

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
RAIL DIVISION

CONTRACT PROPOSAL – ADDENDUM #1

DATE AND TIME OF BID OPENING: July 27, 2017 at 2:00 PM
CONTRACT ID: RD-18001
WBS ELEMENT NO.: 44403, 35868.1.4
FEDERAL AID NO.: N/A
COUNTY: Wake
TIP NO.: M-0509
LOCATION: CSXT S-line from Milepost S-156.1 to S-156.7
TYPE OF WORK: Railroad Roadbed, Track, and Misc. Site Construction

NOTICE:

ALL BIDDERS 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 BIDDER 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. BIDDERS SHALL ALSO COMPLY WITH ALL OTHER APPLICABLE LAWS REGULATING THE PRACTICES OF ELECTRICAL, PLUMBING, HEATING AND AIR CONDITIONING AND REFRIDGERATION CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA. NOTWITHSTANDING THESE LIMITATIONS ON BIDDING, THE BIDDER WHO IS AWARDED ANY FEDERAL-AID FUNDED PROJECT SHALL COMPLY WITH CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA FOR LICENSING REQUIREMENTS WITHIN 60 CALENDAR DAYS OF BID OPENING.

THIS IS A RAILROAD PROJECT.

BID BONDS ARE REQUIRED.

NAME OF BIDDER

ADDRESS OF BIDDER

INSTRUCTIONS TO BIDDERS
PLEASE READ ALL INSTRUCTIONS CAREFULLY
BEFORE PREPARING AND SUBMITTING YOUR BID.

All bids shall be prepared and submitted in accordance with the following requirements. Failure to comply with any requirement may cause the bid to be considered irregular and may be grounds for rejection of the bid.

1. Download the entire proposal from the Connect NCDOT website and return the entire proposal with your bid.
2. All entries on the itemized proposal sheet (bid form) shall be written in ink or typed.
3. The Bidder shall submit a unit price for every item on the itemized proposal sheet. The unit prices for the various contract items shall be written in figures. Unit prices shall be rounded off by the Bidder to contain no more than FOUR decimal places.
4. An amount bid shall be entered on the itemized proposal sheet for every item. The amount bid for each item shall be determined by multiplying each unit bid by the quantity for that item, and shall be written in figures in the "Amount" column of the form.
5. The total amount bid shall be written in figures in the proper place on the bid form. The total amount bid shall be determined by adding the amounts bid for each item.
6. Changes to 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 Bidder shall initial the change in ink. Do not use correction fluid, correction tape or similar product to make corrections.
7. The bid shall be properly executed on the included Execution of Bid – Non-collusion Affidavit, Debarment Certification and Gift Ban Certification form. All bids shall show the following information:
 - a. Name of corporation, partnership, limited liability company, joint venture, individual or firm, submitting bid. Corporations that have a corporate seal should include it on the bid.
 - b. Name of individual or representative submitting bid and position or title held on behalf of the bidder.
 - c. Name, signature, and position or title of witness.
 - d. Completed attestation by Notary Public


Note: Signer, Witness and Notary Public must be different individuals.

8. The bid shall not contain any unauthorized additions, deletions, or conditional bids.
9. The Bidder 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 PROPOSAL WITH THE ITEMIZED PROPOSAL SHEET ATTACHED SHALL BE PLACED IN A SEALED ENVELOPE AND SHALL BE DELIVERED TO AND RECEIVED IN THE RAIL DIVISION ENGINEERING & COORDINATION OFFICE, LOCATED AT 862 CAPITAL BLVD, BY 2:00 PM ON, Thursday, July 27, 2017.
11. The sealed bid must display the following statement on the front of the sealed envelope:

CONTRACT PROPOSAL# RD-18001, NCDOT CAPITAL YARD SOUTH LEAD
TO BE OPENED AT 2:00 PM, THURSDAY, JULY 27, 2017.

12. If delivered by mail, the sealed envelope shall be placed in another sealed envelope and the outer envelope shall be addressed as follows:

PROPOSAL NUMBER: RD-18001 – NCDOT Capital Yard South Lead
 Attn: Greg Keel, PE
 Address: Department of Transportation
 Rail Contracts Manager
 862 Capital Blvd,
 Raleigh, N.C. 27603

 <h2 style="margin: 0;">STATE OF NORTH CAROLINA</h2> <h3 style="margin: 0;">Department of Transportation</h3>	
<p>Refer <u>ALL</u> Inquiries regarding this proposal to:</p> <p style="text-align: center;">Brad Smythe, PE E-Mail: bsmythe@ncdot.gov Telephone Number: 919-707-4118</p> <p>(See Page 2, INSTRUCTIONS to BIDDERS for mailing instructions)</p>	<p>Contract Proposal # RD-18001</p>
	<p>Proposals will be publicly opened: July 27, 2017</p>
	<p>Contract Type: Purchase Order Contract</p>
	<p>Commodity No. and Description: RD-18001 - NCDOT Capital Yard South Lead</p>
	<p>Using Agency: NC Department of Transportation/Rail Division</p>

EXECUTION

In compliance with this Contract Proposal, and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this proposal, the undersigned Vendor certifies that this proposal is submitted competitively and without collusion. Furthermore, by executing this proposal, the undersigned certifies to the best of Vendor's knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency. G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public Contract; or awarding or administering public Contracts; or inspecting or supervising delivery of the public Contract of any gift from anyone with a Contract with the State, or from any person seeking to do business with the State. By execution of this response to the CONTRACT PROPOSAL, the undersigned certifies, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Failure to execute/sign proposal prior to submittal shall render proposal invalid and it WILL BE REJECTED. Late proposals cannot be accepted.

VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #10):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:	FAX NUMBER:	
VENDOR'S AUTHORIZED SIGNATURE:	DATE:	EMAIL:

Offer valid for at least 60 days from date of proposal opening, unless otherwise stated here: **90 days**. After this time, any withdrawal of offer shall be made in writing, effective upon receipt by the agency issuing this CONTRACT PROPOSAL.

ACCEPTANCE OF PROPOSAL

If any or all parts of this proposal are accepted by the State of North Carolina, an authorized representative of the Department of Transportation shall affix his/her signature hereto and this document and all provisions of this Request For Proposal along with the Vendor proposal response and the written results of any negotiations shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor(s).

<p><u>FOR STATE USE ONLY:</u> Offer accepted and Contract awarded this ____ day of _____, 20____, as indicated on the attached certification, by _____</p> <p>(Authorized Representative of the North Carolina Department of Transportation).</p>
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Contents

- 1.0 PURPOSE AND BACKGROUND 6**
- 2.0 GENERAL INFORMATION 6**
 - 2.1 CONTRACT PROPOSAL DOCUMENT..... 6**
 - 2.2 NOTICE TO VENDORS REGARDING CONTRACT PROPOSAL TERMS AND CONDITIONS..... 6**
 - 2.3 CONTRACT PROPOSAL SCHEDULE..... 7**
 - 2.4 MANDATORY PRE-PROPOSAL CONFERENCE 7**
 - 2.5 PROPOSAL QUESTIONS..... 7**
 - 2.6 CONTRACT PROPOSAL SUBMITTAL..... 7**
 - 2.7 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS 8**
- 3.0 AWARD OF CONTRACT 8**
 - 3.1 AWARD OF CONTRACT 8**
- 4.0 REQUIREMENTS 8**
 - 4.1 CONTRACT TERM..... 8**
 - 4.2 PRICING 8**
 - 4.3 INVOICES 9**
 - 4.4 PAYMENT TERMS 9**
 - 4.5 FINANCIAL STABILITY 9**
 - 4.6 PERSONNEL..... 9**
 - 4.7 VENDOR’S REPRESENTATIONS..... 9**
- 5.0 SCOPE OF WORK 10**
- 6.0 CONTRACT ADMINISTRATION 10**
 - 6.1 PROJECT MANAGER AND CUSTOMER SERVICE 10**
 - 6.2 DISPUTE RESOLUTION 10**
 - 6.3 CONTRACT CHANGES 10**
- 7.0 PROJECT MANUAL..... 11**
 - 7.1 PROJECT INFORMATION..... 14**

7.2 PROJECT SPECIAL PROVISIONS 16

7.3 SUPPLEMENTAL SPECIFICATIONS 20

7.4 STANDARD SPECIAL PROVISIONS..... 26

 a.) PERMANENT VEGETATION ESTABLISHMENT:..... 27

 b.) DISADVANTAGED BUSINESS ENTERPRISE:..... 27

 c.) U.S. DEPARTMENT OF TRANSPORTATION HOTLINE: 37

 d.) SUBSURFACE INFORMATION:..... 38

 e.) DOMESTIC STEEL: 38

 f.) TWELVE MONTH GUARANTEE: 38

 g.) GIFTS FROM VENDORS AND CONTRACTORS:..... 39

 h.) IRAN DIVESTMENT ACT:..... 39

 i.) CLEARING AND GRUBBING - METHOD II: 40

 j.) BURNING RESTRICTIONS:..... 40

 k.) LUMP SUM GRADING:..... 40

 l.) SUPPLEMENTAL CONTRACTOR EROSION CONTROL RESPONSIBILITIES:..... 40

 m.) STABILIZATION REQUIREMENTS:..... 40

 o.) STANDARD SPECIAL PROVISION - ERRATA..... 43

 p.) STANDARD SPECIAL PROVISION - PLANT AND PEST QUARANTINES 44

 q.) STANDARD SPECIAL PROVISION - AWARD OF CONTRACT 45

 r.) STANDARD SPECIAL PROVISION - MINORITY AND FEMALE EMPLOYMENT REQUIREMENTS..... 49

 s.) STANDARD SPECIAL PROVISION - REQUIRED CONTRACT PROVISIONS FEDERAL - AID
 CONSTRUCTION CONTRACTS..... 51

 t.) STANDARD SPECIAL PROVISION - ON-THE-JOB TRAINING 65

 u.) STANDARD SPECIAL PROVISION - MINIMUM WAGES 67

7.5 RAIL PROJECT SPECIAL PROVISIONS..... 72

7.6 BID, CERTIFICATION, BOND AND MBE/WBE LISTING FORMS..... 87

ATTACHMENT A: INSTRUCTIONS TO VENDORS..... 143

ATTACHMENT B: NORTH CAROLINA GENERAL CONTRACT TERMS & CONDITIONS 146

ATTACHMENT C: LOCATION OF WORKERS UTILIZED BY VENDOR 150

ATTACHMENT D: CERTIFICATION OF FINANCIAL CONDITION 151

ATTACHMENT E: IRAN DIVESTMENT ACT CERTIFICATION 152

1.0 PURPOSE AND BACKGROUND

Increased CSX freight service, increased transloading at Transflo, and increased passenger train frequencies for NCDOT create congestion and conflicts on the lead tracks used for accessing and exiting NCDOT Capital Yard and CSX Raleigh Yard. The Capital Yard South Lead Project constructs a new lead track from the NCDOT Capital Yard south along the CSX S-Line to Harrington Street in Raleigh to create a more efficient freight and passenger train operation coming into and leaving both CSXT and NCDOT yards. The work includes grading erosion control, and track construction, both on NCDOT and CSXT property and right of way.

2.0 GENERAL INFORMATION

2.1 CONTRACT PROPOSAL DOCUMENT

This CONTRACT PROPOSAL is comprised of two (2) documents: 1 - the base CONTRACT PROPOSAL document, any attachments, and any addenda released before Contract award, and 2 - plans/drawings provided under separate cover against the same CONTRACT PROPOSAL number. All attachments and addenda released for this CONTRACT PROPOSAL in advance of any Contract award are incorporated herein by reference.

2.2 NOTICE TO VENDORS REGARDING CONTRACT PROPOSAL TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions, the State's terms and conditions, all relevant exhibits and attachments, and any other components made a part of this CONTRACT PROPOSAL, and comply with all requirements and specifications herein. Vendors also are responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this CONTRACT PROPOSAL.

If Vendors have questions, issues, or exceptions regarding any term, condition, or other component within this CONTRACT PROPOSAL, those must be submitted as questions in accordance with in the instructions in Section 2.5 PROPOSAL QUESTIONS. If the State determines that any changes will be made as a result of the questions asked, then such decisions will be communicated in the form of a CONTRACT PROPOSAL addendum. The State may also elect to leave open the possibility for later negotiation and amendment of specific provisions of the Contract that have been addressed during the question and answer period. Other than through this process, the State rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's proposal. This applies to any language appearing in or attached to the document as part of the Vendor's proposal that purports to vary any terms and conditions or Vendors' instructions herein or to render the proposal non-binding or subject to further negotiation. Vendor's proposal shall constitute a firm offer. **By execution and delivery of this CONTRACT PROPOSAL Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded. Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's proposal as nonresponsive.**

If a Vendor desires modification of the terms and conditions of this solicitation, it is urged and cautioned to inquire during the question period, in accordance with the instructions in this CONTRACT PROPOSAL, about whether specific language proposed as a modification is acceptable to or will be considered by the State. Identification of objections or exceptions to the State's terms and conditions in the proposal itself shall not be allowed and shall be disregarded or the proposal rejected.

Contact with anyone working for or with the State regarding this CONTRACT PROPOSAL other than the State Contract Contacts named within this CONTRACT PROPOSAL in the manner specified by this CONTRACT PROPOSAL shall constitute grounds for rejection of said Vendor's offer, at the State's election.

2.3 CONTRACT PROPOSAL SCHEDULE

The table below shows the *intended* schedule for this CONTRACT PROPOSAL. The State will make every effort to adhere to this schedule.

Event	Responsibility	Date and Time
Issue CONTRACT PROPOSAL	State	June 29, 2017
Mandatory Pre-Bid Conference	Vendor	July 11, 2017 at 10:00 am
Submit Written Questions	Vendor	July 19, 2017 By 5:00 pm
Provide Response to Questions	State	July 24, 2017 By 5:00 pm
Submit Proposals	Vendor	July 27, 2017 By 2:00 pm
Contract Award	State	August 25, 2017 - Tentative
Contract Effective Date	State	September 11, 2017 - Tentative

2.4 MANDATORY PRE-PROPOSAL CONFERENCE

See NCDOT Capital Yard South Lead Project Manual, Project Special Provision for details; included and made a part of this CONTRACT PROPOSAL.

2.5 PROPOSAL QUESTIONS

Upon review of the CONTRACT PROPOSAL documents, Vendors may have questions to clarify or interpret the CONTRACT PROPOSAL in order to submit the best proposal possible. To accommodate the Proposal Questions process, Vendors shall submit any such questions by the above due date.

Written questions shall be emailed to bsmythe@ncdot.gov by the date and time specified above. Vendors should enter "CONTRACT PROPOSAL #RD-18001 Questions" as the subject for the email. Question submittals should include a reference to the applicable CONTRACT PROPOSAL section and be submitted in a format shown below:

Reference	Vendor Question
CONTRACT PROPOSAL Section, Page Number	Vendor question ...?

Questions received prior to the submission deadline date, the State’s response, and any additional terms deemed necessary by the State will be posted in the form of an addendum to the Connect NCDOT – Division Letting Site for Division 5, <https://connect.ncdot.gov/letting/Pages/Division.aspx>, and shall become an Addendum to this CONTRACT PROPOSAL. No information, instruction or advice provided orally or informally by any State personnel, whether made in response to a question or otherwise in connection with this CONTRACT PROPOSAL, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in an Addendum to this CONTRACT PROPOSAL.

2.6 CONTRACT PROPOSAL SUBMITTAL

Sealed proposals, subject to the conditions made a part hereof and the receipt requirements described below, shall be received at the address indicated in the **Instructions to Bidders**.

IMPORTANT NOTE: All proposals shall be physically delivered to the office address listed within this Contract Proposal on or before the proposal deadline in order to be considered timely, regardless of the method of delivery. **This is an absolute requirement.** All risk of late arrival due to unanticipated delay—whether delivered by hand, U.S. Postal Service, courier or other delivery service is entirely on the Vendor. It is the sole responsibility of the Vendor to have the proposal physically delivered by the specified time and date of opening. The time of delivery will be marked on each proposal when received, and any proposal received after the proposal submission deadline will be rejected. Sealed proposals, subject to the conditions made a part hereof, will be received at the address indicated in the table in this Section, for furnishing and delivering the commodity as described herein.

2.7 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

- a) **AGENCY SPECIFIC TERM** - Contract established by and for the use of an Agency when a service is not covered by a statewide term contract.
- b) **BAFO**: Best and Final Offer, submitted by a Vendor to alter its initial offer, made in response to a request by the issuing agency.
- c) **BUYER**: The employee of the State or Other Eligible Entity that places an order with the Vendor.
- d) **CONTRACT LEAD**: Representative of the North Carolina Department of Transportation who corresponds with potential Vendors in order to identify and contract with that Vendor providing the greatest benefit to the State and who will administer this contract for the State.
- e) **DBE**: or "Disadvantaged Business Enterprise" as defined by USDOT – please see <http://www.dot.gov>, search DBE definition.
- f) **E-PROCUREMENT SERVICES**: The program, system, and associated services through which the State conducts electronic procurement.
- g) **FOB-DESTINATION**: Title changes hand from Vendor to purchaser at the destination point of the shipment; Vendor owns commodity in transit and files any claims, and Vendor pays all freight and any related transportation charges. A solicitation may request Vendors to separately identify freight charges in their proposal, but no amount or charge not included as part of the total proposal price will be paid.
- h) **LOT**: A grouping of similar products within this CONTRACT PROPOSAL.
- i) **Agency**: means the North Carolina Department of Transportation .
- k) **ON-TIME DELIVERY**: The delivery of all items within a single order to the receiving point designated by the ordering entity within the delivery time required.
- l) **QUALIFIED PROPOSAL**: A responsive proposal submitted by a responsible Vendor.
- m) **STATE**: The State of North Carolina, including any of its sub-units recognized under North Carolina law.
- n) **STATE AGENCY**: Any of the more than 400 sub-units within the executive branch of the State, including its departments, boards, commissions, institutions of higher education and other institutions.
- o) **VENDOR**: Supplier, bidder, proposer, company, firm, corporation, partnership, individual or other entity submitting a response to a Request for Proposal.
- p) **USDOT**: United States Department of Transportation.

3.0 AWARD OF CONTRACT

3.1 AWARD OF CONTRACT

See Standard Special Provision for Award of Contract to lowest responsible bidder.

4.0 REQUIREMENTS

This Section lists the requirements related to this CONTRACT PROPOSAL. By submitting a proposal, the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements and terms and conditions stated in this CONTRACT PROPOSAL. If a Vendor is unclear about a requirement or specification or believes a change to a requirement would allow for the State to receive a better proposal, the Vendor is urged and cautioned to submit these items in the form of a question during the question and answer period in accordance with Section 2.4.

4.1 CONTRACT TERM

The Contract shall be completed within 180 days after award of the contract, receipt of a purchase order and Notice to Proceed.

4.2 PRICING

Proposal price shall constitute the total cost to Buyer for complete performance in accordance with the requirements and specifications herein, including all applicable charges handling, administrative and other similar fees. Vendor shall not invoice for any amounts not specifically allowed for in this CONTRACT PROPOSAL.

Complete BID FORM in NCDOT Capital Yard South Lead Project Manual, included and made a part of this CONTRACT PROPOSAL.

4.3 INVOICES

The Vendor must submit one monthly invoice within 15 calendar days following the end of each month in which work was performed.

4.4 PAYMENT TERMS

The Vendor will be compensated monthly at the rates quoted in the Contract Proposal Bid Form.

4.5 FINANCIAL STABILITY

Each Vendor shall certify it is financially stable by completing the ATTACHMENT D: CERTIFICATION OF FINANCIAL CONDITION. The State is requiring this certification to minimize potential issues from Contracting with a Vendor that is financially unstable. From the date of the Certification to the expiration of the Contract, the Vendor shall notify the State within thirty (30) days of any occurrence or condition that materially alters the truth of any statement made in this Certification.

4.6 PERSONNEL

Vendor shall provide a list of Key Personnel and their role within 15 days of Award. The Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by the Contract Lead. Vendor shall notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor's recommended substitute personnel. The State will approve or disapprove the requested substitution in a timely manner. The State may, in its sole discretion, terminate the services of any person providing services under this Contract. Upon such termination, the State may request acceptable substitute personnel or terminate the contract services provided by such personnel.

4.7 VENDOR'S REPRESENTATIONS

- a) Vendor warrants that qualified personnel shall provide services under this Contract in a professional manner. "Professional manner" means that the personnel performing the services will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of the State under this Contract. Vendor will serve as the prime contractor under this Contract and shall be responsible for the performance and payment of all subcontractor(s) that may be approved by the State. Names of any third party Vendors or subcontractors of Vendor may appear for purposes of convenience in Contract documents; and shall not limit Vendor's obligations hereunder. Vendor will retain executive representation for functional and technical expertise as needed in order to incorporate any work by third party subcontractor(s).
- b) If any services, deliverables, functions, or responsibilities not specifically described in this Contract are required for Vendor's proper performance, provision and delivery of the service and deliverables under this Contract, or are an inherent part of or necessary sub-task included within such service, they will be deemed to be implied by and included within the scope of the contract to the same extent and in the same manner as if specifically described in the contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and Deliverables.
 - a. Vendor warrants that it has the financial capacity to perform and to continue perform its obligations under the contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

4.8 PREQUALIFICATION

See Section 2, **CONTRACTOR'S LICENSE REQUIREMENTS**, included and made a part of this proposal.

5.0 SCOPE OF WORK

See **NCDOT Capital Yard South Lead Project Manual**, included and made a part of this proposal.

6.0 CONTRACT ADMINISTRATION

6.1 PROJECT MANAGER AND CUSTOMER SERVICE

The Vendor shall designate and make available to the State a project manager. The project manager shall be the State's point of contact for contract related issues and issues concerning performance, progress review, scheduling and service.

6.2 DISPUTE RESOLUTION

The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to the State's Contract Lead for resolution. A claim by the State shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

6.3 CONTRACT CHANGES

Contract changes, if any, over the life of the contract shall be implemented by contract amendments agreed to in writing by the State and Vendor.

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



7.0 PROJECT MANUAL

FOR

NCDOT CAPITAL YARD SOUTH LEAD

Project No. RD-18001

TIP No. M-0509

June 29, 2017

PREPARED BY:



**4700 Falls of Neuse Road, Suite 300
Raleigh, North Carolina 27609
(919) 781-4626**

**NCDOT Capital Yard South Lead
Project No. RD-18001, TIP No. M-0509**



A handwritten signature in black ink, appearing to read 'Timothy R. Reid', written over a horizontal line.

Timothy R. Reid, PE

**Moffatt & Nichol
Firm License No. F-0105**

TABLE OF CONTENTS

Section 7.1 PROJECT INFORMATION

Section 7.2 PROJECT SPECIAL PROVISIONS

Section 7.3 SUPPLEMENTAL SPECIFICATIONS

Section 7.4 NCDOT STANDARD SPECIAL PROVISIONS

Section 7.5 RAIL PROJECT SPECIAL PROVISIONS

Section 7.6 BID, CERTIFICATION, BOND AND MBE/WBE LISTING FORMS

Appendix A 49CFR§214 Subpart C On-Track Safety Program

Appendix B CSXT Construction Submission Requirements

Appendix C CSXT Construction Requirements

Appendix D CSXT Special Provisions

Appendix E CSXT Insurance Requirements

Appendix F Construction Submittal Forms

7.1 PROJECT INFORMATION

General Description

The proposed improvements for the NCDOT Capital Yard South Lead will provide a yard lead track between North Harrington Street and the Capital Yard maintenance facility and includes additional rail work to existing railyard track and NCDOT facilities. The yard connections into the TRANSFLO facility and rail access into the North Carolina Rail Division property will be revised to provide additional rail storage lengths and to expand the area available for the care and maintenance of North Carolina's passenger trains. Project will include work within CSXT property, near live track.

The work for the rail construction includes the construction of new rail bed from North Harrington Street to approximately 600 feet north of the Capital Boulevard Bridge for construction of the new yard lead track. Fill material will be required at specified locations to build the embankments to support the new rail. The Department has is acquiring the required right-of-way and construction easement along this section of the project and the property and access will be acquired before Notice to Proceed.

The majority of the rail work is contained within the existing rail corridor/yard which is covered by existing ballast and sub-ballast and the intent is to retain as much of the existing sub-ballast/ballast material as possible. The contractor should see applicable paragraphs in Section 5 – Rail Project Special Provisions related to Sub-Ballast and Ballast.

