid Construction Contract" (Form FHWA PR 1273) provided by the Department, without subsequent modification, in all lower tier covered transactions.

8. The prospective bidder may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals.
9. 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 provision. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if the successful bidder 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 may terminate this transaction for cause of default.

**DEBARMENT CERTIFICATION**

The bidder certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b. Have not within a three-year period preceding this proposal been convicted of or had a civil 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;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph b. of this certification; and
- d. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

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

\*\*\*\*\*

IF AN EXPLANATION, AS PROVIDED IN THE ABOVE DEBARMENT CERTIFICATION, HAS BEEN ATTACHED TO THE PROPOSAL, PLEASE CHECK THE BOX SHOWN BELOW:

An explanation has been attached to the proposal.