The design incorporates a powered switch for a No. 15 turnout north of N. Harrington Street to develop the new yard lead track connection and manual switches for No. 10 turnouts for the majority of the new work within the yard. No. 8 turnouts are still required as indicated due to physical constraints within the ladder. All rail work will be performed to CSXT standards. CSXT will be responsible for the installation of the No. 15 turnout and Powered switch and will make the final connections as noted in the drawings. All other connections will be made by the Contractor.

Due to proximity of adjacent tracks, connections to existing track, and different rail sections at the connections, the Contractor should anticipate roadbed grade adjustments will be required to complete project.

The new yard lead track (alignment PTBYP) will utilize new welded rail and all other rail will be jointed rail utilizing new rail except for two closure lengths of rail required on the CSXT ladder which will utilize rail salvaged from other CSXT rail demolition areas located within the project limits as directed by the Engineer. Compromise joints will be required for connections to existing rail and the closure lengths of rail herein described. The rail construction will be phased as indicated on the plans and detailed in Section 5 – Rail Project Special Provisions.

Additional items include clearing and grubbing, fencing, pavement removal, paving of rail crossings, demolition of fencing and concrete slabs, grading, erosion control and minor electrical work for the relocated access gate.

7.2 PROJECT SPECIAL PROVISIONS

CONTRACT TIME AND LIQUIDATED DAMAGES:

(7-1-95) (Rev. 12-18-07)

108

SP1 G05 B

The date of availability for this contract is the date the Contractor begins work but not before September 18, 2017 or later than October 16, 2017.

The completion date for this contract is April 9, 2018 or 180 days after the date of availability.

Except where otherwise provided by the contract, observation periods required by the contract will not be a part of the work to be completed by the completion date and/or intermediate contract times stated in the contract. The acceptable completion of the observation periods that extend beyond the final completion date shall be a part of the work covered by the performance and payment bonds.

The liquidated damages for this contract are One Thousand Five Hundred Dollars (\$1,000) per calendar day. At the preconstruction conference the Contractor shall declare his expected date for beginning work. Should the Contractor desire to revise this date after the preconstruction conference, he shall notify the Engineer in writing at least fifteen (15) days prior to the revised date.

A. INTERMEDIATE CONTRACT TIME NUMBER 1 AND LIQUIDATED DAMAGES:

(2-20-07) (Rev. 6-18-13)

108

SP1 G14 G

The Contractor shall complete the work required of Phase 1A as shown on Sheet CG-10 prior to moving to Phase 1B.

The time of availability for this intermediate contract time is the time the Contractor begins the work.

The completion time for this intermediate contract time is the time which is **eighty consecutive calendar days [80 days]** after and including the date the Contractor begins this work.

The liquidated damages are **Two Hundred Dollars (\$200.00) per day.**

B. INTERMEDIATE CONTRACT TIME NUMBER 2 AND LIQUIDATED DAMAGES:

(2-20-07) (Rev. 6-18-13)

108

SP1 G14 G

The Contractor shall complete the work required of Phase 1C as shown on Sheet CG-11A prior to moving to Phase 2.

The time of availability for this intermediate contract time is the time CSX makes these tracks inaccessible to TRANSFLO. See Railroad Coordination Special Provision for notice required by CSX.

The completion time for this intermediate contract time is the time which is **ninety six consecutive hours [96 hours]** after the time of availability.

The liquidated damages are **Five Hundred Dollars (\$500.00) per hour.**

C. INTERMEDIATE CONTRACT TIME NUMBER 3 AND LIQUIDATED DAMAGES:

(2-20-07) (Rev. 6-18-13)

108

SP1 G14 G

The Contractor shall complete the track work required of Phase 2 that reestablishes the Department's access to the south and to the turn-table, as shown on Sheet CG-12, within 2 weeks of completing Phase 1C.

The time of availability for this intermediate contract time is the time the Contractor completes Phase 1C.

The completion time for this intermediate contract time is the date which is **Fourteen (14) consecutive calendar days [14 days]** after and including the date the Contractor begins this work.

The liquidated damages are **Five Hundred Dollars (\$500.00) per day**.

RAILROAD COORDINATION:

The Contractor's attention is directed to the plans and the Intermediate Contract Times (ICT) Special Provisions.

Advance notice of no less than two (2) weeks is required by CSX ahead of any work the Contractor needs completed by CSX as described in the project construction phasing plans and contract documents.

All notices to the railroad shall be given to the Engineer.

MANDATORY PRE-BID CONFERENCE:

Because of the unusual nature of work involved, and in order for all prospective bidders to have an extensive knowledge of the project, all prospective bidders are required to attend a mandatory pre-bid meeting. The mandatory pre-bid meeting will be held at the Rail Division – Engineering and Safety Office, 862 Capital Boulevard, Raleigh, North Carolina 27603 on Tuesday July 11, 2017 at 10:00 a.m. Personal Protective Equipment (PPE) is mandatory for attendance at this meeting and shall be worn at all times in order to access the yard. PPE shall include the following: Hard Hat, Protective Eye Wear, High Visibility Safety Vest and Laced Steel Toed Boots.

The pre-bid conference will include a discussion of the plans, contract pay items, special provisions, etc.

CONTRACTOR'S LICENSE REQUIREMENTS:

Section 102-2 of the NCDOT Standard Specifications for Roads and Structures dated January, 2012 as it relates to Contractor Prequalification shall apply. Prime Contractor shall be prequalified for work code 5010. Additionally, Prime Contractor shall also be prequalified for work code 5090 or designate a sub-contractor who is prequalified for work code 5090. Bidders whose classification requires subcontractors for practices outside the Bidder's classification or for specialty work shall identify the practice or specialty work and the subcontractor proposed to perform the work. Bidders are advised that all subcontractors shall be prequalified by NCDOT prior to performing any work.

EXECUTION OF SIGNATURE SHEETS AND DEBARMENT CERTIFICATION:

The Bidder's attention is directed to the sheets in Section 6 of the Project Manual which are to be signed by the Bidder. A list of these sheets is shown below:

1. Bid Form, pages 88 through 98
2. Listing of DBE Subcontractors, pages 99 through 101
3. Execution of one page out of pages 102 through 107 which are applicable to Bidder's company structure

4. Debarment Certifications, pages 108 through 109
5. Listing of practices or specialty work and proposed subcontractor where applicable.

In addition to the above, the Bidder shall insert the bid bond in their proposal form.

The Bidder shall certify his, and to the best of his knowledge all subcontractors', material suppliers and vendors utilized herein status concerning suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency, in accordance with the "Debarment Certification" located behind the signature sheets in the proposal forms. 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 Bidders certification of "status" under penalty of perjury under the laws of the United States.

PRECONSTRUCTION CONFERENCE

Immediately upon receipt of notice of award, the Engineer and Contractor shall establish a mutually agreeable date and time for a preconstruction conference in accordance with Article 108-3, of the North Carolina Department of Transportation Standard Specifications for Roads and Structures, dated July 2012. The Contractor shall provide all submittal schedules and construction schedules in advance of the meeting, as specifically required herein. It is anticipated that Railroad Right of Entry procedures shall be started prior to the Preconstruction Conference and verifiable status of this coordination shall be provided at the meeting. Delays to commencement of construction, due to insufficient preparation of required items, shall not be cause for monetary or time claims.

INSURANCE AND SAFETY

The Contractor shall acquire railroad liability insurance and submit the certificates of insurance to CSXT prior to beginning work or entering project limits. The Contractor shall also supply copies of the same information and any related correspondence to the Engineer for the project records. The Contractor shall comply with all safety regulations for CSXT in place at the time of construction. The Contractor shall also comply with the requirements of 49 C.F.R. 214, Railroad Workplace Safety.

See CSXT Insurance Requirements in **Appendix E**.

7.3 SUPPLEMENTAL SPECIFICATIONS

SUPPLEMENTS:

The NCDOT Capital Yard South Lead Construction Project shall be constructed in accordance with CSXT Standards for Construction (See Section 5 – Rail Project Special Provisions and Appendix C), Safety (Use CSXT Safety Standards in place at time of Construction), Insurance (See Appendix E) and Right of Entry (See Appendix D) as may be amended, and the North Carolina Department of Transportation Standard Specifications for Roads and Structures dated January 2012.

The following supplements modify, add to and/or delete from the General Requirements of the North Carolina Department of Transportation Standard Specifications for Roads and Structures dated January 2012 (General Requirements). Where any article, paragraph, or subparagraph in the General Requirements is supplemented by one of the following paragraphs, the provisions of such article, paragraph, or subparagraph shall remain in effect and the Supplemental Provisions shall be considered as added thereto. When any article, paragraph, or subparagraph in the General Requirements is amended, voided or superseded by any of the following paragraphs, the provisions of such article, paragraph, or subparagraph not so amended, voided, or superseded shall remain in effect.

SECTION 101-3 - DEFINITION OF TERMS

ADMINISTRATOR

Delete “The State Highway Administrator” and substitute “Manager – Design & Construction, Operations Branch, Rail Division or the duly authorized representative”.

CHIEF ENGINEER

Delete “The Chief Engineer, Operations, Division of Highways” and substitute “Manager – Design & Construction, Operations Branch, Rail Division or the duly authorized representative”

Division of Highways

Delete in its entirety and substitute “**RAIL DIVISION** - The Division of the Department of Transportation which, under the direction of the Secretary of Transportation, carries out the planning, design, and construction function for Railroad activities assigned to the Department of Transportation.”

ENGINEER

Delete “State Highway Administrator of the North Carolina Department of Transportation” and substitute “Rail Construction Manager – Design and Construction Branch, Rail Division or the duly authorized representative”.

MOBILIZATION

Delete in its entirety and substitute “Mobilization shall consist of preparatory work and operations, including but not limited to the movement of personnel equipment, supplies, and incidentals to the project site for the establishment of offices, buildings, and other facilities necessary for work on the project; the removal and disbandment of those personnel, equipment, supplies, incidentals or other facilities that were established for the prosecution of the work on the project; and for other work and operations which must be performed for costs incurred prior to beginning and after completing work on the various items on the project site.” Also see Section 5 – Rail Project Special Provisions

PROJECT

Delete in its entirety and substitute “All the necessary performance, services, and materials required for the satisfactory completion of the work to be performed therein under the contract.”

PROJECT SPECIAL PROVISIONS

Delete “in the standard specification or plans” and substitute “elsewhere”.

SECTION

Delete "standard".

SPECIFICATIONS

Delete in its entirety and substitute "Collectively, all of the written technical descriptions of materials, equipment, systems, construction methods, standards and workmanship required to perform the work of this contract. This includes the General Requirements, Supplemental Specifications, referenced industry standards and Railroad specific requirements necessary to perform the work. The arrangement, style and format of the specifications are solely for the Contractor's convenience and do not constitute segregation of the work for subcontractor's products or labor, nor does it control the extent of work to be performed by any trade."

STANDARD SPECIAL PROVISIONS

Delete "in the standard specification" and substitute "elsewhere".

STANDARD SPECIFICATION

Delete this paragraph in its entirety.

SUPPLEMENTAL SPECIFICATIONS

Delete this paragraph in its entirety.

CTION 102 - BIDDING REQUIREMENTS AND CONDITIONS

102-1 INVITATION TO BID

Delete this paragraph in its entirety.

102-3 PROPOSALS AND PLAN HOLDER LISTS

Delete the first paragraph in its entirety and substitute "In preparing bids, the proposal form contained herein shall be used."

Paragraph Two – Delete in entirety.

Paragraph 102-3 (B) - Delete in entirety.

102-4 COMBINATION OF BIDS

Delete in its entirety.

102-8 PREPARATION AND SUBMISSION OF BIDS

Delete paragraph 102-8 (B) in its entirety

102-10 BID BOND OR BID DEPOSIT

Paragraph Two – Delete in entirety.

102-11 DELIVERY OF BIDS

Paragraph Two – Delete in entirety.

102-12 WITHDRAWAL OR REVISION OF BIDS

Delete paragraph 102-12 (B) in its entirety

102-13 RECEIPT AND OPENING OF BIDS

Delete paragraph 102-13(B) (2) in its entirety

SECTION 103 - AWARD AND EXECUTION OF CONTRACT

103-1 CONSIDERATION OF BIDS

First paragraph, first sentence, delete "by the unit bid prices".

103-2 CORRECTION OF BID ERRORS

Delete paragraph 103-2 (B) in its entirety

103-4 AWARD OF CONTRACT

Delete in its entirety "(B) Award Limits".

SECTION 104 - SCOPE OF WORK

104-5 OVERRUNS AND UNDERRUNS OF CONTRACT QUANTITIES

Delete in its entirety – See Section 5 of the Project Manual.

SECTION 105 - CONTROL OF WORK

105-9 CONSTRUCTION STAKES, LINES, AND GRADES

Delete in its entirety and substitute "The Contractor shall be responsible for all computations and field surveying required to accurately locate the work. All construction staking shall be performed under the responsible charge of a North Carolina Licensed Professional Land Surveyor."

105-14 NIGHT WORK

Delete the words "as described in Section 1413".

105-17 INSPECTION AND ACCEPTANCE

First paragraph, delete the last sentence and Items A through F.

SECTION 106 - CONTROL OF MATERIAL

Remove all references to "Division of Highways" and insert "Rail Division".

106-1 GENERAL REQUIREMENTS

Insert new paragraph: "**(C) SUBMITTALS**"

The Contractor shall submit information as noted in Appendix F, NCDOT will provide samples and electronic files of Submittal Logs, Requests for Information (RFI) forms, and other standard forms to be utilized by the Contractor at the preconstruction meeting.

Within two weeks after the award of contract, the Contractor shall provide the Engineer with a schedule of the dates for submission of each shop drawing and sample required by the contract and shall note the required contents of each submittal. The sequence of submittals shall permit an orderly review by the Engineer with reasonable time allowed for checking, correction and rechecking corrections, as well as returning the approved or rejected shop drawings and samples to the Contractor and, in turn, to any subcontractor.

The aforesaid schedule shall provide the Engineer with at least forty working days from the date the Engineer receives a submittal until the date the submittal is required to be returned to the Contractor. Within the required submittal schedule, the Contractor shall notify the Engineer of any submittal related work that the Contractor desires to start within the 40 days following notice of award. The review period will not be reduced, but the Engineer will work with the Contractor to develop opportunities to expedite reviews. If a submittal contains more than five (5) or more shop drawings or component submittals submitted within a five-day period,

the Contractor shall indicate the order of priority for review of the submittals. If all component submittals require approval prior to start of a work scope item, the Engineer will be afforded five additional review days for each component submittal in excess of four (4), the Contractor shall indicate which drawings must be returned within the period of ten working days, and in such event, the Engineer will have an additional five working days to return the balance of the submittal.

The Contractor shall be responsible for coordinating the schedule for submittal of shop drawings and samples with the Contractor's progress schedule and the requirements of the contract. Failure of the Contractor to schedule and submit shop drawings and samples in ample time for checking, correction and rechecking will not justify a delay in the timely performance of the work. All shop drawing and samples shall be submitted on the Submittal Transmittal Forms and bear the following information:

1. Date of submittal.
2. Submittal Number.
3. Name of the Contractor and date of the Contractor's approval.
4. Name of the subcontractor or supplier and date of submittal to the Contractor.
5. Manufacturers literature clearly marked to illustrate the applicable portion of the literature being submitted for consideration.
6. Reference to Specification Section and Paragraph and/or Drawing Number(s).
7. The specific location of that portion of the work covered by the submission.
8. Any qualification, departure or deviation from the requirements of the contract
9. Any additional information required by the Specifications for the particular material being furnished.

Each shop drawing shall be numbered. The same numbering system shall be retained throughout all revisions. Each drawing shall have a clear space for the approval stamps of the Contractor, the Engineer and the Engineer's consultants, if any. The Engineer will provide required forms for submittals in electronic format, Requests For Information (RFI) and other transmittals deemed necessary by the Engineer. The Engineer will supply a sample submittal schedule spreadsheet, containing required submittal tracking information. The Contractor will supply an equivalent spreadsheet to the Engineer, containing the required level of detail for all of the Contractor's anticipated submittals

In submitting shop drawings for approval, all associated shop drawings relating to a complete assembly shall, where possible, be submitted at the same time so that each may be checked in relation to the entire proposed assembly.

The Contractor shall prepare composite shop drawings, procedural approaches and installation layouts, when required, to depict proposed solutions for tight field conditions and/or Railroad safety concerns. The composite shop drawings and field installation layouts shall be coordinated in the field by the Contractor and its subcontractors for proper relationship to the work of all other trades involved in the work.

With respect to standard manufactured items, the Contractor shall submit to the Engineer electronic submittals or a minimum of three (3) copies of manufacturer's illustrated cut sheets of the items to be furnished showing details, sizes and dimensions and all other pertinent information.

For all other shop drawings, the Contractor shall submit to the Engineer electronic submittals or six (6) black and white prints of each drawing. An electronic mark-up or three (3) prints will be returned to the Contractor after review, comment and stamping by the Engineer.

The Contractor shall make any corrections required by the Engineer and shall resubmit corrected copies of shop drawings or new samples until exceptions have been properly addressed. The Contractor shall direct specific attention in writing, or on resubmitted shop drawings to revisions other than the corrections required by the Engineer. The number and distribution of copies shall be the same as in the Contractor's first submission.

In the event that the Engineer shall mark shop drawings approved "no exceptions taken" or "revise and resubmit" or "revised as noted", the Contractor shall make such corrections, if any, as may be indicated. Correction shall be made on, and prints for final distribution shall be made from, the prints bearing the

Engineer’s notation and stamps. Final distribution of prints shall be made by the Contractor.

SECTION 107 - LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

107-3 PERMITS AND LICENSES

Delete the second paragraph in its entirety.

107-8 PUBLIC CONVENIENCE AND SAFETY

Delete the words “and the residents along the highway,” and “as specified in Section 150”.

107-10 WORK IN, OVER OR ADJACENT TO NAVIGABLE WATERS

Delete in its entirety.

107-11 PROTECTION AND RESTORATION OF PROPERTY

Delete the third paragraph in its entirety.

107-16 OPENING SECTIONS OF PROJECT TO TRAFFIC

Delete in its entirety.

SECTION 108 - PROSECUTION AND PROCESS

108-3 PRECONSTRUCTION CONFERENCE

Delete the word “Division”.

108-6 SUBLETTING OF CONTRACT

First paragraph; delete the last sentence and subparagraphs A and B. Delete in their entirety the second and third paragraphs.

SECTION 109 - MEASUREMENT AND PAYMENT

109-4 PARTIAL PAYMENTS

Remove the first sentence of section 109-4 (A) and replace with “Partial payments will be based upon progress estimates prepared by the Contractor at least.....”.

Insert new paragraph at end of Section 109-4 (A) “Immediately after execution and delivery of the contract and before the first partial payment is submitted, the Contractor shall submit to the Engineer a schedule of values consisting of a detailed breakdown of the contract amount showing separate figures for labor and materials. The work listed under the various sections and subsections of the specifications shall serve as the format for the preparation. In addition, the Contractor shall submit to the Engineer the anticipated amount of each monthly payment that will be due to the Contractor in accordance with the progress schedule and the schedule of values.”

109-7 COMPENSATION PAID AT CONTRACT PRICES

Delete “In addition to the compensation made at the unit or lump sum price, adjustment in compensation will be made in accordance with Article 109-8.”

109-8 FUEL PRICE ADJUSTMENT

Delete in its entirety. Fuel adjustment not applicable to contract.

7.4 STANDARD SPECIAL PROVISIONS

a.) PERMANENT VEGETATION ESTABLISHMENT:

(2-16-12) (Rev. 10-15-13)

104

SP1 G16

Establish a permanent stand of the vegetation mixture shown in the contract. During the period between initial vegetation planting and final project acceptance, perform all work necessary to establish permanent vegetation on all erodible areas within the project limits, as well as, in borrow and waste pits. This work shall include erosion control device maintenance and installation, repair seeding and mulching, supplemental seeding and mulching, mowing, and fertilizer topdressing, as directed. All work shall be performed in accordance with the applicable section of the *2012 Standard Specifications*. All work required for initial vegetation planting shall be performed as a part of the work necessary for the completion and acceptance of the Intermediate Contract Time (ICT). Between the time of ICT and Final Project acceptance, or otherwise referred to as the vegetation establishment period, the Department will be responsible for preparing the required National Pollutant Discharge Elimination System (NPDES) inspection records.

Once the Engineer has determined that the permanent vegetation establishment requirement has been achieved at an 80% vegetation density (the amount of established vegetation per given area to stabilize the soil) and no erodible areas exist within the project limits, the Contractor will be notified to remove the remaining erosion control devices that are no longer needed. The Contractor will be responsible for, and shall correct any areas disturbed by operations performed in permanent vegetation establishment and the removal of temporary erosion control measures, whether occurring prior to or after placing traffic on the project.

Payment for *Response for Erosion Control, Seeding and Mulching, Repair Seeding, Supplemental Seeding, Mowing, Fertilizer Topdressing, Silt Excavation, and Stone for Erosion Control* will be made at contract unit prices for the affected items. Work required that is not represented by contract line items will be paid in accordance with Articles 104-7 or 104-3 of the *2012 Standard Specifications*. No additional compensation will be made for maintenance and removal of temporary erosion control items.

b.) DISADVANTAGED BUSINESS ENTERPRISE:

(10-16-07)(Rev. 1-17-17)

102-15(J)

SP1 G61

Description

The purpose of this Special Provision is to carry out the U.S. Department of Transportation’s policy of ensuring nondiscrimination in the award and administration of contracts financed in whole or in part with Federal funds. This provision is guided by 49 CFR Part 26.

Definitions

Additional DBE Subcontractors - Any DBE submitted at the time of bid that will not be used to meet the DBE goal. No submittal of a Letter of Intent is required.

Committed DBE Subcontractor - Any DBE submitted at the time of bid that is being used to meet the DBE goal by submission of a Letter of Intent. Or any DBE used as a replacement for a previously committed DBE firm.

Contract Goal Requirement - The approved DBE participation at time of award, but not greater than the advertised contract goal.

DBE Goal - A portion of the total contract, expressed as a percentage, that is to be performed by committed DBE subcontractor(s).

Disadvantaged Business Enterprise (DBE) - A firm certified as a Disadvantaged Business Enterprise through the North Carolina Unified Certification Program.

Goal Confirmation Letter - Written documentation from the Department to the bidder confirming the Contractor's approved, committed DBE participation along with a listing of the committed DBE firms.

Manufacturer - A firm that operates or maintains a factory or establishment that produces on the premises, the materials or supplies obtained by the Contractor.

Regular Dealer - 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. A regular dealer engages in, as its principal business and in its own name, the purchase and sale or lease 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 and operates distribution equipment for the products. Brokers and packagers are not regarded as manufacturers or regular dealers within the meaning of this section.

North Carolina Unified Certification Program (NCUCP) - A program that provides comprehensive services and information to applicants for DBE certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients of USDOT funds in the state and not limited to the Department of Transportation only. The Certification Program is in accordance with 49 CFR Part 26.

United States Department of Transportation (USDOT) - Federal agency responsible for issuing regulations (49 CFR Part 26) and official guidance for the DBE program.

Forms and Websites Referenced in this Provision

DBE Payment Tracking System - On-line system in which the Contractor enters the payments made to DBE subcontractors who have performed work on the project.
<https://apps.dot.state.nc.us/Vendor/PaymentTracking/>

DBE-IS Subcontractor Payment Information - Form for reporting the payments made to all DBE firms working on the project. This form is for paper bid projects only.
<https://connect.ncdot.gov/business/Turnpike/Documents/Form%20DBE-IS%20Subcontractor%20Payment%20Information.pdf>

RF-1 DBE Replacement Request Form - Form for replacing a committed DBE.
<http://connect.ncdot.gov/projects/construction/Construction%20Forms/DBE%20MBE%20WBE%20Replacement%20Request%20Form.pdf>

SAF Subcontract Approval Form - Form required for approval to sublet the contract.
<http://connect.ncdot.gov/projects/construction/Construction%20Forms/Subcontract%20Approval%20Form%20Rev.%202012.zip>

JC-1 Joint Check Notification Form - Form and procedures for joint check notification. The form acts as a written joint check agreement among the parties providing full and prompt disclosure of the expected use of joint checks.
<http://connect.ncdot.gov/projects/construction/Construction%20Forms/Joint%20Check%20Notification%20Form.pdf>

Letter of Intent - Form signed by the Contractor and the DBE subcontractor, manufacturer or regular dealer that affirms that a portion of said contract is going to be performed by the signed DBE for the amount listed at the time of bid.
<http://connect.ncdot.gov/letting/LetCentral/Letter%20of%20Intent%20to%20Perform%20as%20a%20Subcontractor.pdf>

Listing of DBE Subcontractors Form - Form for entering DBE subcontractors on a project that will meet this DBE goal. This form is for paper bids only.

[http://connect.ncdot.gov/municipalities/Bid%20Proposals%20for%20LGA%20Content/08%20DBE%20Subcontractors%20\(Federal\).docx](http://connect.ncdot.gov/municipalities/Bid%20Proposals%20for%20LGA%20Content/08%20DBE%20Subcontractors%20(Federal).docx)

Subcontractor Quote Comparison Sheet - Spreadsheet for showing all subcontractor quotes in the work areas where DBEs quoted on the project. This sheet is submitted with good faith effort packages.

<http://connect.ncdot.gov/business/SmallBusiness/Documents/DBE%20Subcontractor%20Quote%20Comparison%20Example.xls>

DBE Goal

The following DBE goal for participation by Disadvantaged Business Enterprises is established for this contract:

Disadvantaged Business Enterprises **[1]** % (One Percent)

- (A) *If the DBE goal is more than zero*, the Contractor shall exercise all necessary and reasonable steps to ensure that DBEs participate in at least the percent of the contract as set forth above as the DBE goal.
- (B) *If the DBE goal is zero*, the Contractor shall make an effort to recruit and use DBEs during the performance of the contract. Any DBE participation obtained shall be reported to the Department.

Directory of Transportation Firms (Directory)

Real-time information is available about firms doing business with the Department and firms that are certified through NCUCP in the Directory of Transportation Firms. Only firms identified in the Directory as DBE certified shall be used to meet the DBE goal. The Directory can be found at the following link. <https://www.ebs.nc.gov/VendorDirectory/default.html>

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

Listing of DBE Subcontractors

At the time of bid, bidders shall submit all DBE participation that they anticipate to use during the life of the contract. Only those identified to meet the DBE goal will be considered committed, even though the listing shall include both committed DBE subcontractors and additional DBE subcontractors. Additional DBE subcontractor participation submitted at the time of bid will be used toward the Department’s overall race-neutral goal. Only those firms with current DBE certification at the time of bid opening will be acceptable for listing in the bidder's submittal of DBE participation. The Contractor shall indicate the following required information:

- (A) Electronic Bids
 - Not Applicable
- (B) Paper Bids
 - (1) *If the DBE goal is more than zero*,
 - (a) Bidders, at the time the bid proposal is submitted, shall submit a listing of *DBE* participation, including the names and addresses on *Listing of DBE Subcontractors*

contained elsewhere in the contract documents in order for the bid to be considered responsive. Bidders shall indicate the total dollar value of the DBE participation for the contract.

- (b) If bidders have no DBE participation, they shall indicate this on the *Listing of DBE Subcontractors* by entering the word "None" or the number "0." This form shall be completed in its entirety. **Blank forms will not be deemed to represent zero participation.** Bids submitted that do not have DBE participation indicated on the appropriate form will not be read publicly during the opening of bids. The Department will not consider these bids for award and the proposal will be rejected.
 - (c) The bidder shall be responsible for ensuring that the DBE is certified at the time of bid by checking the Directory of Transportation Firms. If the firm is not certified at the time of the bid-letting, that DBE's participation will not count towards achieving the corresponding goal.
- (2) *If the DBE goal is zero, entries on the Listing of DBE Subcontractors are not required for the zero goal, however any DBE participation that is achieved during the project shall be reported in accordance with requirements contained elsewhere in the special provision.*

DBE Prime Contractor

When a certified DBE firm bids on a contract that contains a DBE goal, the DBE firm is responsible for meeting the goal or making good faith efforts to meet the goal, just like any other bidder. In most cases, a DBE bidder on a contract will meet the DBE goal by virtue of the work it performs on the contract with its own forces. However, all the work that is performed by the DBE bidder and any other DBE subcontractors will count toward the DBE goal. The DBE bidder shall list itself along with any DBE subcontractors, if any, in order to receive credit toward the DBE goal.

For example, if the DBE goal is 45% and the DBE bidder will only perform 40% of the contract work, the prime will list itself at 40%, and the additional 5% shall be obtained through additional DBE participation with DBE subcontractors or documented through a good faith effort.

DBE prime contractors shall also follow Sections A and B listed under *Listing of DBE Subcontractor* just as a non-DBE bidder would.

Written Documentation – Letter of Intent

The bidder shall submit written documentation for each DBE that will be used to meet the DBE goal of the contract, indicating the bidder's commitment to use the DBE in the contract. This documentation shall be submitted on the Department's form titled *Letter of Intent*.

The documentation shall be received in the office of the State Contractor Utilization Engineer or at DBE@ncdot.gov no later than 10:00 a.m. of the sixth calendar day following opening of bids, unless the sixth day falls on an official state holiday. In that situation, it is due in the office of the State Contractor Utilization Engineer no later than 10:00 a.m. on the next official state business day.

If the bidder fails to submit the Letter of Intent from each committed DBE to be used toward the DBE goal, or if the form is incomplete (i.e. both signatures are not present), the DBE participation will not count toward meeting the DBE goal. If the lack of this participation drops the commitment below the DBE goal, the Contractor shall submit evidence of good faith efforts, completed in its entirety, to the State Contractor Utilization Engineer or DBE@ncdot.gov no later than 10:00 a.m. on the eighth calendar day following opening of bids, unless the eighth day falls on an official state holiday. In that situation, it is due in the office of the State Contractor Utilization Engineer no later than 10:00 a.m. on the next official state business day.

Submission of Good Faith Effort

If the bidder fails to meet or exceed the DBE goal, the apparent lowest responsive bidder shall submit to the Department documentation of adequate good faith efforts made to reach the DBE goal.

A hard copy and an electronic copy of this information shall be received in the office of the State Contractor Utilization Engineer or at DBE@ncdot.gov no later than 10:00 a.m. on the sixth calendar day following opening of bids unless the sixth day falls on an official state holiday. In that situation, it is due in the office of the State Contractor Utilization Engineer no later than 10:00 a.m. on the next official state business day. If the contractor cannot send the information electronically, then one complete set and 9 copies of this information shall be received under the same time constraints above.

Note: Where the information submitted includes repetitious solicitation letters, it will be acceptable to submit a representative letter along with a distribution list of the firms that were solicited. Documentation of DBE quotations shall be a part of the good faith effort submittal. This documentation may include written subcontractor quotations, telephone log notations of verbal quotations, or other types of quotation documentation.

Consideration of Good Faith Effort for Projects with DBE Goals More Than Zero

Adequate good faith efforts mean that the bidder took all necessary and reasonable steps to achieve the goal which, by their scope, intensity, and appropriateness, could reasonably be expected to obtain sufficient DBE participation. Adequate good faith efforts also mean that the bidder actively and aggressively sought DBE participation. Mere *pro forma* efforts are not considered good faith efforts.

The Department will consider the quality, quantity, and intensity of the different kinds of efforts a bidder has made. Listed below are examples of the types of actions a bidder will take in making a good faith effort to meet the goal and are not intended to be exclusive or exhaustive, nor is it intended to be a mandatory checklist.

- (A) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising, written notices, use of verifiable electronic means through the use of the NCDOT Directory of Transportation Firms) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within at least 10 days prior to bid opening to allow the DBEs to respond to the solicitation. Solicitation shall provide the opportunity to DBEs within the Division and surrounding Divisions where the project is located. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- (B) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved.
 - (1) Where appropriate, break out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
 - (2) Negotiate 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 (2nd and 3rd tier subcontractors).
- (C) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- (D) (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to

make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

- (2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidding contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- (E) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associates and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
- (F) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or bidder.
- (G) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (H) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; Federal, State, and local minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs. Contact within 7 days from the bid opening the Business Opportunity and Work Force Development Unit at DBE@ncdot.gov to give notification of the bidder's inability to get DBE quotes.
- (I) Any other evidence that the bidder submits which shows that the bidder has made reasonable good faith efforts to meet the DBE goal.

In addition, the Department may take into account the following:

- (1) Whether the bidder's documentation reflects a clear and realistic plan for achieving the DBE goal.
- (2) The bidders' past performance in meeting the DBE goals.
- (3) The performance of other bidders in meeting the DBE goal. For example, when the apparent successful bidder fails to meet the DBE goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the DBE goal, but meets or exceeds the average DBE participation obtained by other bidders, the Department may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made a good faith effort.

If the Department does not award the contract to the apparent lowest responsive bidder, the Department reserves the right to award the contract to the next lowest responsive bidder that can satisfy to the Department that the DBE goal can be met or that an adequate good faith effort has been made to meet the DBE goal.

Non-Good Faith Appeal

The State Contractual Services Engineer will notify the contractor verbally and in writing of non-good faith. A contractor may appeal a determination of non-good faith made by the Goal Compliance Committee. If a contractor wishes to appeal the determination made by the Committee, they shall provide written notification to the State Contractual Services Engineer or at DBE@ncdot.gov. The appeal shall be made within 2 business days of notification of the determination of non-good faith.

Counting DBE Participation Toward Meeting DBE Goal

(A) Participation

The total dollar value of the participation by a committed DBE will be counted toward the contract goal requirement. The total dollar value of participation by a committed DBE will be based upon the value of work actually performed by the DBE and the actual payments to DBE firms by the Contractor.

(B) Joint Checks

Prior notification of joint check use shall be required when counting DBE participation for services or purchases that involves the use of a joint check. Notification shall be through submission of Form JC-1 (*Joint Check Notification Form*) and the use of joint checks shall be in accordance with the Department's Joint Check Procedures.

(C) Subcontracts (Non-Trucking)

A DBE may enter into subcontracts. Work that a DBE subcontracts to another DBE firm may be counted toward the contract goal requirement. Work that a DBE subcontracts to a non-DBE firm does not count toward the contract goal requirement. If a DBE contractor or subcontractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of standard industry practices, it shall be presumed that the DBE is not performing a commercially useful function. The DBE may present evidence to rebut this presumption to the Department. 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.

(D) Joint Venture

When a DBE performs as a participant in a joint venture, the Contractor may count toward its contract goal requirement 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.

(E) Suppliers

A contractor may count toward its DBE requirement 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 from a DBE manufacturer.

(F) Manufacturers and Regular Dealers

A contractor may count toward its DBE requirement 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, 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) With respect to materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site (but not the cost of the materials and supplies themselves), provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

Commercially Useful Function**(A) DBE Utilization**

The Contractor may count toward its contract goal requirement only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE shall also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable) and paying for the material itself. 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 any other relevant factors.

(B) DBE Utilization in Trucking

The following factors will be used to determine if a DBE trucking firm is performing a commercially useful function:

- (1) The DBE shall be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there shall not be a contrived arrangement for the purpose of meeting DBE goals.
- (2) The DBE shall itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- (3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- (4) The DBE may subcontract the work to another DBE firm, including an owner-operator who is certified as a DBE. The DBE who subcontracts work to another DBE receives credit for the total value of the transportation services the subcontracted DBE provides on the contract.

- (5) The DBE may also subcontract the work to a non-DBE firm, including from an owner-operator. The DBE who subcontracts the work to a non-DBE is entitled to credit for the total value of transportation services provided by the non-DBE subcontractor not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE subcontractors receives credit only for the fee or commission it receives as a result of the subcontract arrangement. The value of services performed under subcontract agreements between the DBE and the Contractor will not count towards the DBE contract requirement.
- (6) A DBE may lease truck(s) from an established equipment leasing business open to the general public. The lease must indicate that the DBE has exclusive use of and control over the truck. This requirement does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. This type of lease may count toward the DBE's credit as long as the driver is under the DBE's payroll.
- (7) Subcontracted/leased trucks shall display clearly on the dashboard the name of the DBE that they are subcontracted/leased to and their own company name if it is not identified on the truck itself. Magnetic door signs are not permitted.

DBE Replacement

When a Contractor has relied on a commitment to a DBE firm (or an approved substitute DBE firm) to meet all or part of a contract goal requirement, the contractor shall not terminate the DBE for convenience. This includes, but is not limited to, instances in which the Contractor seeks to perform the work of the terminated subcontractor with another DBE subcontractor, a non-DBE subcontractor, or with the Contractor's own forces or those of an affiliate. A DBE may only be terminated after receiving the Engineer's written approval based upon a finding of good cause for the termination. The prime contractor must give the DBE firm five (5) calendar days to respond to the prime contractor's notice of termination and advise the prime contractor and the Department of the reasons, if any, why the firm objects to the proposed termination of its subcontract and why the Department should not approve the action.

All requests for replacement of a committed DBE firm shall be submitted to the Engineer for approval on Form RF-1 (*DBE Replacement Request*). If the Contractor fails to follow this procedure, the Contractor may be disqualified from further bidding for a period of up to 6 months.

The Contractor shall comply with the following for replacement of a committed DBE:

(A) Performance Related Replacement

When a committed DBE is terminated for good cause as stated above, an additional DBE that was submitted at the time of bid may be used to fulfill the DBE commitment. A good faith effort will only be required for removing a committed DBE if there were no additional DBEs submitted at the time of bid to cover the same amount of work as the DBE that was terminated.

If a replacement DBE is not found that can perform at least the same amount of work as the terminated DBE, the Contractor shall submit a good faith effort documenting the steps taken. Such documentation shall include, but not be limited to, the following:

- (1) Copies of written notification to DBEs that their interest is solicited in contracting the work defaulted by the previous DBE 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.
- (3) A list of reasons why DBE quotes were not accepted.
 - (4) Efforts made to assist the DBEs contacted, if needed, in obtaining bonding or insurance required by the Contractor.
- (B) Decertification Replacement
- (1) When a committed DBE is decertified by the Department after the SAF (*Subcontract Approval Form*) has been received by the Department, the Department will not require the Contractor 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 requirement.
 - (2) When a committed DBE is decertified prior to the Department receiving the SAF (*Subcontract Approval Form*) for the named DBE firm, the Contractor 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 DBE goal requirement. If a DBE firm is not found to do the same amount of work, a good faith effort must be submitted to NCDOT (see A herein for required documentation).

Changes in the Work

When the Engineer makes changes that result in the reduction or elimination of work to be performed by a committed DBE, the Contractor will not be required to seek additional participation. When the Engineer makes changes that result in additional work to be performed by a DBE based upon the Contractor's commitment, the DBE shall participate in additional work to the same extent as the DBE participated in the original contract work.

When the Engineer makes changes that result in extra work, which has more than a minimal impact on the contract amount, the Contractor shall seek additional participation by DBEs unless otherwise approved by the Engineer.

When the Engineer makes changes that result in an alteration of plans or details of construction, and a portion or all of the work had been expected to be performed by a committed DBE, the Contractor shall seek participation by DBEs unless otherwise approved by the Engineer.

When the Contractor requests changes in the work that result in the reduction or elimination of work that the Contractor committed to be performed by a DBE, the Contractor shall seek additional participation by DBEs equal to the reduced DBE participation caused by the changes.

Reports and Documentation

A SAF (*Subcontract Approval Form*) shall be submitted for all work which is to be performed by a DBE subcontractor. The Department reserves the right to require copies of actual subcontract agreements involving DBE subcontractors.

When using transportation services to meet the contract commitment, the Contractor shall submit a proposed trucking plan in addition to the SAF. The plan shall be submitted prior to beginning construction on the project. The plan shall include the names of all trucking firms proposed for use, their certification type(s), the number

of trucks owned by the firm, as well as the individual truck identification numbers, and the line item(s) being performed.

Within 30 calendar days of entering into an agreement with a DBE for materials, supplies or services, not otherwise documented by the SAF as specified above, the Contractor shall furnish the Engineer a copy of the agreement. The documentation shall also indicate the percentage (60% or 100%) of expenditures claimed for DBE credit.

Reporting Disadvantaged Business Enterprise Participation

The Contractor shall provide the Engineer with an accounting of payments made to all DBE firms, including material suppliers and contractors at all levels (prime, subcontractor, or second tier subcontractor). 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 the following action:

- (A) Withholding of money due in the next partial pay estimate; or
- (B) Removal of an approved contractor from the prequalified bidders' list or the removal of other entities from the approved subcontractors list.

While each contractor (prime, subcontractor, 2nd tier subcontractor) is responsible for accurate accounting of payments to DBEs, it shall be the prime contractor's responsibility to report all monthly and final payment information in the correct reporting manner.

Failure on the part of the Contractor to submit the required information in the time frame specified may result in the disqualification of that contractor and any affiliate companies from further bidding until the required information is submitted.

Failure on the part of any subcontractor to submit the required information in the time frame specified may result in the disqualification of that contractor and any affiliate companies from being approved for work on future DOT projects until the required information is submitted.

Contractors reporting transportation services provided by non-DBE lessees shall evaluate the value of services provided during the month of the reporting period only.

At any time, the Engineer can request written verification of subcontractor payments.

The Contractor shall report the accounting of payments through the Department's DBE Payment Tracking System.

Failure to Meet Contract Requirements

Failure to meet contract requirements in accordance with Subarticle 102-15(J) of the *2012 Standard Specifications* may be cause to disqualify the Contractor.

c.) U.S. DEPARTMENT OF TRANSPORTATION HOTLINE:

(11-22-94)

108-5

SP1 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.

d.) SUBSURFACE INFORMATION:

(7-1-95)

450

SP1 G112 A

There is **no** subsurface information available on this project. The Contractor shall make any soil modifications required to bring the embankment into compliance with CSXT construction specifications. Work will be paid for at the contract unit prices for excavation, undercut, embankment and proof rolling per the bid form. All work performed shall be authorized and approved by the Engineer.

e.) DOMESTIC STEEL:

(4-16-13)

106

SP1 G120

Revise the 2012 Standard Specifications as follows:

Page 1-49, Subarticle 106-1(B) Domestic Steel, lines 2-7, replace the first paragraph with the following:

All steel and iron products that are permanently incorporated into this project shall be produced in the United States except minimal amounts of foreign steel and iron products may be used provided the combined material cost of the items involved does not exceed 0.1% of the total amount bid for the entire project or \$2,500, whichever is greater. If invoices showing the cost of the material are not provided, the amount of the bid item involving the foreign material will be used for calculations. This minimal amount of foreign produced steel and iron products permitted for use is not applicable to high strength fasteners. Domestically produced high strength fasteners are required.

f.) TWELVE MONTH GUARANTEE:

(7-15-03)

108

SP1 G145

- (A) The Contractor shall guarantee materials and workmanship against latent and patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve months following the date of final acceptance of the work for maintenance and shall replace such defective materials and workmanship without cost to the Department. The Contractor will not be responsible for damage due to faulty design, normal wear and tear, for negligence on the part of the Department, and/or for use in excess of the design.
- (B) Where items of equipment or material carry a manufacturer's guarantee for any period in excess of twelve months, then the manufacturer's guarantee shall apply for that particular piece of equipment or material. The Department's first remedy shall be through the manufacturer although the Contractor is responsible for invoking the warranted repair work with the manufacturer. The Contractor's responsibility shall be limited to the term of the manufacturer's guarantee. NCDOT would be afforded the same warranty as provided by the Manufacturer.

This guarantee provision shall be invoked only for major components of work in which the Contractor would be wholly responsible for under the terms of the contract. Examples would include pavement structures, bridge components, and sign structures. This provision will not be used as a mechanism to force the Contractor to return to the project to make repairs or perform additional work that the Department would normally compensate the Contractor for. In addition, routine maintenance activities (i.e. mowing grass, debris removal, ruts in earth shoulders,) are not parts of this guarantee.

Appropriate provisions of the payment and/or performance bonds shall cover this guarantee for the project.

To ensure uniform application statewide the Division Engineer will forward details regarding the circumstances surrounding any proposed guarantee repairs to the Chief Engineer for review and approval prior to the work being performed.

g.) GIFTS FROM VENDORS AND CONTRACTORS:

(12-15-09)

107-1

SP1 G152

By Executive Order 24, issued by Governor Perdue, and N.C.G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor’s Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (A) Have a contract with a governmental agency; or
- (B) Have performed under such a contract within the past year; or
- (C) Anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and N.C.G.S. § 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.

h.) IRAN DIVESTMENT ACT:

(5-17-16)

SP01 G151

As a result of the Iran Divestment Act of 2015 (Act), Article 6E, N.C. General Statute § 147-86.55, the State Treasurer published the Final Divestment List (List) which includes the Final Divestment List-Iran, and the Parent and Subsidiary Guidance-Iran. These lists identify companies and persons engaged in investment activities in Iran and will be updated every 180 days. The List can be found at <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>

By submitting the Offer, the Contractor certifies that, as of the date of this bid, it is not on the then-current List created by the State Treasurer. The Contractor must notify the Department immediately if, at any time before the award of the contract, it is added to the List.

As an ongoing obligation, the Contractor must notify the Department immediately if, at any time during the contract term, it is added to the List. Consistent with § 147-86.59, the Contractor shall not contract with any person to perform a part of the work if, at the time the subcontract is signed, that person is on the then-current List.

During the term of the Contract, should the Department receive information that a person is in violation of the Act as stated above, the Department will offer the person an opportunity to respond and the Department will take action as appropriate and provided for by law, rule, or contract.

i.) CLEARING AND GRUBBING - METHOD II:

(9-17-02) (Rev.8-18-15)

200

SP2 R02A

Perform clearing on this project to the limits established by Method "II" shown on Standard Drawing No. 200.02 of the 2012 Roadway Standard Drawings. Conventional clearing methods may be used except where permit drawings or conditions have been included in the proposal which require certain areas to be cleared by hand methods.

j.) BURNING RESTRICTIONS:

(7-1-95)

200, 210, 215

SP2 R05

Open burning is not permitted on any portion of the right-of-way limits established for this project. Do not burn the clearing, grubbing or demolition debris designated for disposal and generated from the project at locations within the project limits, off the project limits or at any waste or borrow sites in this county. Dispose of the clearing, grubbing and demolition debris by means other than burning, according to state or local rules and regulations.

k.) LUMP SUM GRADING:

(8-17-10)

226

SP2 R16

Lump sum grading shall be performed in accordance with Section 226 Comprehensive Grading of the 2012 Standard Specifications.

l.) SUPPLEMENTAL CONTRACTOR EROSION CONTROL RESPONSIBILITIES:

(2-19-13)

SP1 G182

The Contractor shall be required to install and maintain erosion control devices and provide temporary and eventual permanent stabilization to disturbed areas until the final completion of the project contract as directed. In addition, the Contractor shall adhere to the requirements of the Erosion and Sediment Control/Stormwater Certification provided elsewhere in this contract until completion of the project. After the Contractor has completed the grading work and while Norfolk Southern's crews are installing the new track, the Contractor shall maintain erosion control responsibilities and work will continue to be required and not limited to, monitoring erosion control devices on a weekly basis and after each rainfall that equals or exceeds 0.5 inches, NPDES documentation, installation and maintenance of additional erosion control devices, providing temporary groundcover, and establishment of permanent vegetation on disturbed slopes.

Payment for installation and maintenance of temporary erosion control measures and providing temporary and permanent stabilization will be paid for at the appropriate contract unit price for the work. Mobilization payment for this work shall be paid as described in "Supplemental Response for Erosion Control." No additional payment shall be made for these supplemental responsibilities and work.

m.) STABILIZATION REQUIREMENTS:

(3-11-16)

S-1

Stabilization for this project shall comply with the time frame guidelines as specified by the NCG-010000 general construction permit effective August 3, 2011 issued by the North Carolina Department of Environment and Natural Resources Division of Water Quality. Temporary or permanent ground cover stabilization shall occur within 7 calendar days from the last land-disturbing activity, with the following exceptions in which temporary or permanent ground cover shall be provided in 14 calendar days from the last land-disturbing activity:

- Slopes between 2:1 and 3:1, with a slope length of 10 ft. or less
- Slopes 3:1 or flatter, with a slope of length of 50 ft. or less
- Slopes 4:1 or flatter

The stabilization timeframe for High Quality Water (HQW) Zones shall be 7 calendar days with no exceptions for slope grades or lengths. High Quality Water Zones (HQW) Zones are defined by North Carolina Administrative Code 15A NCAC 04A.0105 (25). Temporary and permanent ground cover stabilization shall be achieved in accordance with the provisions in this contract and as directed.

Seeding And Mulching: (East)

The kinds of seed and fertilizer, and the rates of application of seed, fertilizer, and limestone, shall be as stated below. During periods of overlapping dates, the kind of seed to be used shall be determined. All rates are in pounds per acre.

All Roadway Areas

March 1 - August 31		September 1 - February 28	
50#	Tall Fescue	50#	Tall Fescue
10#	Centipede	10#	Centipede
25#	Bermudagrass (hulled)	35#	Bermudagrass (unhulled)
500#	Fertilizer	500#	Fertilizer
4000#	Limestone	4000#	Limestone

Waste and Borrow Locations

March 1 - August 31		September 1 - February 28	
75#	Tall Fescue	75#	Tall Fescue
25#	Bermudagrass (hulled)	35#	Bermudagrass (unhulled)
500#	Fertilizer	500#	Fertilizer
4000#	Limestone	4000#	Limestone

Note: 50# of Bahiagrass may be substituted for either Centipede or Bermudagrass only upon Engineer's request.

Approved Tall Fescue Cultivars

06 Dust	Escalade	Justice	Scorpion
2 nd Millennium	Essential	Kalahari	Serengeti
3 rd Millennium	Evergreen 2		Shelby
Apache III	Falcon IV	Kitty Hawk 2000	Sheridan
Avenger	Falcon NG	Legitimate	Signia
Barlexas	Falcon V	Lexington	Silver Hawk
Barlexas II	Faith	LSD	Sliverstar
Bar Fa	Fat Cat	Magellan	Shenandoah Elite

Barrera	Festnova	Matador	Sidewinder
Barrington	Fidelity	Millennium SRP	Skyline
Barrobusto	Finelawn Elite	Monet	Solara
Barvado	Finelawn Xpress	Mustang 4	Southern Choice II
Biltmore	Finesse II	Ninja 2	Speedway
Bingo	Firebird	Ol' Glory	Spyder LS
Bizem	Firecracker LS	Olympic Gold	Sunset Gold
Blackwatch	Firenza	Padre	Taccoa
Blade Runner II	Five Point	Patagonia	Tanzania
Bonsai	Focus	Pedigree	Trio
Braveheart	Forte	Picasso	Tahoe II
Bravo	Garrison	Piedmont	Talladega
Bullseye	Gazelle II	Plantation	Tarheel
Cannavaro	Gold Medallion	Proseeds 5301	Terrano
Catalyst	Grande 3	Prospect	Titan Ltd
Cayenne	Greenbrooks	Pure Gold	Titanium LS
Cessane Rz	Greenkeeper	Quest	Tracer
Chipper	Gremlin	Raptor II	Traverse SRP
Cochise IV	Greystone	Rebel Exeda	Tulsa Time
Constitution	Guardian 21	Rebel Sentry	Turbo
Corgi	Guardian 41	Rebel IV	Turbo RZ
Corona	Hemi	Regiment II	Tuxedo RZ
Coyote	Honky Tonk	Regenerate	Ultimate
Darlington	Hot Rod	Rendition	Venture
Davinci	Hunter	Rhambler 2 SRP	Umbrella
Desire	Inferno	Rembrandt	Van Gogh
Dominion	Innovator	Reunion	Watchdog
Dynamic	Integrity	Riverside	Wolfpack II
Dynasty	Jaguar 3	RNP	Xtremegreen
Endeavor	Jamboree	Rocket	

On cut and fill slopes 2:1 or steeper Centipede shall be applied at the rate of 5 pounds per acre and add 20# of Sericea Lespedeza from January 1 - December 31.

Fertilizer shall be 10-20-20 analysis. A different analysis of fertilizer may be used provided the 1-2-2 ratio is maintained and the rate of application adjusted to provide the same amount of plant food as a 10-20-20 analysis and as directed.

n.) STANDARD SPECIAL PROVISION - AVAILABILITY OF FUNDS – TERMINATION OF CONTRACTS

(5-20-08)

Z-2

General Statute 143C-6-11. (h) Highway Appropriation is hereby incorporated verbatim in this contract as follows:

(h) Amounts Encumbered. – Transportation project appropriations may be encumbered in the amount of allotments made to the Department of Transportation by the Director for the estimated payments for transportation project contract work to be performed in the appropriation fiscal year. The allotments shall be multiyear allotments and shall be based on estimated revenues and shall be subject to the maximum contract authority contained in *General Statute 143C-6-11(c)*. Payment for transportation project work performed pursuant to contract in any fiscal year other than the current fiscal year is subject to appropriations by the General Assembly. Transportation project 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 transportation project contract, and any transportation project 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 contractor shall be given a written notice of termination at least 60 days before completion of scheduled work for which funds are available. In the event of termination, the contractor 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 Subarticle 108-13(E) of the *2012 Standard Specifications*.

o.) STANDARD SPECIAL PROVISION - ERRATA

(1-17-12) (Rev. 04-21-15)

Z-4

Revise the *2012 Standard Specifications* as follows:

Division 2

Page 2-7, line 31, Article 215-2 Construction Methods, replace “Article 107-26” with “Article 107-25”.

Page 2-17, Article 226-3, Measurement and Payment, line 2, delete “pipe culverts,”.

Page 2-20, Subarticle 230-4(B), Contractor Furnished Sources, change references as follows: Line 1, replace “(4) Buffer Zone” with “(c) Buffer Zone”; **Line 12**, replace “(5) Evaluation for Potential Wetlands and Endangered Species” with “(d) Evaluation for Potential Wetlands and Endangered Species”; and **Line 33**, replace “(6) Approval” with “(4) Approval”.

Division 3

Page 3-1, after line 15, Article 300-2 Materials, replace “1032-9(F)” with “1032-6(F)”.

Division 4

Page 4-77, line 27, Subarticle 452-3(C) Concrete Coping, replace “sheet pile” with “reinforcement”.

Division 6

Page 6-7, line 31, Article 609-3 Field Verification of Mixture and Job Mix Formula Adjustments, replace “30” with “45”.

Page 6-10, line 42, Subarticle 609-6(C)(2), replace “Subarticle 609-6(E)” with “Subarticle 609-6(D)”.

Page 6-11, Table 609-1 Control Limits, replace “Max. Spec. Limit” for the Target Source of $P_{0.075}/P_{be}$ Ratio with “1.0”.

Page 6-40, Article 650-2 Materials, replace “Subarticle 1012-1(F)” with “Subarticle 1012-1(E)”

Division 7

Page 7-1, Article 700-3, CONCRETE HAULING EQUIPMENT, line 33, replace “competition” with “completion”.

Division 8

Page 8-23, line 10, Article 838-2 Materials, replace “Portland Cement Concrete, Class B” with “Portland Cement Concrete, Class A”.

Division 10

Page 10-166, Article 1081-3 Hot Bitumen, replace “Table 1081-16” with “Table 1081-2”, replace “Table 1081-17” with “Table 1081-3”, and replace “Table 1081-18” with “Table 1081-4”.

Division 12

Page 12-7, Table 1205-3, add “FOR THERMOPLASTIC” to the end of the title.

Page 12-8, Subarticle 1205-5(B), line 13, replace “Table 1205-2” with “Table 1205-4”.

Page 12-8, Table 1205-4 and 1205-5, replace “THERMOPLASTIC” in the title of these tables with “POLYUREA”.

Page 12-9, Subarticle 1205-6(B), line 21, replace “Table 1205-4” with “Table 1205-6”.

Page 12-11, Subarticle 1205-8(C), line 25, replace “Table 1205-5” with “Table 1205-7”.

Division 15

Page 15-4, Subarticle 1505-3(F) Backfilling, line 26, replace “Subarticle 235-4(C)” with “Subarticle 235-3(C)”.

Page 15-6, Subarticle 1510-3(B), after line 21, replace the allowable leakage formula with the following:

$$W = LD\sqrt{P} \div 148,000$$

Page 15-6, Subarticle 1510-3(B), line 32, delete “may be performed concurrently or” and replace with “shall be performed”.

Page 15-17, Subarticle 1540-3(E), line 27, delete “Type 1”.

Division 17

Page 17-26, line 42, Subarticle 1731-3(D) Termination and Splicing within Interconnect Center, delete this subarticle.

Revise the 2012 Roadway Standard Drawings as follows:

1633.01 Sheet 1 of 1, English Standard Drawing for Matting Installation, replace “1633.01” with “1631.01”.

p.) STANDARD SPECIAL PROVISION - PLANT AND PEST QUARANTINES

(Imported Fire Ant, Gypsy Moth, Witchweed, Emerald Ash Borer, And Other Noxious Weeds)

(3-18-03) (Rev. 12-20-16)

Z-04a

Within Quarantined Area

This project may be within a county regulated for plant and/or pests. If the project or any part of the Contractor'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, 919-707-3730, or <http://www.ncagr.gov/plantindustry/> 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, emerald ash borer, or other noxious weeds.

q.) STANDARD SPECIAL PROVISION - AWARD OF CONTRACT

(6-28-77)(Rev 2/16/2015)

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”.

TITLE VI AND NONDISCRIMINATION

I. Title VI Assurance

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

(1) Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either

directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the North Carolina Department of Transportation (NCDOT) or the Federal Highway Administration (FHWA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the NCDOT, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the NCDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
- (b) Cancellation, termination or suspension of the contract, in whole or in part.

(6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontractor procurement as the NCDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the NCDOT to enter into such litigation to protect the interests of the NCDOT, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

II. Title VI Nondiscrimination Program

Title VI of the 1964 Civil Rights Act, 42 U.S.C. 2000d, provides that: "No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The broader application of nondiscrimination law is found in other statutes, executive orders, and regulations (see Section III, Pertinent Nondiscrimination Authorities), which provide additional protections based on age, sex, disability and religion. In addition, the 1987 Civil Rights Restoration Act extends nondiscrimination coverage to all programs and activities of federal-aid recipients and contractors, including those that are not federally-funded.

Nondiscrimination Assurance

The North Carolina Department of Transportation (NCDOT) hereby gives assurance that no person shall on the ground of race, color, national origin, sex, age, and disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the recipient, as provided by Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, and any other related Civil Rights authorities, whether those programs and activities are federally funded or not.

Obligation

During the performance of this contract, the Contractor and its subcontractors are responsible for complying with NCDOT's Title VI Program. The Contractor must ensure that NCDOT's Notice of Nondiscrimination is

posted in conspicuous locations accessible to all employees and subcontractors on the jobsite, along with the Contractor's own Equal Employment Opportunity (EEO) Policy Statement. The Contractor shall physically incorporate this "**TITLE VI AND NONDISCRIMINATION**" language, in its entirety, into all its subcontracts on federally-assisted and state-funded NCDOT-owned projects, and ensure its inclusion by subcontractors into all subsequent lower tier subcontracts. The Contractor and its subcontractors shall also physically incorporate the **FHWA-1273**, in its entirety, into all subcontracts and subsequent lower tier subcontracts on Federal-aid highway construction contracts only. The Contractor is also responsible for making its subcontractors aware of NCDOT's Discrimination Complaints Process, as follows:

FILING OF COMPLAINTS

1. **Applicability** – These complaint procedures apply to the beneficiaries of the NCDOT's programs, activities, and services, including, but not limited to, members of the public, contractors, subcontractors, consultants, and other sub-recipients of federal and state funds.
2. **Eligibility** – Any person or class of persons who believes he/she has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities, based upon race, color, sex, age, national origin, or disability, may file a written complaint with NCDOT's Civil Rights office. The law prohibits intimidation or retaliation of any sort. The complaint may be filed by the affected individual or a representative, and must be in writing.
3. **Time Limits and Filing Options** – A complaint must be filed no later than 180 calendar days after the following:
 - The date of the alleged act of discrimination; or
 - The date when the person(s) became aware of the alleged discrimination; or
 - Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

Title VI and other discrimination complaints may be submitted to the following entities:

- **North Carolina Department of Transportation**, Office of Equal Opportunity & Workforce Services (EOWS), External Civil Rights Section, 1511 Mail Service Center, Raleigh, NC 27699-1511; 919-508-1808 or toll free 800-522-0453
 - **US Department of Transportation**, Departmental Office of Civil Rights, External Civil Rights Programs Division, 1200 New Jersey Avenue, SE, Washington, DC 20590; 202-366-4070
 - Federal Highway Administration**, North Carolina Division Office, 310 New Bern Avenue, Suite 410, Raleigh, NC 27601, 919-747-7010
 - Federal Highway Administration**, Office of Civil Rights, 1200 New Jersey Avenue, SE, 8th Floor, E81-314, Washington, DC 20590, 202-366-0693 / 366-0752
 - Federal Transit Administration**, Office of Civil Rights, ATTN: Title VI Program Coordinator, East Bldg. 5th Floor – TCR, 1200 New Jersey Avenue, SE, Washington, DC 20590
 - Federal Aviation Administration**, Office of Civil Rights, 800 Independence Avenue, SW, Washington, DC 20591, 202-267-3258
 - **US Department of Justice**, Special Litigation Section, Civil Rights Division, 950 Pennsylvania Avenue, NW, Washington, DC 20530, 202-514-6255 or toll free 877-218-5228
4. **Format for Complaints** – Complaints must be in **writing** and **signed** by the complainant(s) or a representative and include the complainant's name, address, and telephone number. Complaints received by fax or e-mail will be acknowledged and processed. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. Complaints will be accepted in other languages including Braille.
 5. **Discrimination Complaint Form** – Contact NCDOT EOWS at the phone number above to receive a full copy of the Discrimination Complaint Form and procedures.
 6. **Complaint Basis** – Allegations must be based on issues involving race, color, national origin, sex, age, or disability. The term "basis" refers to the complainant's membership in a protected group category. Contact this office to receive a Discrimination Complaint Form:

Protected Categories	Definition	Examples	Applicable Statutes and Regulations	
			FHWA	FTA
Race	An individual belonging to one of the accepted racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group	Black/African American, Hispanic/Latino, Asian, American Indian/Alaska Native, Native Hawaiian/Pacific Islander, White	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; 23 CFR 200	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; Circular 4702.1B
Color	Color of skin, including shade of skin within a racial group	Black, White, brown, yellow, etc.		
National Origin	Place of birth. Citizenship is not a factor. Discrimination based on language or a person's accent is also covered.	Mexican, Cuban, Japanese, Vietnamese, Chinese		
Sex	Gender	Women and Men	1973 Federal-Aid Highway Act	Title IX of the Education Amendments of 1972
Age	Persons of any age	21-year-old person	Age Discrimination Act of 1975	
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, paraplegic, epileptic, diabetic, arthritic	Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990	

III. Pertinent Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e *et seq.*, Pub. L. 88-352), (prohibits employment discrimination on the basis of race, color, religion, sex, or national origin);
- 49 CFR Part 26, regulation to ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs, as regards the use of Disadvantaged Business Enterprises (DBEs);
- Form FHWA-1273, "Required Contract Provisions," a collection of contract provisions and proposal notices that are generally applicable to *all Federal-aid construction projects* and must be made a part of, and physically incorporated into, *all federally-assisted contracts*, as well as appropriate subcontracts and purchase orders, particularly Sections II (Nondiscrimination) and III (Nonsegregated Facilities).

r.) 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

**Goals for Female
Participation in Each Trade
(Statewide) 6.9%**

s.) STANDARD SPECIAL PROVISION - REQUIRED CONTRACT PROVISIONS FEDERAL - AID CONSTRUCTION CONTRACTS

FHWA - 1273 Electronic Version - May 1, 2012

Z-8

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

ATTACHMENTS

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

I. GENERAL

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

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

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

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

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

II. NONDISCRIMINATION

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

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

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

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

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

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
 - a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.
 - b. The contractor will accept as its operating policy the following statement:
 "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."
2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.
3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
 - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
 - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
 - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
 - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.
- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.
 - b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.
 - c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.
5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:
- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
 - b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
 - c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
 - d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.
6. **Training and Promotion:**
- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
 - b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare

assistance in accordance with
23 U.S.C. 140(a).

- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
 - d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.
7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:
- a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.
 - b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.
 - c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.
 - d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.
8. **Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.
9. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.
- a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.
 - b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.
10. **Assurance Required by 49 CFR 26.13(b):**
- a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.
 - b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.
11. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.
- a. The records kept by the contractor shall document the following:

- (1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;
 - (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and
 - (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;
- b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

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

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

- b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
 - (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
 - (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
 - c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
 - d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
2. **Withholding.** The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic,

including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

- a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.
- (2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
- (i) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
 - (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

4. Apprentices and trainees

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

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

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

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

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of

fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

- c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- d. Apprentices and Trainees (programs of the U.S. DOT). Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.
5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
9. **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
10. **Certification of eligibility.**
 - a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.
3. **Withholding for unpaid wages and liquidated damages.** The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.
4. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).
 - a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:
 - (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
 - (2) the prime contractor remains responsible for the quality of the work of the leased employees;
 - (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
 - (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.
 - b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and

expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or

quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

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

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

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

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

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

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

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

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

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

1. Instructions for Certification – First Tier Participants:

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

Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

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

* * * * *

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

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (1)Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;
 - (2)Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (3)Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and
 - (4)Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

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

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

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

* * * * *

XI.CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

t.) STANDARD SPECIAL PROVISION - ON-THE-JOB TRAINING

(10-16-07) (Rev. 4-21-15)

Z-10

Description

The North Carolina Department of Transportation will administer a custom version of the Federal On-the-Job Training (OJT) Program, commonly referred to as the Alternate OJT Program. All contractors (existing and newcomers) will be automatically placed in the Alternate Program. Standard OJT requirements typically associated with individual projects will no longer be applied at the project level. Instead, these requirements will be applicable on an annual basis for each contractor administered by the OJT Program Manager.

On the Job Training shall meet the requirements of 23 CFR 230.107 (b), 23 USC – Section 140, this provision and the On-the-Job Training Program Manual.

The Alternate OJT Program will allow a contractor to train employees on Federal, State and privately funded projects located in North Carolina. However, priority shall be given to training employees on NCDOT Federal-Aid funded projects.

Minorities and Women

Developing, training and upgrading of minorities and women toward journeyman level status is a primary objective of this special training provision. Accordingly, the Contractor shall make every effort to enroll minority and women as trainees to the extent that such persons are available within a reasonable area of recruitment.

This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

Assigning Training Goals

The Department, through the OJT Program Manager, will assign training goals for a calendar year based on the contractors' past three years' activity and the contractors' anticipated upcoming year's activity with the Department. At the beginning of each year, all contractors eligible will be contacted by the Department to determine the number of trainees that will be assigned for the upcoming calendar year. At that time the Contractor shall enter into an agreement with the Department to provide a self-imposed on-the-job training program for the calendar year. This agreement will include a specific number of annual training goals agreed to by both parties. The number of training assignments may range from 1 to 15 per contractor per calendar year. The Contractor shall sign an agreement to fulfill their annual goal for the year.\

Training Classifications

The Contractor shall provide on-the-job training aimed at developing full journeyman level workers in the construction craft/operator positions. Preference shall be given to providing training in the following skilled work classifications:

- | | |
|---------------------|----------------------------------|
| Equipment Operators | Office Engineers |
| Truck Drivers | Estimators |
| Carpenters | Iron / Reinforcing Steel Workers |
| Concrete Finishers | Mechanics |
| Pipe Layers | Welders |

The Department has established common training classifications and their respective training requirements that may be used by the contractors. However, the classifications established are not all-inclusive. Where the training is oriented toward construction applications, training will be allowed in lower-level management positions such as office engineers and estimators. Contractors shall submit new classifications for specific job functions that their employees are performing. The Department will review and recommend for acceptance to FHWA the new classifications proposed by contractors, if applicable. New classifications shall meet the following requirements:

Proposed training classifications are reasonable and realistic based on the job skill classification needs, and

The number of training hours specified in the training classification is consistent with common practices and provides enough time for the trainee to obtain journeyman level status.

The Contractor may allow trainees to be trained by a subcontractor provided that the Contractor retains primary responsibility for meeting the training and this provision is made applicable to the subcontract. However, only the Contractor will receive credit towards the annual goal for the trainee.

Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. The number of trainees shall be distributed among the work classifications on the basis of the contractor's needs and the availability of journeymen in the various classifications within a reasonable area of recruitment.

No employee shall be employed as a trainee in any classification in which they have successfully completed a training course leading to journeyman level status or in which they have been employed as a journeyman.

Records and Reports

The Contractor shall maintain enrollment, monthly and completion reports documenting company compliance under these contract documents. These documents and any other information as requested shall be submitted to the OJT Program Manager.

Upon completion and graduation of the program, the Contractor shall provide each trainee with a certification Certificate showing the type and length of training satisfactorily completed.

Trainee Interviews

All trainees enrolled in the program will receive an initial and Trainee/Post graduate interview conducted by the OJT program staff.

Trainee Wages

Contractors shall compensate trainees on a graduating pay scale based upon a percentage of the prevailing minimum journeyman wages (Davis-Bacon Act). Minimum pay shall be as follows:

- 60 percent of the journeyman wage for the first half of the training period
- 75 percent of the journeyman wage for the third quarter of the training period
- 90 percent of the journeyman wage for the last quarter of the training period

In no instance shall a trainee be paid less than the local minimum wage. The Contractor shall adhere to the minimum hourly wage rate that will satisfy both the NC Department of Labor (NCDOL) and the Department.

Achieving or Failing to Meet Training Goals

The Contractor will be credited for each trainee employed by him on the contract work who is currently enrolled or becomes enrolled in an approved program and who receives training for at least 50 percent of the specific program requirement. Trainees will be allowed to be transferred between projects if required by the Contractor’s scheduled workload to meet training goals.

If a contractor fails to attain their training assignments for the calendar year, they may be taken off the NCDOT’s Bidders List.

Measurement and Payment

No compensation will be made for providing required training in accordance with these contract documents.

u.) STANDARD SPECIAL PROVISION - MINIMUM WAGES
GENERAL DECISION NC170103 01/06/2017 NC103

Z-103

Date: January 6, 2017
General Decision Number: NC170103 01/06/2017 NC103
Superseded General Decision Numbers: NC20160103
State: North Carolina
Construction Type: HIGHWAY

COUNTIES:

Brunswick	Greene	Onslow
Cumberland	Hoke	Pender
Currituck	Johnston	Pitt
Edgecombe	Nash	Wake
Franklin	New Hanover	Wayne

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 that applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract for calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number
0

Publication Date
01/06/2017

SUNC2014-005 11/17/2014

	Rates	Fringes
BLASTER	21.04	
CARPENTER	13.72	
CEMENT MASON/CONCRETE FINISHER	14.48	
ELECTRICIAN		
Electrician	17.97	
Telecommunications Technician	16.79	.63
IRONWORKER	16.02	
LABORER		
Asphalt Raker and Spreader	12.46	
Asphalt Screed/Jackman	14.33	
Carpenter Tender	12.88	
Cement Mason/Concrete Finisher Tender	12.54	
Common or General	10.20	
Guardrail/Fence Installer	12.87	
Pipelayer	12.17	
Traffic Signal/Lighting Installer	14.89	
PAINTER		
Bridge	24.57	
POWER EQUIPMENT OPERATORS		
Asphalt Broom Tractor	11.85	
Bulldozer Fine	17.04	
Bulldozer Rough	14.34	
Concrete Grinder/Groover	20.34	2.30
Crane Boom Trucks	20.54	
Crane Other	20.08	
Crane Rough/All-Terrain	20.67	
Drill Operator Rock	14.38	
Drill Operator Structure	21.14	

	Rates	Fringes
Excavator Fine	16.60	
Excavator Rough	14.00	
Grader/Blade Fine	18.47	
Grader/Blade Rough	14.62	
Loader 2 Cubic Yards or Less	13.76	
Loader Greater Than 2 Cubic Yards	14.14	
Material Transfer Vehicle (Shuttle Buggy)	15.18	
Mechanic	17.55	
Milling Machine	15.36	
Off-Road Hauler/Water Tanker	11.36	
Oiler/Greaser	13.55	
Pavement Marking Equipment	12.11	
Paver Asphalt	15.59	
Paver Concrete	18.20	
Roller Asphalt Breakdown	12.45	
Roller Asphalt Finish	13.85	
Roller Other	11.36	
Scraper Finish	12.71	
Scraper Rough	11.35	
Slip Form Machine	16.50	
Tack Truck/Distributor Operator	14.52	
TRUCK DRIVER		
GVWR of 26,000 Lbs. or Less	11.12	
GVWR of 26,000 Lbs. or Greater	12.37	

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

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the

survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier. Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

- 1.) 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.

7.5 RAIL PROJECT SPECIAL PROVISIONS

TRACKWORK

TW-1 DESCRIPTION

The work shall consist of grading, sub-ballast, ballast, welded and jointed track construction, panel track construction, panel turnout installation, turnout construction and installation, derail construction and installation, switch tie installation, surfacing, track lining, removal of track and track turnouts, bumper post installation and connections as indicated on the contract drawings. Secondary work such as security fencing, site grading, minor electrical work and aggregate base installation are also a part of the contract.

The Contractor should pay attention to the portions of the work to be completed by CSXT forces and those to be completed by Contractor forces. Coordination will be required with CSXT for the construction of the project elements and the final connections.

The work will be located within an active railyard with both CSXT and the NCDOT Rail Division continuing rail operations throughout construction. As the construction progresses, the Contractor is responsible for coordinating and scheduling all breaks in rail, track removal, track installation, and implementation of safety measures with both rail operators. At no time shall the Contractor's work impact the rail operations beyond those limits indicated in the construction drawings and as directed in the rail construction phasing.

Due to the rail operations being active, close coordination with CSXT and the NCDOT Rail Division will be required as the train schedules are fluid and subject to change. The Contractor is not assured of a static period for track availability to perform their work. The Contractor is responsible for scheduling the hours of construction around the train schedules of the two rail operators. No additional time will be added to the contract time due to train movement conflicts unless the Contractor can show that coordination was completed with the rail operators for a specific period and due to unforeseen circumstances, the schedules were revised such that the Contractor's work hours were impacted.

The Contractor should refer to the following items in the Appendices:

- **Appendix A** 49CFR§214 Subpart C On-Track Safety Program
- **Appendix B** CSXT Construction Submission Requirements
- **Appendix C** CSXT Construction Requirements
- **Appendix D** CSXT Special Provisions
- **Appendix E** CSXT Insurance Requirements
- **Appendix F** Construction Submittal Forms

Contractor shall note the items to be completed by CSXT – stub ending tracks, No. 15 turnout, and final connections indicated on drawings.

TW-2 PHASED TRACK CONSTRUCTION

The Contractor's attention is directed to Construction Phasing shown on the Contract Plans. The phases shall be strictly adhered to during bidding and construction. Any changes to the phased construction shall require a detailed submittal of the revised phasing and a revised schedule for approval of the Engineer prior to enacting any revisions. The Contractor shall provide the revised phasing to the Engineer a minimum of 40 days before the anticipated revision for review by Engineer and rail operators.

Phased Construction

The overall project will be completed by both CSXT and the selected NCDOT Contractor. The proposed construction shall be completed in Four (4) phases – Phase 1A, Phase 1B, Phase 1C and Phase 2. The contractor shall complete the work indicated in each phase before moving to the next phase unless approved by the engineer. These phases are described below and are indicated on the drawings.

The Contractor may submit alternative detailed phases of construction for review by the Engineer when submittals are made in advance of the commencement of each affected phase in accordance with the schedule for submittal reviews as noted in 106-1 of Section 3 – Supplemental Specifications. Submittals will not be cause for delay of construction and may be rejected for lack of sufficient time to review, detail, and/or coordinate. Contractor shall continue to diligently pursue the specified phase until other written directives are received from the Engineer or a submitted alternative is approved.

The initiation of each phase requires the Contractor to fulfill and maintain all safety and insurance requirements, to obtain and/or maintain right of entry from CSXT and all property owners to the affected track, to coordinate possible operation disruptions with impacted parties, and to schedule necessary flagging and protection.

All rail on both the CSXT and NCDOT Contractor performed work shall be new 136 pound RE rail with new turnouts and switches except for two closure lengths of rail which shall utilize 115 pound RE rail salvaged from this project to complete the reconnection of the TRANSFLO yard to CSXT. Compromise joints to match the existing rail (115 and 100-pound rail) will be required to make final connections to existing rail. NCDOT's Contractor will perform all of the connections on NCDOT right-of-way and those not indicated to be completed by CSXT. **The Contractor shall provide all material for their work.**

CSXT will perform connections within their right-of-way as indicated on the drawings and CSXT will provide the materials for the connection. NCDOT's contractor shall have all rail aligned and set with the proper gaps for welded or jointed rail for CSXT to make the final connections. CSXT will provide materials for their final connections.

The majority of the work is within an old railyard and the removal of in-situ material shall be minimized where the in-situ material is found to be suitable. In areas where vegetation will be removed, a suitable sub-ballast layer shall be constructed if not present under the vegetation. CSXT has stated that in the areas where existing sub-ballast is located under vegetated areas, the area can be scraped clean of vegetation, proof rolled, and when the area meets proof rolling requirements, it can be topped with a minimum amount of sub-ballast to form a level working surface for the rail construction if needed or to maintain drainage patterns. Drainage patterns shall be maintained across the yard. For areas where suitable sub-ballast exists and is confirmed to be usable, the Contractor can build directly upon the existing sub-ballast. The new ties, ballast and rail will then be installed. Field adjustments, in order to maintain existing sheet flow drainage and provide the minimum ballast section, shall be performed as directed by the Engineer.

Phase 1A: All rail work noted on the plans for Phase 1 can begin and be performed concurrently with the following exception. The Contractor shall have access to all the project area between Stations 12+58 and 31+75 on (PTBYP) to perform their work. **At the end of ICT #1, the Contractor shall have the roadbed constructed up to the top of the sub-ballast. CSXT will complete their work on to stub end the track to the CSXT yard. Once CSXT work is completed during this phase, the NCDOT Contractor shall remove rail on the CSXT Yard connection ladder as indicated. The contractor shall install the one section of 115 pound RE track as indicated in Phase 1 A as soon as a sufficient quantity of acceptable 115-pound rail is removed. This will provide CSXT the operating track required for the portion of the CSXT yard ladder remaining.**

This phase is staged to reduce the potential for conflict between CSXT and the Contractor. **CSXT will complete their operations to stub end impacted tracks on the existing CSXT Yard ladder as shown on the construction phasing plans. When CSXT's work is completed for this phase, CSXT will operate on the CSXT S-Line and CSXT Track 1. All CSXT operations for the TRANSFLO facility will continue to be accessed along the CSXT S-Line to the NCDOT Connector into the TRANSFLO Yard. The existing connection to the NCDOT yard and TRANSFLO Yard shall remain operational. The Contractor shall coordinate with the NCDOT Rail Division and CSXT to ensure that the Contractor's work does not impact scheduled train movements on the tracks to remain in service.**

Phase 1B: CSXT is responsible for the installation of the No. 15 powered switch and turnout connecting PTBYP to the CSXT Lead. The Contractor shall coordinate with CSXT to make sure the new turnout is locked out and protected with a derail upon completion of installation to prevent any train movements onto the new yard lead track (PTBYP).

The remainder of new yard lead track (PTBYP) work shall progress until all rail work to complete the ladder connection for the CSXT Yard – including the connections to be performed by CSXT to PTBYP2 and PTTRF3 and to the 115-pound rail connecting to the CSXT Yard - as well as all work within NCDOT's currently fenced operational area. The intent is to maintain NCDOT's connection to CSXT Track 1 and S-Line as long as possible and to retain connection from the CSXT S-Line to NCDOT's connection to the TRANSFLO Yard until all work is completed for this phase. All rail work up to this point will be new rail except for the 115-pound rail closure section on the CSXT Yard ladder removed in Phase 1 A. The Contractor shall coordinate the work with NCDOT to provide uninterrupted operation on their connecting track to CSXT Track 1 and the S-line and coordinate with CSXT to provide uninterrupted rail operations on CSXT Track 1 and the S-Line and into the TRANSFLO Yard.

Phase 1C: In order to not adversely impact the TRANSFLO operations, close coordination is required between the Contractor, CSXT, NCDOT and TRANSFLO as this phase has an ICT associated with it. CSXT will lock out the switch from the CSXT S-line onto CSXT Track 1. Once this lockout occurs, NCDOT will lose their connection to their facility and TRANSFLO will lose connection to their Yard. The Contractor can begin the removal of turnouts and rail on CSXT Track 1 and the connections to the TRANSFLO Yard as indicated. The contractor shall utilize acceptable 115-pound rail removed previously to complete the connection from the CSXT S-line to CSXT Track 1 and CSXT will make the final connections on both ends of the 115-pound rail construction to complete the connection to CSXT Track 1. The Contractor shall construct the connections from the PTBYP2 rail installed in Phase 1B to the TRANSFLO Yard as indicated. This phase shall be coordinated with NCDOT Rail Division, CSXT, TRANSFLO and all work shall be completed in an expeditious manner. Once the phase is complete, all movements from the CSXT S Line to CSXT Track 1 and the TRANSFLO and CSXT yards will be complete.

Phase 2: This phase will be the final stage. Contractor shall remove the remaining track and reconstruct NCDOT's connecting track to CSXT. This phase shall also connect the new yard lead (PTBYP) to the turntable. NCDOT shall operate from the north end of their yard during this phase until the south connection is reestablished as prescribed in ICT #3. The beginning of this phase shall be coordinated with the NCDOT Rail Division and all work shall be completed in an expeditious manner. Once the phase is complete, the siding and connection to the NCDOT yard will be complete and all NCDOT contractor work will be complete including rail and site work.

Work under this phase also includes all miscellaneous construction along the west side of the project associated with the new drive, new NCDOT yard fencing, gate construction and relocation, work along the east side of the maintenance building, paving, etc. At the end of this phase, all rail construction on the project will be complete with all operations restored.

Phase 3: DELETED

TW-3 GENERAL TRACKWORK REQUIREMENTS

A. General Items

- a. The Contractor will be compensated for a single mobilization. This mobilization shall include all costs to mobilize required equipment to the project. All movement of equipment on site including on to, off of or across tracks is considered incidental and is not considered additional mobilization. Movement of all equipment and materials to complete the project

including tampers, regulators and other track mounted equipment shall be considered incidental to the work and shall not be considered cause for additional mobilization cost or contract time

- b. All materials needed to construct the proposed rail will be NEW 136 pound RE rail except for the short segment of existing 115 pound RE rail used to complete the connection on CSXT track (PTTRF3) where the turnout is to be removed. Subject to Engineer's approval, reuse relay 115 pound RE rail components in good condition (Class 2) and meeting the requirements indicated on the plans and specifications may be utilized for the short connection as shown on plans. No track bolts, nuts, spring washers or spikes will be reused.
 - c. Contractor shall be responsible for the materials until they are incorporated into the Work. Loss of any part of the materials by theft or otherwise shall be replaced by the Contractor at his expense.
 - d. The Contractor shall furnish sub-ballast/ballast for surfacing of all tracks indicated on the rail schedule in the contract drawings. Sub-ballast/Ballast shall be delivered to the jobsite in ballast hopper cars or in trucks.
 - e. CSXT will perform connections within their right-of-way as indicated on the drawings and CSXT will provide the materials for the connection. NCDOT's contractor shall have all rail aligned and set with the proper gaps for welded or jointed rail for CSXT to make the final connections. CSXT will provide materials for their final connections. All surfacing of track and connections performed by contractor shall follow CSXT MWI 1103 surfacing policy.
 - f. All material furnished by the Contractor shall be approved by the Engineer.
 - g. No track shall be laid until the roadbed, subgrade, and sub-ballast are complete and approved by the Engineer. All testing required for the installation of these items will be completed by a third party testing firm and the results submitted to the Engineer for review.
 - h. All trackwork to be installed by the Contractor shall be as noted on the Contract Plans.
- B. Preconstruction Survey
- a. The Contractor shall provide a survey of the proposed rail alignments for review by the Engineer. Any adjustments to the grade required to facilitate construction and rail operation will be made at this stage.
- C. Work/Production Schedule
- a. The Contractor shall provide a work / production schedule of all major items within 15 days of Notice to Proceed. This schedule shall be updated every 30 days and shall give sufficient detail to inform the owners / operators of any work that will impact their operations.

TW-4 RAIL CONSTRUCTION-General

All rail construction for the project shall meet the Construction Requirements as specified in the CSX Standard Specifications for the Design and Construction of Private Sidetracks dated September 15, 2016. The specification can be found online at the following location:

<https://www.csx.com/index.cfm/library/files/customers/industrial-development/site-design-guidelines-and-specifications/>

TW-5 RAIL MATERIAL & QUALITY

Contractor shall provide all track materials required to complete their portion of the work indicated on the contract drawings. All materials and appurtenances (rail, ties, tie plates, track bolts, spring washers, joint bars, spikes, switches, turnouts, derails, bumper posts, ballast, sub-ballast, etc.) for the project shall meet the Material Requirements as specified in the CSX Standard Specifications for the Design and Construction of Private Sidetracks dated September 15, 2016. The specification can be found online at the following location:

<https://www.csx.com/index.cfm/library/files/customers/industrial-development/site-design-guidelines-and-specifications/>

TW-6 UNLOADING AND HANDLING OF MATERIALS

- A. The Contractor will be delivering products within an active rail right of way. In order to make the delivery, the drivers will have to meet all CSXT rail safety requirements and have the required credentials to enter the site.
- B. Non-credentialed drivers or personnel will not be allowed within the CSXT designated safety zone of 25 ft. from the centerline of the rail.
- C. The safety credential requirements may require the Contractor to deliver their material to a staging area prior to final delivery by personnel having the required safety credentials. The Contractor shall include the safety credential requirements in their cost and schedule for material deliveries.
- D. Material shall be handled in such a manner as to insure against damage.
- E. Picks shall not be used in the handling or moving of crossties.
- F. The Engineer may refuse acceptance, at no cost to the Owner, of any material being supplied that is unsuitable or not in accordance with these Specifications.

TW-7 DEMOLITION AND SALVAGE OF TRACK MATERIALS

- A. Demolition and Disposal
 - a. The Contractor shall remove and dispose of all ties from the removal of indicated rail and turnouts within CSXT property limits. No used ties shall be used for the proposed construction unless approved or directed by the Engineer. The Contractor shall properly dispose of the cross ties in accordance with all local, state, and federal laws.
- B. Salvage of materials – NCDOT Rail Division
 - a. The NCDOT retains ownership of all track and turnout materials removed by the Contractor within its boundary. Material shall be handled in such a manner as to insure against damage. All rail and hardware removed from NCDOT property shall be stored in an orderly fashion within the NCDOT Capital Yard property limits in the location designated by the Engineer. Jointed rail shall be stacked with the heads up and with sufficient support under the base.
 - b. Ties removed from NCDOT Rail Division Property limits shall be stockpiled and stored in an orderly fashion within the NCDOT Capital Yard property limits in the location designated by the Engineer. Reusable crossties, as designated by the Engineer, shall be stacked and banded with metal straps in bundles of sixteen (16) or less.
 - c. Contractor shall be responsible for and bear cost of replacing or repairing damage to salvaged NCDOT materials due to Contractor mishandling
- C. Salvage of materials – CSXT

- a. CSXT retains ownership of all track and turnout materials removed by the Contractor within its boundary. Material shall be handled in such a manner as to insure against damage. All rail and hardware removed within the project site within CSXT property shall be stored in an orderly fashion within the project limits in the location designated by CSXT. Jointed rail shall be stacked with the heads up and with sufficient support under the base.
- b. Rubber flangeway guard removed from CSXT property will be stockpiled for reinstallation as noted in **TW-18 Railroad Crossing** and care shall be taken to not damage the product. The flangeway guard not utilized will remain stockpiled with other CSXT materials.
- c. Contractor shall be responsible for and bear cost of replacing or repairing damage to salvaged CSXT materials due to Contractor mishandling.

TW-8 SUB-BALLAST

The majority of the project is located within an existing railyard and therefore sub-ballast is already present. In coordination with CSXT, the existing sub-ballast may be incorporated into the typical section when the material is suitable and passes the proof-rolling test. The following will be performed under the direction of the Engineer to determine the type of work to be performed on the sub-ballast.

- A. In order to reduce the amount of earthwork and stone material that will be generated from the project, the Contractor will be allowed to utilize the in-situ material to reduce the amount of excavation and material required to develop the sub-ballast section.
- B. For those areas where existing sub-ballast is present, the Contractor shall blade the top surface of the sub-ballast to level the surface if required. The surface shall then be proof rolled to confirm the integrity of the sub-ballast. The Contractor shall then replace the thin layer of removed sub-ballast material if required to maintain drainage patterns and compact before proceeding with track construction.
- C. When proof rolling indicates substandard conditions are present, then the Contractor shall remove the unsuitable material after the area is reviewed and approved for removal by the Engineer. Material below the sub-ballast depth indicated on the typical sections will be treated and paid for as undercut. Once the unsuitable material is replaced and compacted, the Contractor shall install new sub-ballast material and install the rail section as noted in the contract drawings. The amount of grading will be reduced to only that required to get to acceptable sub-ballast – the maximum sub-ballast to be installed is indicated on the typical sections.
- D. When the exposed material is level, not covered with vegetation, suitable material and meets the sub-ballast characterization and compaction requirements, the Contractor will be allowed to utilize the in-situ material and construct the new rail section atop the existing sub-ballast. These areas will be noted, marked and approved by the Engineer.
- E. When the material is covered with vegetation, the Contractor shall blade the top 2 inches or as required to remove the vegetation. The Contractor shall then follow the same steps noted above.

TW-9 BALLAST

In order to reduce the amount of earthwork and stone material that will be generated from the project, the Contractor will be allowed to utilize the in-situ ballast material to reduce the amount of new material required to develop the ballast section. The contractor shall take care in the removal of the ballast to not contaminate the ballast with fines. Material accepted by the engineer may be reincorporated into the project.

TW-10 PROOF ROLL

Proof Rolling shall be in accordance with NCDOT Standard Specifications for Roads and Structures dated 2012. Proof rolling of the entire track length indicated to be constructed shall be performed.

TW-11 UNDERCUT

The majority of the site is within an existing railyard and therefore the majority proposed project will be constructed within an area that has existing sub-ballast and has been surcharged or compacted by previous rail operations. An item for undercut has been estimated for areas where the subgrade may have been compromised over time. Undercut shall be performed and paid for in accordance with NCDOT Standard Specifications for Roads and Structures dated 2012.

TW-12 RAIL CONSTRUCTION (Jointed and Welded Rail)

- A. Alignment PTBYP will utilize continuously welded rail. The rail shall utilize Flash Butt Welding unless Thermite Welding is approved by the engineer. The in track electric flash butt welding and thermite welding of rail shall be governed by CSXT Welder's Manual, MWI 801-02, latest revision.
- B. Contractor shall perform track construction not covered specifically herein in accordance with CSX Standard Specifications for the Design and Construction of Private Sidetracks dated September, 15 2016.
- C. Contractor shall construct, ballast, line, and surface the track to the final grade and alignment shown in the Contract Plans.
- D. The Contractor shall be responsible for the track until the track is accepted by the Engineer.
- E. Contractor shall obtain approval of roadbed surface, grade, and drainage prior to tie and track placement.
- F. Contractor shall report and document limits of any existing drainage deficiencies prior to start of construction. Contractor shall provide equipment that will not form ruts or water pockets when distributing material over the finished road bed. Where subgrade or road bed surface is damaged, the Contractor shall perform repairs including removal, replacement, grading and compacting at the Contractor's expense.

Joint bar installation shall conform to the following:

- a. Where possible, joints shall be placed clear of road crossings.
- b. Joint bars shall be cleaned and coated with petroleum or petroleum based compound with a corrosion inhibitor.
- c. Rail joints shall be installed so that the bars are not cocked between the base and head of the rail.
- d. Base shall be properly seated in the rail and the full number of correct-size bolts, nuts, and spring washers installed.
- e. Place bolts with nuts alternately on inside and outside of rail and draw tight before spiking. Apply corrosion resistant grease to the bolt threads prior to application of nuts. Bolts shall be tightened at the center of the joint and working both ways to the ends of the joint.
- f. At initial tightening, make bolt tension 20,000 to 30,000 lbs/bolt. Allow two threads of all bolt lengths to protrude from the nut after tightening.
- g. After track has been in service and before acceptance of the work, check all bolts and tighten.

Final gauging shall conform to the following:

- a. Final gauge shall be 4' -8 ½"
- b. Spike rail promptly after laying.

- c. Before spikes are driven, crossties shall be evenly spaced and square to the rail. Tie plates shall be centered on the tie and provide full bearing.
- d. Start and drive spikes vertically and square with the rail and allow about 1/8 inch space between spike head and rail base. Install number and pattern of rail-holding spikes in conformance with the Contract Plans. When spiking, care shall be exercised not to spike the rail. At joints, hold rail in place by reversing the normal position of the spike when it is driven.
- e. Track shall be gauged as spikes are driven home. Do not remove gauge until spikes are driven.
- f. Any crossties that do not fully bear on the ballast shall be nipped up while spiking.
- g. When constructing skeleton track, final gauging and anchor spiking shall not be performed until after the track is lined to the final alignment.

Anchor and double spiking shall conform to the following:

- a. Track curvature shall be spiked as shown on the Contract Plans.
- b. All spikes shall be started and driven perpendicular to the crosstie and square with the rail and so driven that the head of the spike shall have full hold on the base of the rail or the tie plate when anchor spiking.
- c. Spikes shall not be overdriven so that the lip of the spike head bends upward.
- d. No spikes shall be driven at the ends of joint bars.
- e. The Contractor shall remove any overdriven spiking or spikes that are bent while driving. Tie plugs shall be placed and then spikes properly driven.

Ballasting shall conform to the following:

- a. Contractor shall provide all ballast required to complete the work.
- b. Contractor shall be responsible for unloading, hauling, transferring, spreading, tamping, and dressing ballast.
- c. Ballast shall not be distributed until area where ballast is to be installed has been approved by the Owner. No payment will be made for ballast which is distributed without the Owner's approval.
- d. Ballast distribution shall be to depth indicated
- e. Contractor shall repair any ruts that would impair drainage
- f. Excess ballast shall be picked up and redistributed at the Contractor's expense. Where additional ballast is required for dressing, it shall be added by the Contractor at no increase in unit price.

Surfacing shall conform to the following:

- a. A preliminary surfacing shall follow each unloading of ballast.
- b. The Contractor shall thoroughly tamp (surface) track with an on-track power (mechanical) tamper/filler
- c. When jacks are used they must be placed close enough together to prevent undue bending of rails or strains at joints.
- d. Both rails must be raised at one time as uniformly as possible.
- e. Ballast shall be tamped under both sides of cross ties from each end to a point 15 inches inside each rail. Fill the center with ballast, but do not tamp the center between the above stated limits. Tamp both ends of the cross ties simultaneously, including tamping inside and outside of the rail. Regardless of the kind of ballast or the kind of power tamper used, work tamping tools opposite each other on the same tie. Tamp ballast under switch ties for the entire length of each switch tie
- f. After preliminary surfacing has been completed, check line and grade stakes, operate engine and equipment over track, and align track. Bring track to grade and re-tamp ballast. Decrease tamping distance inside rail on cross ties from 15 to 13 inches.

The alignment and surface of the track shall not deviate from uniformity more than the tolerances listed in sub section **TW-13 Tolerances**.

Upon completion of the final surfacing and lining of the track, the Contractor shall trim the ballast using a ballast regulator and ballast broom to conform to the typical roadbed section as shown on the Contract Plans, and dispose of any surplus ballast as directed by the Engineer. The completed ballast section shall have all tie cribs filled. All crossties, tie plates, and rails shall be swept clean.

TW-13 TOLERANCES

- A. The alignment of the track shall not deviate from uniformity more than the following prescribed amounts:
 - a. In tangent sections – Change between any adjacent 31 foot stations measured at the mid offset from a 62 foot line may not be more than 1/2 inch from the gauge line. (The gauge line shall be defined as the line on the gauge side of the line rail, 5/8 inch below the top of the centerline of the railhead. Either rail may be used as the line rail; however, the same rail must be used for the full length of the tangential segment of track.)
 - b. In curved track - Change between any adjacent 31 foot stations measured at the mid-ordinate from a 62 foot chord may not be more than 3/8 inch (The ends of the chord must be at points on the gauge side of the outer rail, 5/8 inch below the top of the railhead.)
- B. Track surface may not deviate from design profile uniformity more than 1/8 inch at the mid-ordinate of a sixty-two (62) foot chord. Cross level must be maintained.
- C. Track gauge shall not deviate from standard in tangent and curved track.
- D. Guard rail face gauge - Distance between guard lines measured across the track at right angles to gauge line, and is measured at the point of frog on both sides of the turnout.
- E. Design value for guard face gauge is 52 3/4 inches. Guard face gauge shall be within plus or minus 1/4 inch of design value.
- F. Guard check gauge - Distance between gauge line of a frog and guard line of its guard rail, or guarding face, measured across the track at right angles to the gauge line. The design value for guard check gauge is 54 5/8 inches. Guard check gauge shall be within plus or minus 1/8 inch of design value.
- G. Build-up of rail ends shall conform to the following:
 - a. The Contractor shall attempt to match rail section to the maximum extent possible. A variation of 3/32 inch or more in the head wear must be built up.
 - b. A runoff of four (4) inches must be made for 3/32 in of build-up with an additional inch of runoff for each additional 1/16 inch of build-up.
 - c. All welding work shall be performed only by personnel that have been approved and cleared by the Engineer.
 - d. Joints to be built-up shall be marked and approved by the Engineer.
 - e. Any mismatched joint that does not require welding shall be ground smooth.

Sixty calendar days after track has been accepted and put into operation, the Contractor shall perform necessary resurfacing adjustments without cost, to leave the track in alignment and on grade.

TW-14 PANEL TRACK CONSTRUCTION

- A. The Contractor may elect to panel track for use in this project. Panels shall consist of preassembled units of one length including rails, crossties, tie plates, spikes, and anchors.
- B. The Contractor shall unload panels and construct track in accordance with sub section **TW-12 Rail Construction (Jointed and Welded)** and in accordance with the Contract Plans.
- C. Once panels are in place and connected, joints/welds shall be staggered. Tracks on one side will be moved in unison along tie plates and the resulting gap shall be plugged with short rail sections.
- D. The Contractor shall straighten any skewed crossties and shall install any missing crossties.
- E. The Contractor shall install any extra rail anchors required.

TW-15 TURNOUTS

- A. Turnouts shall be located as indicated in the Contract Plans. Frog, switch, and guard-rail assemblies shall be complete.
- B. Turnouts may be paneled by the Contractor for installation or for reinstallation under this contract.
- C. Changes in rail section will not be permitted within the limits of switch ties
- D. A switch point protector shall be provided at each switch, on the rail directed by the Owner. Headblocks shall be placed at right angles to the main track and securely spiked. Except where directed otherwise, switch stands shall be set on the closed-point side when the switch is in normal position.
- E. The Contractor shall be responsible for supplying all necessary equipment and labor required to move the units to the proper location, make final connection of the separate units, and to install the turnout at the designated point in the track structure.
- F. Track gauge at the point of switch shall be fifty-seven (57) inches unless otherwise directed by the Engineer.
- G. Three gauge rods shall be installed ahead of each switch point after the turnout has been installed.
- H. All hand throw stands, targets, and hold down latches are to be set by the Contractor and adjusted so that the points operate freely and fit tightly against the stock rail when in a closed circuit.
- I. The Contractor shall lubricate all switch point slide plates with graphite or other material approved by the Engineer.

TW-16 BLUE FLAG SIGNAL AND DERAIL CONSTRUCTION AND INSTALLATION

- A. Any existing blue flag signal and derails shall be relocated as determined in the field using salvaged materials in accordance with the Contract Plans. The Contractor shall be responsible for extending wiring and conduit necessary to activate the relocated blue flag signals and derails. All blue flag signals shall remain in service at all times on active operating tracks. No double switch point derail shall be constructed or installed without Owner supervision.
- B. The Contractor shall install Model HB or EB derails as replacement parts are required.

- C. Blue lights shall be new solar-powered, LED, flashing light with off/on/automatic settings. These lights shall be visible from 660 feet during the day and from 1 mile at night.

TW-17 TRACK AND TURNOUT REMOVAL

- A. The Contractor shall remove track and/or turnouts as shown on the Contract Plans.
- B. Track removal shall include removing spikes, joint bars, rail anchors, rails, tie plates, crossties, other track material and disposition of materials.
- C. Turnout removal shall include disassembling turnout components and disposition of materials.
- D. Disposition of materials shall be in accordance with sub section **TW-7 Demolition and Salvage of Track Materials**.

TW-18 RAILROAD CROSSING

- A. Temporary Construction Crossings
 - a. The Contractor shall provide sketches and material lists for any temporary crossings to be constructed. The sketches will need approval from the Engineer and the operating railroad which will cross over the temporary crossing prior to construction.
 - b. Temporary Construction crossings will be required for the Contractor to access areas of trackwork proposed under this contract. The temporary crossings of track shall utilize timbers between and outside of the tracks to provide an adequate surface for vehicles to traverse safely and to prevent construction equipment from damaging the rail. Gravel or existing material generated from work within the project limits may be utilized to construct the temporary ramps as long as the material is of the same make-up and consistency of the material it is being placed upon. Material which will foul the material below will not be allowed.
 - c. The timbers shall be affixed to the timber ties with bolts in a manner acceptable to the operating Railroad and to prevent shifting of the timbers due to train or vehicle traffic on the crossing. The crossing shall be a minimum of 6 feet wider than the widest vehicle required to utilize the crossing.
 - d. The temporary crossing shall be delineated with cones outside of the track clearance limits.
 - e. Upon removal, all damaged ties shall be replaced or bolt holes plugged in accordance with CSXT standards.
- B. Service Crossings
 - a. Prior to reinstalling the rubber flangeway guard at crossings as directed by CSXT, the Contractor and CSXT shall meet in the field to confirm the location of the service crossings, limits of the flangeway guard, installation of the flangeway guard (Note: CSXT may elect to install the flangeway guard with their forces) and the asphalt ramp specifics. The Contractor shall utilize the existing rubber flangeway guard salvaged during track removal.
 - b. The flangeway guard shall be installed in accordance with manufacturer's recommendations and specifications when the Contractor performs the work. The expectation is that the Contractor will be responsible for the flangeway guard installation and coordination concerning this installation with CSXT is required prior to the field meeting so that the construction schedule is not impacted.
 - c. The expectation is that the existing material can be salvaged and reused and sufficient quantity exists and no new flangeway guard will be required. When additional material is required, the Contractor shall submit a change order in accordance with the specifications.

- d. Asphalt pavement material and installation shall conform to Section 610 of the North Carolina Department of Transportation Standard Specifications for Roads and Structures dated January 2012 and utilize material type I-19.0B.
- e. The width of the asphalt ramp service crossing will depend upon adjacent track, connecting crossings and track geometry. The Contractor shall include 3 asphalt service crossings in their bid in accordance with the details indicated on the contract drawings.

TW-19 DISPOSITION OF MATERIAL GENERATED (earthwork, ballast, sub-ballast)

A. CSXT Surplus Earthwork

- a. Unless directed otherwise by the Engineer, no earthwork, ballast, sub-ballast material generated from the grading operations within the CSXT property limits shall be removed from the project limits. The re-use of existing sub-ballast and ballast material is critical to reducing the generation of excess material and the amount of new material that will need to be incorporated into the project limits. For the purposes of disposing of CSX Right-of-Way generated material, the project limits shall extend to the north along CSX to near milepost S-155.0.
- b. The Contractor shall provide adequate means at their stockpile areas to delineate and separate imported material from in-situ material for acceptable removal at the end of the project.
- c. The Contractor shall coordinate with the Engineer and CSXT on the location of stockpiles of in-situ material generated by the project during construction and the final placement and incorporation at the end of the project.
- d. The work to place the material into the stockpile is considered incidental to the contract.
- e. If CSXT desires to incorporate any excess material into the project – i.e. spread the material or make general repairs in ballasted areas or walkways, the contractor will be requested to provide an estimate to perform that work to the Engineer. The Engineer will coordinate with CSXT to determine if the work will be paid for by CSXT and will direct the contractor accordingly.

B. NCDOT Surplus Earthwork

- a. Unless directed otherwise by the Engineer, earthwork, ballast and sub-ballast material generated from the grading operations within the NCDOT property limits shall be removed from the project limits and disposed of in approved landfills in accordance with local, state and federal regulations.

TW-20 SALVAGE AND REINSTALL SECURITY GATE

The access drive to the NCDOT property is controlled by a card access security gate. The contractor shall carefully remove the gate, operating mechanism and electronics and reinstall these components in the new location as indicated on the drawings.

The reader is connected to the States ITS system and this connection will need to be in service when the gate relocation is completed. The contractor shall coordinate with the Rail Division on the extension of the electrical and communication lines from the current gate location to the new location. The extension will include all wiring, junction boxes, and panels to complete the relocation of the gate.

TW-21 SUPPLEMENTARY INSTALLATIONS

Furnish and install permanent signs and signals such as crossing, clearance, derail and other safeguards as directed.

TW-22 FIELD QUALITY CONTROL

- A. All rail fittings shall be thoroughly inspected for any defects that might hinder satisfactory operation.
- B. Inspect bolted joints for loose bolts and smooth transitions between rails of different sections.
- C. Gauge, alignment, cross level and grade shall be tested at least once every 100 feet or less of track centerline length. Gauge shall be measured between points on inside of rails, 5/8 inch below top of railhead.
- D. Contractor shall provide independent track inspection and shall survey for vertical and horizontal conformance to project requirements prior to requesting inspection by the Engineer. Contractor shall provide survey information, including control used, to the Engineer prior to requesting inspection by the Engineer.
- E. Method of correction shall be as approved by the Owner

TW-23 SUBMITTAL LOGS

- A. NCDOT will provide samples of Submittal Logs, Requests for Information (RFI) forms, and other standard forms to be utilized by the Contractor.
- B. The Contractor may utilize these forms or provide forms sufficiently representative to provide the information requested for review with the first project submittal.

TW-24 MEASUREMENT AND PAYMENT

- A. Payment for work items in this Section will be included in the total construction Bid Price and will be considered part of the applicable Bid Items.
- B. The contractor shall inform the Engineer when a quantity beyond the stated contract quantity is going to be exceeded. The cost for the estimated overrun quantity shall be handled with a change order.
- C. Items that will underrun the contract quantity will be handled by using the contract price and units to determine the amount that will be deducted from the total contract price.

There shall be no payment to Contractor for any portion of the Contractor furnished material which is placed and then subsequently determined by material testing to not be in compliance with these Specifications. Removal of the material shall be at the Contractor's expense.

ELECTRICAL SUPPLY, LIGHTING AND SERVICE CONSTRUCTION:

Description

Requirements and coordination for electrical work as part of this project are specified on plan sheets and Special Notes. Service connections as required to complete the relocation of the security gate shall be coordinated with the North Carolina Department of Transportation – Rail Division. All construction shall conform to these requirements unless specifically directed otherwise by the Engineer or Owner.

Measurement and Payment

A line item for this work has been established on the bid form. Payment will be included in lump sum payment for all work in the Contract.

7.6 BID, CERTIFICATION, BOND AND MBE/WBE LISTING FORMS

BID FORM

To: **North Carolina Department of Transportation - Rail Division**

For the Project: **NCDOT Capital Yard South Lead**

Pursuant to and in compliance with the Request for Bids on the NCDOT Capital Yard South Lead project the undersigned bidder offers to furnish all labor, superintendence, materials, supplies, equipment, plant and other facilities, utilities, and all things necessary or proper for, and to perform all work necessary or incidental to the project, complete in every respect in strict accordance with the specifications and to perform all other obligations imposed by the specifications for the following items.

Type	NCDOT Pay Item Desc / Project Detailed Description	Item Number / Project QTY	Section / Project Unit	Pay Qty	Units	Unit Cost	Extension	Subtotal
M	MOBILIZATION	0000100000-N	800 - See Note 4	1	LS			
M	CONSTRUCTION SURVEYING	0000400000-N	801	1	LS			
M	SUPPLEMENTAL FIELD SURVEYING	0000500000-N	801	8	HR			
G	GENERIC MISCELLANEOUS ITEM	xxxxxx	Note 1	12	EA			
	<i>Remove Bollards - Cut off flush with pavement and fill w conc./remove completely in soil or gravel</i>	12	EA					
G	GENERIC MISCELLANEOUS ITEM	xxxxxx	Note 1	3	CY			
	<i>Remove Concrete Fdn to 8" below Tie</i>	3	CY					
G	GRADING	0043000000-N	226	1	LS			
	<i>Concrete Pavement Removal</i>	20	SY					
	<i>Asphalt and Gravel Pavement Removal</i>	415	SY					
	<i>Asphalt Removal</i>	2500	SF					
	<i>Clearing and Grubbing</i>	0.5	AC					
	<i>Selective Tree Trimming</i>	550	LF					
	<i>Dem o Fence Gate, double swing</i>	1	EA					
	<i>Dem o Fence, barbed wire</i>	500	LF					
	<i>Earth Fill</i>	300	CY					
	<i>Rough Grading</i>	1300	SY					
	<i>Fine Grading, Maintenance Shed Paved Area and Storage Area, and Maintenance Road</i>	1550	SY					
	<i>Fine Grading, fill slopes at beginning of project</i>	1300	SY					

Type	NCDOT Pay Item Desc / Project Detailed Description	Item Number / Project QTY	Section / Project Unit	Pay Qty	Units	Unit Cost	Extension	Subtotal
G	SUPPLEMENTARY CLEARING & GRUBBING	0050000000-E	226	0.2	ACR			
	<i>C&G</i>	<i>0.2</i>	<i>AC</i>					
G	UNDERCUT EXCAVATION	0057000000-E	226	300	CY			
	<i>undercut</i>	<i>300</i>	<i>CY</i>					
G	PROOF ROLLING	0192000000-N	260	20	HR			
	<i>Proof Roll of all subgrade under track construction</i>	<i>20</i>	<i>HR</i>					
P	AGGREGATE BASE COURSE	1121000000-E	520	760	TON			
	<i>Aggregate Base Course- 6" thick, Storage Area & Maint Road</i>	<i>1175</i>	<i>SY</i>					
	<i>Aggregate Base Course- 4" thick</i>	<i>400</i>	<i>SY</i>					
	<i>Subballast</i>	<i>700</i>	<i>Ton</i>					
P	ASPHALT PLANT MIX, PAVEMENT REPAIR	1693000000-E	654	60	TON			
	<i>3" Asphalt for at-grade crossings in Yard</i>	<i>300</i>	<i>SY</i>					
P	10" PORT CEM CONC PAVEMENT, THROUGH LANES (WITH DOWELS)	1847000000-E	710	400	SY			
	<i>PCC Pavement- 10" thick with dowels and joints</i>	<i>400</i>	<i>SY</i>					
P	PRECAST CONCRETE BARRIER	2696000000-E	Note 2	20	LF			
	<i>Precast Double Face Concrete Barrier (10 ft)</i>	<i>2</i>	<i>EA</i>					
P	PRECAST CONCRETE BARRIER	2696000000-E	Note 2	5	LF			
	<i>Precast Double Face Concrete Barrier (5 ft)</i>	<i>2</i>	<i>EA</i>					
GR	STEEL BM GUARDRAIL	3030000000-E	862	31.25	LF			
	<i>Guardrail</i>	<i>31.25</i>	<i>LF</i>					
GR	STEEL BM GUARDRAIL TERMINAL SECTIONS	3105000000-N	862	2	EA			
	<i>Terminal End Section</i>	<i>2</i>	<i>EA</i>					
GR	GENERIC GUARDRAIL ITEM	3435000000-N	Note 3	1	EA			
	<i>GR Post Protection Plate</i>	<i>1</i>						

Type	NCDOT Pay Item Desc / Project Detailed Description	Item Number / Project QTY	Section / Project Unit	Pay Qty	Units	Unit Cost	Extension	Subtotal
GR	GENERIC GUARDRAIL ITEM	3435000000-N	Note 3	5	EA			
	<i>Steel Posts with Base Plates & Appurtenances for Install</i>	5						
F	CHAIN LINK FENCE, 96" FABRIC	3533000000-E	866	1200	LF			
	<i>Fence, Chain Link Industrial, 8'H, 3 strands barbed wire</i>	1175	LF					
F	METAL LINE POSTS FOR 96" CHAIN LINK FENCE	3539000000-E	866	130	EA			
	<i>line posts</i>	130	EA					
F	METAL TERMINAL POSTS FOR 96" CHAIN LINK FENCE	3545000000-E	866	10	EA			
	<i>terminal posts</i>	10	EA					
F	METAL GATE POSTS FOR 96" CHAIN LINK FENCE, DOUBLE GATE	3554000000-E	866	4	EA			
	<i>Gate Posts</i>	4	EA					
F	ADDITIONAL BARBED WIRE	3557000000-E	866	3600	LF			
	<i>Add Barbed Wire</i>	3600	LF					
R	DOUBLE GATES, 96" HIGH, 8' WIDE, 16' OPENING	3565000000-E	866	1	EA			
	<i>Double Swing Gate, 8'H, 16' wide, 3 barbed wire</i>	1	EA					
R	CHAIN LINK FENCE RESET	3572000000-E	867	50	LF			
	<i>Remove and Reset Fence - South End of Project</i>	50	LF					
F	GENERIC FENCING ITEM	3578000000-N	Note 2	1	EA			
	<i>Salvage and Reinstall Powered Aluminum Security Gate, 8'H 14' Opening</i>	1	EA					
T	RAILROAD TRACK TO BE CONSTRUCTED	3812000000-E	Note 4	4250	Track Ft			
	<i>Rail, 136RE Class I (NEW)</i>	4240	Track Ft					

Type	NCDOT Pay Item Desc / Project Detailed Description	Item Number / Project QTY	Section / Project Unit	Pay Qty	Units	Unit Cost	Extension	Subtotal
T	RAILROAD TRACK TO BE CONSTRUCTED	3812000000-E	Note 4	290	Track Ft			
	<i>Rail, 115RE Class I (NEW)</i>	<i>285</i>	<i>Track Ft</i>					
T	RAILROAD TRACK TO BE REMOVED	3836000000-E	Note 4	2150	Track Ft			
	<i>Track Removal</i>	<i>2110</i>	<i>Track Ft</i>					
T	RAILROAD TRACK TO BE LINED	3844000000-E	Note 4	1300	Track Ft			
	<i>Line existing track</i>	<i>1300</i>	<i>Track Ft</i>					
T	STONE BALLAST (AREA #4)	3856000000-E	Note 4	4500	TON			
	<i>Stone Ballast</i>	<i>4500</i>	<i>Ton</i>					
T	GENERIC TRACKWORK ITEM	3883000000-N	Note 2	300	CY			
	<i>Offsite Waste Disposal</i>	<i>300</i>	<i>CY</i>					
T	GENERIC TRACKWORK ITEM	3884000000-N	Note 4	2820	EA			
	<i>Pressure-Treated Timber Ties,</i>	<i>2820</i>	<i>EA</i>					
T	GENERIC TRACKWORK ITEM	3884000000-N	Note 4	7	EA			
	<i>Turnout Removal</i>	<i>7</i>	<i>EA</i>					
T	GENERIC TRACKWORK ITEM	3884000000-N	Note 4	4	EA			
	<i>136 RE, No. 8 turnout, RBM Frog, incl Sw Pt Guard (NEW)</i>	<i>4</i>	<i>EA</i>					
T	GENERIC TRACKWORK ITEM	3884000000-N	Note 4	5	EA			
	<i>136 RE, No. 10 turnout, RBM Frog, incl Sw Pt Guard (NEW)</i>	<i>5</i>	<i>EA</i>					
T	GENERIC TRACKWORK ITEM	3884000000-N	Note 4	1	EA			
	<i>Car Bumper</i>	<i>1</i>	<i>EA</i>					
T	GENERIC TRACKWORK ITEM	3884000000-N	Note 4	2	EA			
	<i>Derail, hand throw</i>	<i>2</i>	<i>EA</i>					
S	GENERIC SIGNING ITEM	4370000000-N	Note 2	1	LS			
	<i>Misc signs for mile post, derail, etc.</i>	<i>1</i>	<i>LS</i>					

Type	NCDOT Pay Item Desc / Project Detailed Description	Item Number / Project QTY	Section / Project Unit	Pay Qty	Units	Unit Cost	Extension	Subtotal
PM	PAINT PAVEMENT MARKING LINES (8")	4820000000-E	1205	250	LF			
	<i>8" Yellow Pavement Marking Paint</i>	<i>250</i>	<i>LF</i>					
U	GENERIC UTILITY ITEM	5912000000-N	Note 2	1	LS			
	<i>Electrical Work to reconnect powered security gate</i>	<i>1</i>	<i>LS</i>					
D	GEOTEXTILE FOR DRAINAGE	3656000000-E	876	250	SY			
	<i>Filtration Geotextile</i>	<i>250</i>	<i>SY</i>					
L	TEMPORARY SILT FENCE	6000000000-E	1605	1000	LF			
	<i>Temporary Silt Fence</i>	<i>1000</i>	<i>LF</i>					
L	STONE FOR EROSION CONTROL, CLASS A	6006000000-E	1610	80	TON			
	<i>EC Class A Stone</i>	<i>80</i>	<i>Ton</i>					
L	STONE FOR EROSION CONTROL, CLASS B	6009000000-E	1610	10	TON			
	<i>EC Class B Stone</i>	<i>10</i>	<i>Ton</i>					
L	SEDIMENT CONTROL STONE	6012000000-E	1610	15	TON			
	<i>Sediment Control Stone</i>	<i>15</i>	<i>Ton</i>					
L	TEMPORARY MULCHING	6015000000-E	1615	0.5	ACR			
	<i>Temporary & Final Mulching</i>	<i>0.5</i>	<i>Acre</i>					
L	SEED FOR TEMPORARY SEEDING	6018000000-E	1620	50	LB			
	<i>Seed for Temporary & Final Seeding</i>	<i>0.5</i>	<i>Acre</i>					
L	FERTILIZER FOR TEMPORARY SEEDING	6021000000-E	1620	0.1	TON			
	<i>Fertilizer</i>	<i>0.5</i>	<i>Ton</i>					
L	TEMPORARY SLOPE DRAINS	6024000000-E	1622	200	LF			
	<i>Temporary Slope Drains</i>	<i>200</i>	<i>LF</i>					
L	SAFETY FENCE	6029000000-E	Note 2	5000	LF			
	<i>Temporary Orange Construction Fencing</i>	<i>5000</i>	<i>LF</i>					

Type	NCDOT Pay Item Desc / Project Detailed Description	Item Number / Project QTY	Section / Project Unit	Pay Qty	Units	Unit Cost	Extension	Subtotal
L	SILT EXCAVATION	6030000000-E	1630	10	CY			
	<i>Silt Excavation & Removal</i>	<i>10</i>	<i>CY</i>					
L	MATTING FOR EROSION CONTROL	6036000000-E	1631	2300	SY			
	<i>Matting for EC</i>	<i>2300</i>	<i>SY</i>					
B	Generic Structure Item	8897000000-N	Note 2	3	EA			
	<i>Steel Pipe Bollards</i>	<i>3</i>	<i>EA</i>					
						TOTAL BID		

Notes

- 1) Items to be removed in accordance with NCDOT Standard Specification Section 210
- 2) See Bid Item Description
- 3) See Construction Drawing Detail - Sheet CP-02
- 4) See Project Manual Section 5

Pay Item / Description

Mobilization - One time mobilization cost for all equipment to complete the project

Construction Surveying – Surveying as required for the layout and setting of control to construct the project per NCDOT Std. Specifications for Construction Stakes Line and Grade - Section 801

Remove Bollards - Removal of steel bollards flush with existing concrete pavement to remain, filling void and/or removal of complete bollard in gravel and backfilling hole. NCDOT Std. Specifications for Comprehensive Grading - Section 226

Removal of Miscellaneous Concrete Foundations to 8" below Tie - Estimated quantity of concrete foundation removal to 8" below bottom of tie and disposal - NCDOT Std. Specifications for Demolition of Buildings and Appurtenances - Section 210

Concrete Pavement Removal - NCDOT Std. Specifications for Comprehensive Grading - Section 226

Asphalt and Gravel Pavement Removal - NCDOT Std. Specifications for Comprehensive Grading - Section 226

Asphalt Removal - Removal of asphalt ramps and base material for ramps and removal/salvage of rubber flangeway guard adjacent to rail and storage for reinstallation. NCDOT Std. Specifications for Comprehensive Grading - Section 226

Clearing and Grubbing – Removal of wooded areas and grubbing of root mats per NCDOT Std. Specifications for Clearing and Grubbing - Section 200

Selective Tree Trimming - Removal of overhanging tree limbs above new yard lead track (PTBYP) along track from station 12+58 to approximately station 18+00 - NCDOT Std. Specifications for Comprehensive Grading - Section 226

Demo Fence Gate, double swing - Removal of fence, grounding, posts and foundations, repairs and disposal. NCDOT Std. Specifications for Comprehensive Grading - Section 226

Demo Chain Link Fence w/ Barbed Wire - Removal of fence, NCDOT Std. Specifications for Comprehensive Grading - Section 226

Earth Fill - CSXT Std. Specifications for Design and Construction of Private Sidetracks

Rough Grading - NCDOT Std. Specifications for Comprehensive Grading - Section 226 and includes clearing and grubbing.

Fine Grading, Maintenance Shed Paved Area and Storage Area, and Maintenance Road - Grading and compaction of miscellaneous areas for pavement and aggregate surfacing - NCDOT Std. Specifications for Comprehensive Grading - Section 226

Fine Grading, fill slopes at beginning of project - Final dressing of slopes at south end of project - NCDOT Std. Specifications for Comprehensive Grading - Section 226

Undercut - NCDOT Std. Specifications for Undercut included in Roadway Excavation - Section 226

Aggregate Base Course / 6" thick - Storage Area & Maintenance Road - NCDOT Std. Specifications for Aggregate Base Course - Section 520

Aggregate Base Course / 4" thick - NCDOT Std. Specifications for Aggregate Base Course - Section 520

Subballast – per CSXT Std. Specifications for Design and Construction of Private Sidetracks and NCDOT Std. Specifications for Aggregate Base Course - Section 520

3" Asphalt for at-grade crossings in Yard - NCDOT Std. Specifications for Asphalt Plant Mix Pavement Repair - Section 654 including installation of salvaged rubber flangeway guard

PCC Pavement - 10" thick with dowels and joints - NCDOT Std. Specifications for Concrete Pavement - Section 710.
Dowels utilized due to heavy equipment usage on slabs.

Precast Double Face Concrete Barrier (10 ft) - NCDOT Std. Drawing 854.04 in the lengths indicated

Precast Double Face Concrete Barrier (5 ft) - NCDOT Std. Drawing 854.04 in the lengths indicated

Guardrail, Protection Plate, Steel Posts with Base Plates & Appurtenances for Install - NCDOT Std. Specifications for Guardrail - Section 862 with base plates anchored into concrete pavement as indicated on contract drawings

Fence, Chain Link Industrial, 8'H, 3 strands barbed wire - NCDOT Std. Specifications for Fence - Section 866

Double Swing Gate, 8'H, 16' Opening, 3 barbed wire - NCDOT Std. Specifications for Fence - Section 866

Remove and Reset Fence - South End of Project - Removal of existing vinyl coated fence, fence posts and appurtenances and resetting of fence and appurtenances per NCDOT Std. Specifications for Fence Reset - Section 867

Remove and Salvage Existing Aluminum Security Gate & appurtenances - Removal and salvage of existing security fence, hardware, operators and controllers and storage for reinstallation. See Section 5 – Rail Project Special Provisions of the Project Manual

Reinstall Powered Aluminum Security Gate, 8'H 14' Opening - All equipment, materials and labor to re-install security gate, hardware, controllers in accordance with manufacturer recommendations and as indicated on contract drawings including coordination with NCDOT IT group. See Section 5 – Rail Project Special Provisions of the Project Manual

Rail, 136RE (NEW) - includes all tie plates, spikes, bolts, anchors, joint bars, compromise joint bars, welds and appurtenances to install rail. See CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual – paid as track feet.

Rail, 115RE – Class 2 (Relay from Project) - Utilize rail removed from the project limits where noted to complete construction indicated. Rail proposed for reuse shall be approved by the Engineer. Includes all tie plates, spikes, bolts, anchors, joint bars, compromise joint bars, welds and appurtenances to install rail. CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual – paid as track feet.

Track Removal - CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual – Paid as linear feet of track removal.

Railroad Track to be Lined – Perform Resurfacing and realigning of existing track - includes any replacement and installation of rail appurtenances. All work to be done per CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual. Includes the shifting of approximately 450 feet of existing track and includes a short section of rail at each connection made by the contractor. Perform lining per CSXT MWI-1103 Surfacing policy.

Ballast - CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual

Offsite Waste Disposal - Estimated quantity to haul material to CSXT approved landfill in Zebulon, NC. Disposal to be approved by the engineer.

Pressure-Treated Timber Ties - 7"x9"x8.5' treated ties – material only, installation cost included in rail cost. Ties shall meet CSXT Std. Specifications for Design and Construction of Private Sidetracks.

Turnout Removal – Removal of turnout, switch, ties, and appurtenances. CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual

136 RE, No. 8 turnout, RBM Frog, including Switch Point Guard (NEW) – Installation of turnout complete per contract drawings and CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual

136 RE, No. 10 turnout, RBM Frog, including Switch Point Guard (NEW) - Installation of turnout complete per contract drawings and CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual

Car Bumper – Installation of car bumper complete per CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual

Derail, hand throw – Installation of hand throw derails complete per CSXT Std. Specifications for Design and Construction of Private Sidetracks and Section 5 of the Project Manual

Signs, Miscellaneous – Installation of mile post markers, signs for derails, replacing damaged signs, etc. Sign work shall follow NCDOT Std. Specifications for General Requirements for Signing - Section 900

8" Yellow Pavement Marking Paint - NCDOT Std. Specifications for Pavement Markings - Section 1250

Electrical Work to reconnect powered security gate All equipment, materials and labor to power and reconnect wiring to appropriate controllers in accordance with manufacturer recommendations - including coordination with NCDOT IT group.

Filtration Geotextile - NCDOT Std. Specifications for Rip Rap - Section 876

Temporary Silt Fence - NCDOT Std. Specifications for Temporary Silt Fence - Section 1605

EC Class A Stone - NCDOT Std. Specifications for Stone for Erosion Control - Section 1610

EC Class B Stone - NCDOT Std. Specifications for Stone for Erosion Control - Section 1610

Sediment Control Stone - NCDOT Std. Specifications for Stone for Erosion Control - Section 1610

Temporary & Final Mulching - NCDOT Std. Specifications for Temporary Mulching - Section 1615

Seed for Temporary & Final Seeding - NCDOT Std. Specifications for Temporary Seeding - Section 1620

Fertilizer - NCDOT Std. Specifications for Temporary Seeding - Section 1620

Temporary Slope Drains - NCDOT Std. Specifications for Temporary Slope Drains - Section 1622

Temporary Orange Construction Fencing - Estimated quantity. All equipment, materials and labor to install temporary orange construction fencing to delineate construction areas. Location to be determined in Field with Engineer.

Silt Excavation & Removal - NCDOT Std. Specifications for Construction and Maintenance of Silt Detention Devices - Section 1630

Matting for EC - NCDOT Std. Specifications for Rolled Erosion Control Products - Section 1631

Steel Pipe Bollard, Sch. 80 pipe, concrete filled, 4" All materials, equipment and labor to install pipe bollards as shown on contract drawing CP-02

Contract Proposal: RD-18001

Vendor: _____

Bid Total:

_____ Dollars _____
(Words) (Figures)

Accompanying this Bid Form is bid security in the amount of 5% of the base bid amount.

The bidder further agrees that this bid shall be valid for a period of ninety (90) days from the date of receipt of the bids; and, that if this bid is accepted by the Department within this period, the bidder shall execute the contract and provide security bonds as required and that upon failure, neglect, or refusal to do so, shall forfeit to the Department the bid security accompanying this Bid Form not as a penalty but as liquidated damages.

The bidder also acknowledges receipt of the following addenda which shall be considered as part of the specifications

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization

Name of Bidder: _____
Company

By: _____
Signature Typed Name

Title: _____

Address of Bidder: _____

North Carolina Contractor's License No.: _____

Classification(s): _____

Limits: _____

Federal I.D. or Social Security Number: _____

Attest:

By: _____ Date: _____

Title: _____

By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.

LISTING OF DBE SUBCONTRACTORS

Sheet _____ of _____

FIRM NAME AND ADDRESS MBE or WBE	ITEM NO.	ITEM DESCRIPTION	* AGREED UPON UNIT PRICE	** DOLLAR VOLUME OF ITEM

Contract No. _____ **County** _____ **Firm** _____

This form must be completed in order for the Bid to be considered responsive and be publicly read. Bidders with no DBE participation must so indicate this on the form by entering the word or number zero.

LISTING OF DBE SUBCONTRACTORS

Sheet _____ of _____

FIRM NAME AND ADDRESS MBE or WBE	ITEM NO.	ITEM DESCRIPTION	* AGREED UPON UNIT PRICE	** DOLLAR VOLUME OF ITEM

** Dollar Volume of DBE \$
Subcontractor _____

Percentage of Total Contract Bid _____
Price %

* The Dollar Volume shown in this column shall be the Actual Price Agreed Upon by the Prime Contractor and the DBE subcontractor, and these prices shall be used to determine the percentage of the DBE participation in the contract.

** Must have entry even if figure to be entered is zero.

This form must be completed in order for the Bid to be considered responsive and be publicly read. Bidders with no MBE and/or WBE participation must so indicate this on the form by entering the word or number zero.

NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION

CORPORATION

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 any bid or contract, that the bidder has not been convicted of violating N.C.G.S. § 133-24 within the last three years, 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 attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

SIGNATURE OF CONTRACTOR

Full name of Corporation

Address as Prequalified

Attest _____
Secretary/Assistant Secretary
Select appropriate title

By _____
President/Vice President/Assistant Vice President
Select appropriate title

Print or type Signer's name

Print or type Signer's name

CORPORATE SEAL

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: _____

NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION

PARTNERSHIP

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 any bid or contract, that the bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, 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 attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

SIGNATURE OF CONTRACTOR

_____ Full Name of Partnership

_____ Address as Prequalified

_____ Signature of Witness By _____ Signature of Partner

_____ Print or type Signer's name

_____ Print or type Signer's name

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: _____

**NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION
LIMITED LIABILITY COMPANY**

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 any bid or contract, that the bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, 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 attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

SIGNATURE OF CONTRACTOR

Full Name of Firm

Address as Prequalified

_____ Signature of Witness	Signature of Manager	_____ Individually
-------------------------------	-------------------------	-----------------------

_____ Print or type Signer's name	_____ Print or type Signer's Name
--------------------------------------	--------------------------------------

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:_____

**NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION
JOINT VENTURE (2) or (3)**

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 any bid or contract, that the bidder has not been convicted of violating N.C.G.S. § 133-24 within the last three years, 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 attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

SIGNATURE OF CONTRACTOR

Instructions: **2 Joint Venturers** Fill in lines (1), (2) and (3) and execute. **3 Joint Venturers** Fill in lines (1), (2), (3) and (4) and execute. On Line (1), fill in the name of the Joint Venture Company. On Line (2), fill in the name of one of the joint venturers and execute below in the appropriate manner. On Line (3), print or type the name of the other joint venturer and execute below in the appropriate manner. On Line (4), fill in the name of the third joint venturer, if applicable and execute below in the appropriate manner.

(1) _____
Name of Joint Venture

(2) _____
Name of Contractor

Address as Prequalified

Signature of Witness or Attest By _____
Signature of Contractor

Print or type Signer's name and _____
Print or type Signer's name
If Corporation, affix Corporate Seal

(3) _____
Name of Contractor

Address as Prequalified

Signature of Witness or Attest By _____
Signature of Contractor

Print or type Signer's name and _____
Print or type Signer's name

If Corporation, affix Corporate Seal and

(4) _____
Name of Contractor (for 3 Joint Venture only)

Address as Prequalified

Signature of Witness or Attest By _____
Signature of Contractor

Print or type Signer's name and _____
Print or type Signer's name

If Corporation, affix Corporate Seal

NOTARY SEAL

Affidavit must be notarized for Line (2)

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

Signature of Notary Public
of _____ County

State of _____

My Commission Expires: _____

NOTARY SEAL

Affidavit must be notarized for Line (3)

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

Signature of Notary Public
of _____ County

State of _____

My Commission Expires: _____

NOTARY SEAL

Affidavit must be notarized for Line (4)

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

Signature of Notary Public
of _____ County

State of _____

My Commission Expires: _____

NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION

INDIVIDUAL DOING BUSINESS UNDER A FIRM NAME

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 any bid or contract, that the bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, 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 attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

SIGNATURE OF CONTRACTOR

Name of Contractor

_____ Individual name

Trading and doing business as

_____ Full name of Firm

_____ Address as Prequalified

_____ Signature of Witness

_____ Signature of Contractor, Individually

_____ Print or type Signer's name

_____ Print or type Signer's name

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: _____

NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION

INDIVIDUAL DOING BUSINESS IN HIS OWN NAME

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 any bid or contract, that the bidder has not been convicted of violating N.C.G.S. § 133-24 within the last three years, 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 attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

SIGNATURE OF CONTRACTOR

Name of Contractor _____
Print or type Individual name

Address as Prequalified

Signature of Contractor, Individually

Print or type Signer's Name

Signature of Witness

Print or type Signer's name

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: _____

DEBARMENT CERTIFICATION

Conditions for certification:

1. The prequalified bidder shall provide immediate written notice to the Department if at any time the bidder learns that his certification was erroneous when he submitted his debarment certification or explanation filed with the Department, or has become erroneous because of changed circumstances.
2. 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 12549. 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.
3. The prequalified bidder agrees by submitting this form that he will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in NCDOT contracts, unless authorized by the Department.
4. For Federal Aid projects, the prequalified bidder further agrees that by submitting this form he 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.
5. The prequalified bidder may rely upon a certification of a participant in a lower tier covered transaction that he is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless he knows that the certification is erroneous. The bidder may decide the method and frequency by which he will determine the eligibility of his subcontractors.
6. 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.
7. Except as authorized in paragraph 6 herein, the Department may terminate any contract if the 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 by the Federal Government.

DEBARMENT CERTIFICATION

The prequalified bidder certifies to the best of his knowledge and belief, that he and his 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.
- e. Will submit a revised Debarment Certification immediately if his status changes and will show in his bid proposal an explanation for the change in status.

If the prequalified bidder cannot certify that he is not debarred, he shall provide an explanation with this submittal. An explanation will not necessarily result in denial of participation in a contract.

Failure to submit a non-collusion affidavit and debarment certification will result in the prequalified bidder's bid being considered non-responsive.

Check here if an explanation is attached to this certification.

Contract Proposal: RD-18001

Vendor: _____

Execution of Contract

Contract No:

County: Wake

ACCEPTED BY THE

Date

EXECUTION OF CONTRACT AND BONDS
APPROVED AS TO FORM:

Date

Signature Sheet (Bid) - ACCEPTANCE SHEET

APPENDIX A

49CFR§214 Subpart C On-Track Safety Program

Railroad Workplace Safety

49CFR§214 Subpart C On-Track Safety Program For NCDOT Rail Division Owned Mechanical Facilities Effective October 1, 2004

Table of Contents

1. Scope	112
2. Responsibilities of Individual Roadway Workers While Upon NCDOT Rail Division Owned Mechanical Facilities	112
3. Authorized Procedures for NCDOT Rail Division Owned Mechanical Facilities To Establish Roadway Worker Protection	112
4. Authorized Procedures for NCDOT Employees To Challenge Roadway Worker Protection At NCDOT Rail Division Owned Mechanical Facilities	116
5. Training and Qualification For NCDOT Rail Division Owned Mechanical Facilities	120

1. Scope

This program only applies to NCDOT Rail Division Owned Mechanical Facilities, and the track structures located within the designated Mechanical Facility Limits.

Equipment movements within the limits of NCDOT Rail Division Owned Mechanical Facilities shall be governed by such Special Instructions as may be issued from time to time by the NCDOT Rail Division Operations Branch.

2. Responsibilities of Individual Roadway Workers While Upon NCDOT Rail Division Owned Mechanical Facilities

- 2.1. Each Roadway Worker is responsible for following the On-Track Safety Program of the specific facility upon which the Roadway Worker is located.
- 2.2. A Roadway Worker shall not foul a track except when necessary for the performance of duty.
- 2.3. Each Roadway Worker is responsible to ascertain that On-Track Safety is being provided before fouling a track.
- 2.4. Each Roadway Worker may refuse any directive to violate an On-Track Safety Program procedure and shall inform their respective Employer in accordance with their respective Employer’s Good Faith Challenge Procedure (as per 49CFR§214.311).

3. Authorized Procedures for NCDOT Rail Division Owned Mechanical Facilities To Establish Roadway Worker Protection

- 3.1. Employees (either of NCDOT, or any authorized contractor or sub-contractor) performing inspection or maintenance work upon track structures (Roadway Workers) which require that such employees or their equipment foul any track within the designated Mechanical Facility Limits must before fouling any track:

- 3.1.1. Contact the NCDOT Rail Division Mechanical Department¹ Shift Foreperson on duty (or authorized designee) and advise of the specific Working Limits required, as well as the length of time protection will be required. The Mechanical Department will take the necessary steps to remove any rolling stock within said Working Limits of track structures to be serviced or inspected prior to the limits being established by the Roadway Workers. Note that the Working Limits may include more than one track within the facility, to provide protection adjacent to the actual area to be inspected or maintained. Upon such notification by Roadway personnel, the Mechanical Department Shift Foreperson (or authorized designee) shall promptly conduct a job and safety briefing for Mechanical Department personnel to advise them of such Roadway Worker Protection, the Working Limits, etc.
- 3.1.2. After all rolling stock has been removed from the Working Limits of track structures to be serviced or inspected (if so occupied), an authorized representative (qualified Lone Roadway Worker, designated Roadway Employee In Charge, or Roadway Supervisor) shall establish the Working Limits by compliance with 49CFR§214.327 (Inaccessible Track) either by application of derails, associated signs, and locks (maintaining at least 50 feet clearance from any rolling stock not within the Working Limits), or by application of an Effective Locking Device to the switch(es) providing access, and by application to such Effective Locking Devices of appropriate red colored identification tags, or any combination of authorized, effective measures. Each Roadway Work Group whose duties require fouling a track shall have one Roadway Worker designated by their respective Employer to provide On-Track Safety for all members of the group. The Roadway Supervisor (or authorized designee) shall conduct a job and safety briefing for Roadway personnel (as per 49CFR§214.315) to advise them of such Roadway Worker Protection, the Working Limits, designated Employee In Charge, etc. before equipment or personnel may foul any track. Lone Roadway Workers shall comply with 49CFR§214.315e, prior to fouling any track. Additionally, Roadway personnel shall make a good faith effort to notify the Rail Operations Manager (or authorized designee) that Roadway Worker Protection has been established.
- 3.2. Upon completion of work by Roadway Workers:
- 3.2.1. After all affected Roadway Workers and equipment are clear, Roadway Worker Protection may be removed only by the person (or authorized designee) who applied such protection.
- 3.2.2. After protection has been removed, Roadway personnel shall again contact the Mechanical Department Shift Foreperson (or authorized designee) to advise that the track has been released by the Roadway Workers. Such notification shall also be promptly communicated via a job and safety briefing to the Mechanical Department personnel by the Mechanical Department Shift Foreperson or authorized designee. Additionally, Roadway personnel shall make a good faith effort to notify the Rail Operations Manager (or authorized designee) that Roadway Worker Protection has been removed.
- 3.3. In the event the needed Working Limits change, the processes outlined above shall be repeated prior to fouling any track area not currently protected.
- 3.4. Mechanical Department “Blue Signal Protection” (49CFR§218, Subpart B) may not be used as an alternative to the above procedures for the protection of Roadway Workers.
- 3.5. Fixed derails normally intended for Blue Signal Protection within the facility may be used to provide Roadway Worker Protection, providing that the Roadway Workers apply their own Effective Locking Device (not otherwise under the control of the Mechanical Department), and an appropriate red colored identification tag.
- As information, the following Effective Locking Devices² are currently furnished by NCDOT Rail Division for use by NCDOT and/or NCDOT Mechanical Contractor(s):
- 3.5.1. Silver (or natural finish) Padlocks – for use by NCDOT Mechanical Contractor for Blue Signal Protection;

¹ NCDOT Rail Division Operations Branch personnel, and/or any NCDOT Rail Division Operations Branch Mechanical Contractor personnel assigned to the facility.

² All are “Master” brand 930/6230 series heavy duty padlocks.

- 3.5.2. Yellow Padlocks – for use by NCDOT Operations Branch personnel for Blue Signal Protection;
- 3.5.3. Green Padlocks – for use by NCDOT Engineering & Safety Branch personnel for Blue Signal Protection;
- 3.5.4. Blue Padlocks – for use by NCDOT and/or Mechanical Contractor for Blue Signal Protection³;
- 3.5.5. Red Padlocks – for use by NCDOT Operations Branch personnel for Roadway Worker Protection.

None of these groups of locks are keyed to be opened by any other group, and may only be applied or removed by the respective “Roadway Work Group” as defined under 49CFR§214, or “Group of Workers” as defined under 49CFR§218.

When a Roadway Worker Employer (or Lone Roadway Worker) not specifically identified within starts any job at any NCDOT Mechanical Facility, they shall provide their own Effective Locking Devices, and shall make a good faith effort to determine if these devices are keyed the same as those currently in use at said facility. In the event that it is determined that such devices furnished by a Roadway Worker Employer (or Lone Roadway Worker) are keyed to match those already in use, alternate devices must be provided by the Roadway Worker Employer (or Lone Roadway Worker).

- 3.6. No rolling stock may remain within the designated Working Limits of any track structure to be serviced or inspected; all such equipment must be removed prior to establishing Roadway Worker Protection. If an adjacent track (not to be serviced or inspected) is required to be made inaccessible due to the lack of minimum (25 feet) clearance to the area actively being worked, the adjacent track may be secured without removing cars or unpowered vehicles (i.e.: only locomotives must be removed) prior to establishing Roadway Worker Protection, if the Roadway Supervisor, Roadway Employee In Charge, or Lone Roadway Worker agrees that such cars or unpowered vehicles may remain.
- 3.7. Note that the entire facility has been designated as a Locomotive Servicing Facility, and has a maximum authorized speed of 5 MPH (3 MPH over any inspection pit). As such, no track within the Mechanical Facility Limits is or can be designated as being “Controlled Track” as defined under 49CFR§214, due to the fact that the facility is under the sole and exclusive control of the NCDOT Rail Division Operations Branch Mechanical Department.
- 3.8. In the event Mechanical Department personnel are not available, providing that the intended Working Limit to be serviced or inspected is clear of all rolling stock, Roadway Worker Protection may be established and/or removed as necessary without Roadway Workers providing advance notification to such Mechanical Department personnel. Should Roadway personnel become aware of the presence of Mechanical Department personnel who may not have been notified as provided for within, the Roadway Employee In Charge shall promptly provide such notification.

In the event Roadway personnel cannot contact the Rail Operations Manager (or authorized designee) to provide notification as otherwise prescribed within, the Roadway Employee In Charge shall make available a written statement to NCDOT Rail Division detailing the protection method(s) employed, specific Working Limit(s), time of application and removal, and over their signature assert that compliance was maintained with all related regulations, policies, procedures, rules, etc.

- 3.9. Transportation and/or operations personnel (i.e.: Amtrak, CSXT, or NS crews, etc.) shall not remove or otherwise interfere with posted Roadway Worker Protection, but shall control their movements in such a manner as prescribed by their respective operating rules as regards Roadway Worker Protection.
- 3.10. Prior to any movement approaching Roadway Workers, the locomotive bell shall be activated continuously until the movement is completely past the area, and the locomotive horn sounded as prescribed by the operating rules.
- 3.11. Each respective Roadway Worker Employer shall be solely responsible for implementation of and compliance with their specific On-Track Safety Program, as provided for under 49CFR§214, as well as documentation of same.

³ Use limited to switches providing access to Mechanical Facility from connecting railroad.

- 3.12. Each respective Roadway Worker Employer shall be solely responsible for training and qualification of their Employees relating to:
- 3.12.1. all relevant regulations, including but not limited to 49CFR§214,
 - 3.12.2. the procedures and policies as outlined within,
 - 3.12.3. their On-Track Safety Program, and
 - 3.12.4. any connecting railroad's On-Track Safety Program, if required by prevailing circumstances, as well as all related documentation of same.
- 3.13. Roadway Employees shall comply with their respective Employer's "Good Faith Challenge for On-Track Safety Procedures", as provided for under 49CFR§214.311.
- 3.14. Roadway Employees shall comply with their respective Employer's "Good Faith Challenge for Roadway Maintenance Machines", as provided for under 49CFR§214.503.
- 3.15. Roadway personnel shall at all times while at any NCDOT Rail Division facility be fully equipped with steel toe safety shoes (full ankle coverage, with a definite heel), safety glasses with side shields, an orange hardhat, and reflective orange safety vest. Note that specific working conditions may require additional Personal Protective Equipment (PPE); Roadway personnel shall also comply with their respective Employer's PPE requirements, as well as recommendations from tool and equipment manufacturers as necessary.
- 3.16. Any Roadway Maintenance Machines to be used at any NCDOT Rail Division facility shall be compliant with 49CFR§214 Subpart D. All such equipment shall be operated in compliance with all relevant regulations, including but not limited to 49CFR§214, not exceeding the maximum authorized speed for the respective facility or portion thereof. All such equipment shall at all times be free from leaks of any form or manner (lubricants, coolants, fuels, etc.), or shall be promptly removed from NCDOT Rail Division facilities. The equipment owner shall at all times maintain an adequate spill response kit at the job site to protect should the largest on site volume of controlled materials (lubricants, fuel, coolants, etc.) be released. Any such equipment may only be fueled while located over approved secondary containment.
- 3.17. Roadway personnel / employers shall make a good faith effort to promptly return tracks to service and release Roadway Worker Protection to facilitate rolling stock maintenance activities as necessary for the good of the service. Unless previously agreed to by the Rail Operations Manager (or authorized designee), all affected tracks shall be made safe for unrestricted operation at least 30 minutes prior to the current scheduled arrival of an inbound consist, and shall not be made impassible until after any affected consist has departed, or as may be otherwise provided for in other contract documents.
- 3.18. Note that this document does not apply to track structures not within the NCDOT Mechanical Facility Designated Limits, as may be owned and maintained by the connecting railroad. If Roadway Worker Protection is required for adjacent or connecting tracks not under the exclusive control of the NCDOT Rail Division Mechanical Department, such protection must be established with the connecting railroad by the Roadway Workers prior to fouling such areas.
- 3.19. Questions of interpretation or application of these procedures shall be submitted to the NCDOT Rail Division Rail Operations Manager (or authorized designee) for clarification before fouling any track within any NCDOT Rail Division owned Mechanical Facility.
- 3.20. Compliance with this policy shall be monitored by the Rail Operations Manager (or authorized designee) at least once each calendar day that Roadway Worker Protection is to be in place. Should any non-compliance be noted by such monitoring, written notice shall be promptly provided to the responsible party. The Rail Operations Manager may require work to cease (without penalty to NCDOT Rail Division) until the affected Roadway Worker(s) are deemed to be in compliance with this policy. Ultimate responsibility for compliance remains the responsibility of any given Roadway Worker Employer / Employee, monitoring by NCDOT Rail Division notwithstanding.

- 3.21. In the event of life or limb threatening injury, any measures necessary for immediate relief and/or assistance shall be taken, including notification to first responder personnel (EMT, Fire, Police, etc.) as may be required by the circumstances. As soon as circumstances permit, the Roadway Employee In Charge (or an authorized designee) shall make a good faith effort to notify the Rail Operations Manager (or authorized designee). In the event of the occurrence of any accident and/or incident (or allegedly occurs), with or without any personnel injury, all affected Roadway personnel shall take immediate steps to clear the area and await further instruction, without needlessly disrupting evidence of such accident and/or incident until the matter may be investigated by duly authorized personnel (including but not limited to the Rail Operations Manager, Roadway Worker Employer Management, the FRA, etc.).
- 3.22. A current copy of this document shall be furnished by NCDOT Rail Division to each Roadway Worker Employer (or Lone Roadway Worker) prior to the start of any work effort at any NCDOT Rail Division Mechanical Facility. This document may be reproduced in its entirety as necessary for distribution to any and all affected personnel, however any proprietary rights thereto are reserved by NCDOT Rail Division.

4. Authorized Procedures for NCDOT Employees To Challenge Roadway Worker Protection At NCDOT Rail Division Owned Mechanical Facilities

- 4.1. Employees of NCDOT are hereby absolutely guaranteed that they may make a "good faith" challenge as to if the On-track Safety Procedures to be applied at the job location are in compliance with the associated procedures to establish Roadway Worker Protection, and that they may remain clear of any track structure until the challenge is resolved as provided for within.
- 4.2. Prior to initiating any good faith challenge, the Concerned Employee shall first discuss the situation and their concerns with Local Supervision at the job location, or the Employee In Charge (if so designated), to attempt to clarify any misunderstanding about the procedures to be used, and all affected Employees shall remain clear of all track structures until the matter is successfully resolved.
- 4.3. If after initially discussing the situation with Local Supervision at the job location, if the matter has not been successfully resolved, the Concerned Employee shall immediately notify Local Supervision of their challenge.
- 4.4. The Concerned Employee shall complete Item # 1 of the On-Track Safety Program Challenge Form (sample copy within) and present it to Local Supervision (the Employee In Charge).
- 4.5. The Concerned Employee and Local Supervision shall then attempt to resolve the challenge:
- 4.5.1. If Local Supervision agrees with the concerns expressed, they shall take appropriate steps to provide the necessary level of On-Track Safety before employees or their equipment may foul any track structure.
- 4.5.2. If Local Supervision determines that the planned protections are adequate and comply with Authorized Procedures, the concerned Employee shall be so informed.
- 4.6. Local Supervision shall then complete Item # 2 of the On-Track Safety Program Challenge Form and present it to the Concerned Employee.
- 4.7. The Concerned Employee shall complete Item # 3 of the form, and both the Concerned Employee and Local Supervision shall sign the form.
- 4.8. If the challenge has not been resolved, the Concerned Employee and Local Supervision shall jointly submit the matter to the NCDOT Rail Division Rail Operations Manager (or authorized designee), including the On-Track Safety Program Challenge Form (if practical), or the information contained on the form, along with an explanation of why Local Supervision's determination has been rejected by the Concerned Employee.
- 4.9. The Rail Operations Manager (or authorized designee) shall resolve the challenge:
- 4.9.1. If the Rail Operations Manager determines that the procedures previously outlined are inadequate to provide Roadway Worker Protection, he shall arrange for compliance before Roadway Workers are permitted to foul the track structure;

- 4.9.2. If the Rail Operations Manager determines that the procedures are adequate and in compliance, this shall be explained to the Concerned Employee that the challenge is not valid, and the reasons for such determination. The challenge is then resolved, and all affected Roadway Workers shall be instructed to resume (or begin) their assigned duties which require fouling the track structure.
- 4.10. If the On-Track Safety Program Challenge Form was not previously submitted to the Rail Operations Manager, the Local Supervision shall send it as soon as possible.
- 4.11. The Rail Operations Manager shall maintain a record of all challenges appealed, the resolution of the challenge, and the basis for that resolution.
- 4.12. A current copy of this document shall be furnished by NCDOT Rail Division to each NCDOT Roadway Worker Employee prior to the start of any work effort at any NCDOT Rail Division Mechanical Facility. This document may be reproduced in its entirety as necessary for distribution to any and all affected personnel, however any proprietary rights thereto are reserved by NCDOT Rail Division.

On-Track Safety Program Challenge Form

Item # 1

(To be completed by NCDOT Concerned Employee making a good faith challenge.)

Date: ____ / ____ / ____ Location (Track #): _____

Employee In Charge: _____

Concerned Employee: _____

Details of Method of Protection:

Reason for Challenge:

Item # 2

(To be completed by Employee In Charge.)

Determination of Employee In Charge:

On-Track Safety Program Challenge Form

Item # 3

(To be completed by NCDOT Concerned Employee making a good faith challenge.)

Check one of the following:

- Challenge has been resolved by determination of Employee In Charge.
- Challenge has not been resolved by determination of Employee In Charge

Item # 4

Signatures of Employee In Charge and Concerned Employee making good faith challenge:

(Employee In Charge)

(Concerned Employee)

Item # 5

(To be completed if necessary by NCDOT Rail Division Rail Operations Manager, or authorized designee.)

- Appeal made:

Date: ____ / ____ / ____ Time: ____ : ____ ; ____ M.

Determination of Rail Operations Manager:

Basis of Determination:

Signature of Rail Operations Manager (or authorized designee):

5. Training and Qualification For NCDOT Rail Division Owned Mechanical Facilities

- 5.1. All individuals prior to fouling any track structure shall receive training (initial, or recurrent on an annual basis) to comply with 49CFR§124.345 on this program, and how it is applied to the facility.
- 5.2. All individuals who function as a Lone Worker shall additionally receive training to comply with 49CFR§124.347 on this program, and how it is applied to the facility.
- 5.3. All individuals who function as a Roadway Supervisor or Employee In Charge shall additionally receive training to comply with 49CFR§124.353 on this program, and how it is applied to the facility.

APPENDIX B

CSXT CONSTRUCTION SUBMISSION REQUIREMENTS

APPENDIX B

CSX Transportation

CONSTRUCTION SUBMISSION CRITERIA

Public Projects Group
Jacksonville, FL
Date Issued: February 23, 2015

TABLE OF CONTENTS

INTRODUCTION

SECTION I:	Definitions
SECTION II:	Construction Submissions
SECTION III:	Hoisting Operations
SECTION IV:	Demolition Procedure
SECTION V:	Erection Procedure
SECTION VI:	Temporary Excavation and Shoring
SECTION VII:	Track Monitoring

INTRODUCTION

The intent of this document is to guide outside agencies and their Contractors when performing work on, over, or with potential to impact CSXT property (ROW). Work plans shall be submitted for review to the designated CSXT Engineering Representative for all work which presents the potential to affect CSXT property or operations; this document shall serve as a guide in preparing these work plans. All work shall be performed in a manner that does not adversely impact CSXT operations or safety; as such, the requirements of this document shall be strictly adhered to, in addition to all other applicable standards associated with the construction. Applicable standards include, but are not limited to, CSXT Standards and Special Provisions, CSXT Insurance Requirements, CSXT Pipeline Occupancy Criteria, as well as the governing local, county, state and federal requirements. It shall be noted that this document and all other CSXT standards are subject to change without notice, and future revisions will be made available at the CSXT website: www.csx.com.

I. DEFINITIONS

1. *Agency* – The project sponsor (i.e., State DOT, Local Agencies, Private Developer, etc.)
2. *AREMA* – American Railway Engineering and Maintenance-of-Way Association – the North American railroad industry standards group. The use of this term shall be in specific reference to the AREMA Manual for Railway Engineering.
3. *Construction Submission* – The Agency or its representative shall submit six (6) sets of plans, supporting calculations, and detailed means and methods procedures for the specific proposed activity. All plans, specifications, and supporting calculations shall be signed/sealed by a Professional Engineer as defined below.
4. *Controlled Demolition* – Removal of an existing structure or subcomponents in a manner that positively prevents any debris or material from falling, impacting, or otherwise affecting CSXT employees, equipment or property. Provisions shall be made to ensure that there is no impairment of railroad operations or CSXT's ability to access its property at all times.
5. *Contractor* – The Agency's representative retained to perform the project work.
6. *Engineer* – CSXT Engineering Representative or a GEC authorized to act on the behalf of CSXT.
7. *Flagman* – A qualified CSXT employee with the sole responsibility to direct or restrict movement of trains, at or through a specific location, to provide protection for workers.
8. *GEC* – General Engineering Consultant who has been authorized to act on the behalf of CSXT.
9. *Horizontal Clearance* – Distance measured perpendicularly from centerline of any track to the nearest obstruction at any elevation between TOR and the maximum vertical clearance of the track.
10. *Professional Engineer* – An engineer who is licensed in State or Commonwealth in which the project is to occur. All plans, specifications, and supporting calculations shall be prepared by the Licensed Professional Engineer and shall bear his/her seal and signature.
11. *Potential to Foul* – Work having the possibility of impacting CSXT property or operations; defined as one or more of the following:
 - a. Any activity where access onto CSXT property is required.
 - b. Any activity where work is being performed on CSXT ROW.
 - c. Any excavation work adjacent to CSXT tracks or facilities, within the Theoretical Railroad Live Load Influence Zone, or where the active earth pressure zone extends within the CSXT property limits.
 - d. The use of any equipment where, if tipped and laid flat in any direction (360 degrees) about its center pin, can encroach within twenty five feet (25'-0") of the nearest track centerline. This is based upon the proposed location of

- the equipment during use, and may be a function of the equipment boom length. Note that hoisting equipment with the potential to foul must satisfy the 150% factor of safety requirement for lifting capacities.
- e. Any work where the scatter of debris, or other materials has the potential to encroach within twenty five feet (25'-0") of the nearest track centerline.
 - f. Any work where significant vibration forces may be induced upon the track structure or existing structures located under, over, or adjacent to the track structure.
 - g. Any other work which poses the potential to disrupt rail operations, threaten the safety of railroad employees, or otherwise negatively impact railroad property, as determined by CSXT.
12. *ROW – Right of Way*; Refers to CSXT Right-of-Way as well as all CSXT property and facilities. This includes all aerial space within the property limits, and any underground facilities.
13. *Submission Review Period* - a minimum of thirty (30) days in advance of start of work. Up to thirty (30) days will be required for the initial review response. Up to an additional thirty (30) days may be required to review any/all subsequent submissions or resubmission.
14. *Theoretical Railroad Live Load Influence Zone* – A 1½ horizontal to 1 vertical theoretical slope line starting 18 inches (1'-6") below top of tie elevation and twelve feet (12'-0") from the centerline of the nearest track.
15. *TOR – Top of Rail*. This is the base point for clearance measurements. It refers to the crown (top) of the steel rail; the point where train wheels bear on the steel rails.
16. *Track Structure* – All load bearing elements which support the train. This includes, but is not limited to, the rail, ties, appurtenances, ballast, sub-ballast, embankment, retaining walls, and bridge structures.
17. *Vertical Clearance* – Distance measured from TOR to the lowest obstruction within six feet (6'-0") of the track centerline, in either direction.

II. GENERAL SUBMISSION REQUIREMENTS

- A. A construction work plan is required to be submitted by the Agency or its Contractor, for review and acceptance, prior to accessing or performing any work with Potential to Foul.
- B. The Agency or its representative shall submit six (6) sets of plans, specifications, supporting calculations, and detailed means and methods procedures for the specific proposed work activity.
- C. Construction submissions shall include all information relevant to the work activity, and shall clearly and concisely explain the nature of the work, how it is being performed, and what measures are being taken to ensure that railroad property and operations are continuously maintained.
- D. All construction plans shall include a map of the work site, depicting the CSXT tracks, the CSXT right of way, proposed means of access, proposed locations for equipment and material staging (dimensioned from nearest track centerline), as well as all other relevant project information. An elevation drawing may also be necessary in order to depict clearances or other components of the work.
- E. Please note that CSXT will not provide pricing to individual contractors involved in bidding projects. Bidding contractors shall request information from the agency and not CSXT.
- F. The Contractor shall install a geotextile fabric ballast protection system to prevent construction or demolition debris and fines from fouling ballast. The geotextile ballast protection system shall be installed and maintained by the Contractor to the satisfaction of the Engineer.
- G. The Engineer shall be kept aware of the construction schedule. The Contractor shall provide timely communication to the Engineer when scheduling the work such that the Engineer may be present during the work. The Contractor's schedule shall not dictate the work plan review schedule, and flagging shall not be scheduled prior to receipt of an accepted work plan.

H. At any time during construction activities, the Engineer may require revisions to the previously approved procedures to address weather, site conditions or other circumstances that may create a potential hazard to rail operations or CSXT facilities. Such revisions may require immediate interruption or termination of ongoing activities until such time the issue is resolved to the Engineer's satisfaction. CSXT and its GEC shall not be responsible for any additional costs or time claims associated with such revisions.

I. Blasting will not be permitted to demolish a structure over or within CSXT's right-of-way. When blasting off of CSXT property but with Potential to Foul, vibration monitoring, track settlement surveying, and/or other protective measures may be required as determined by the Engineer.

J. Blasting is not permitted adjacent to CSXT right-of-way without written approval from the Chief Engineer, CSXT.

K. Mechanical and chemical means of rock removal must be explored before blasting is considered. If written permission for the use of explosives is granted, the Agency or Contractor must submit a work plan satisfying the following requirements:

1. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of the Agency or Contractor.
2. Electronic detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.
3. No blasting shall be done without the presence of an authorized representative of CSXT. Advance notice to the Engineer is required to arrange for the presence of an authorized CSXT representative and any flagging that CSXT may require.
4. Agency or Contractor must have at the project site adequate equipment, labor and materials, and allow sufficient time, to clean up debris resulting from the blasting and correct any misalignment of tracks or other damage to CSXT property resulting from the blasting. Any corrective measures required must be performed as directed by the Engineer at the Agency's or Contractor's expense without any delay to trains. If Agency's or Contractor's actions result in the delay of any trains including passenger trains, the Agency or Contractor shall bear the entire cost thereof.
5. The Agency or Contractor may not store explosives on CSXT property.
6. At any time during blasting activities, the Engineer may require revisions to the previously approved procedures to address weather, site conditions or other circumstances that may create a potential hazard to rail operations or CSXT facilities. Such revisions may require immediate interruption or termination of ongoing activities until such time the issue is resolved to the Engineer's satisfaction. CSXT and its GEC shall not be responsible for any additional costs or time claims associated with such revisions.

III. HOISTING OPERATIONS

A. All proposed hoisting operations with Potential to Foul shall be submitted in accordance with the following:

1. A plan view drawing shall depict the work site, the CSXT track(s), the proposed location(s) of the lifting equipment, as well as the proposed locations for picking, any intermediate staging, and setting the load(s). All locations shall be dimensioned from centerline of the nearest track. Crane locations shall also be dimensioned from a stationary point at the work site for field confirmation.
2. Computations showing the anticipated weight of all picks. Computations shall be made based upon the field-verified plans of the existing structure. Pick weights shall account for the weight of concrete rubble or other materials attached to the component being removed; this includes the weight of subsequent rigging devices/components. Rigging components shall be sized for the subsequent pick weight.
3. All lifting equipment, rigging devices, and other load bearing elements shall have a rated (safe lifting) capacity that is greater than or equal to 150% of the load it is carrying, as a factor of safety. Supporting calculations shall be furnished to verify the minimum capacity requirement is maintained for the duration of the hoisting operation.

4. Dynamic hoisting operations are prohibited when carrying a load with the Potential to Foul. Cranes or other lifting equipment shall remain stationary during lifting. (i.e., no moving picks).
5. For lifting equipment, the manufacturer's capacity charts, including crane, counterweight, maximum boom angle, and boom nomenclature is to be submitted.
6. A schematic rigging diagram must be provided to clearly call out each rigging component from crane hook to the material being hoisted. Copies of catalog or information sheets shall be provided to verify rigging weights and capacities.
7. For built-up rigging devices, the contractor shall submit the following:
 - i. Details of the device, calling out material types, sizes, connections and other properties.
 - ii. Load test certification documents and/or design computations bearing the seal and signature of a Professional Engineer. Load test shall be performed in the configuration of its intended use as part of the subject demolition procedure.
 - iii. Copies of the latest inspection reports of the rigging device. The device shall be inspected within one (1) calendar year of the proposed date for use.
8. A detail shall be provided showing the crane outrigger setup, including dimensions from adjacent slopes or facilities. The detail shall indicate requirements for bearing surface preparation, including material requirements and compaction efforts. As a minimum, outriggers and/or tracks shall bear on mats, positioned on level material with adequate bearing capacity.
9. A complete written narrative that describes the sequence of events, indicating the order of lifts and any repositioning or re-hitching of the crane(s).

IV. DEMOLITION PROCEDURE

- A. The Agency or its Contractor shall submit a detailed procedure for a controlled demolition of any structure on, over, or adjacent to the ROW. The controlled demolition procedure must be approved by the Engineer prior to beginning work on the project.
- B. Existing Condition of structure being demolished:
 1. The Contractor shall submit as-built plans for the structure(s) being demolished.
 2. If as-built plans are unavailable, the Contractor shall perform an investigation of the structure, including any foundations, substructures, etc. The field measurements are to be made under the supervision of the Professional Engineer submitting the demolition procedure. Findings shall be submitted as part of the demolition means and methods submittal for review by the Engineer.
 3. Any proposed method for temporary stabilization of the structure during the demolition shall be based on the existing plans or investigative findings, and submitted as part of the demolition means and methods for review by the Engineer.
- C. Demolition work plans shall include a schematic plan depicting the proposed locations of the following, at various stages of the demolition:
 1. All cranes and equipment, calling out the operating radii.
 2. All proposed access and staging locations with all dimensions referenced from the center line of the nearest track.
 3. Proposed locations for stockpiling material or locations for truck loading.
 4. The location, with relevant dimensions, of all tracks, other railroad facilities; wires, poles, adjacent structures, or buried utilities that could be affected, showing that the proposed lifts are clear of these obstructions.
 5. Note that no crane or equipment may be set on the CSXT rails or track structure and no material may be dropped on CSXT property.
- D. Demolition submittal shall also include the following information:
 1. All hoisting details, as dictated by Section III of this document.
 2. A time schedule for each of the various stages must be shown as well as a schedule for the entire lifting procedure. The proposed time frames for all critical subtasks (i.e., torch/saw cutting various portions of the superstructure or

- substructure, dismantling splices, installing temporary bracing, etc.) shall be furnished so that the potential impact(s) to CSXT operations may be assessed and eliminated or minimized.
3. The names and experience of the key Contractor personnel involved in the operation shall be included in the Contractor's means and methods submission.
 4. Design and supporting calculations shall be prepared, signed, and sealed by the Professional Engineer for items including the temporary support of components or intermediate stages shall be submitted for review. A guardrail will be required to be installed in a track in the proximity of temporary bents or shoring towers, when located within twelve feet (12'-0") from the centerline of the track. The guardrail will be installed by CSXT forces, at the expense of the Agency or its contractor.
- E. Girders or girder systems shall be stable at all times during demolition. Temporary bracing shall be provided at the piers, abutments, or other locations to resist overturning and/or buckling of the member(s). The agency shall submit a design and details of the proposed temporary bracing system, for review by the Engineer. Lateral wind forces for the temporary conditions shall be considered in accordance with AREMA, Chapter 8, Section 28.6.2. The minimum lateral wind pressure shall be fifteen pounds per square foot (15 psf).
- F. Existing, obsolete, bridge piers shall be removed to a minimum of three feet (3'-0") below the finished grade, final ditch line invert, or as directed by the Engineer.
- G. A minimum quantity of twenty five (25) tons of CSXT approved granite track ballast may be required to be furnished and stockpiled on site by the Contractor, or as directed by the Engineer.
- H. The use of acetylene gas is prohibited for use on or over CSXT property. Torch cutting shall be performed utilizing other materials such as propane.
- I. CSXT's tracks, signals, structures, and other facilities shall be protected from damage during demolition of existing structure or replacement of deck slab.
- J. Demolition Debris Shield
1. On-track or ground-level debris shields (such as crane mats) are prohibited for use by CSXT.
 2. Demolition Debris Shield shall be installed prior to the demolition of the bridge deck or other relevant portions of the structure. The demolition debris shield shall be erected from the underside of the bridge over the track area to catch all falling debris. The debris shield shall not be the primary means of debris containment.
 - i. The demolition debris shield design and supporting calculations, all signed/sealed by a Professional Engineer, shall be submitted for review and acceptance.
 - ii. The demolition debris shield shall have a minimum design load of 50 pounds per square foot (50 psf) plus the weight of the equipment, debris, personnel, and all other loads.
 - iii. The Contractor shall verify the maximum particle size and quantity of the demolition debris generated during the procedure does not exceed the shield design loads. Shield design shall account for loads induced by particle impact; however the demolition procedure shall be such that impact forces are minimized. The debris shield shall not be the primary means of debris containment.
 - iv. The Contractor shall include installation/removal means and methods for the demolition debris shield as part of the proposed Controlled Demolition procedure submission.
 - v. The demolition debris shield shall provide twenty three feet (23'-0") minimum vertical clearance, or maintain the existing vertical clearance if the existing clearance is less than twenty three feet (23'-0").
 - vi. Horizontal clearance to the centerline of the track should not be reduced unless approved by the Engineer.
 - vii. The Contractor shall clean the demolition debris shield daily or more frequently as dictated either by the approved design parameters or as directed by the Engineer.
- K. Vertical Demolition Debris Shield
1. This type of shield may be required for substructure removals in close proximity to CSXT track and other facilities, as determined by the Engineer.
 2. The Agency or its Contractor shall submit detailed plans with detailed calculations, prepared, signed, and sealed by a Professional Engineer, of the protection shield.

V. ERECTION PROCEDURE

- A. The Agency or its Contractor shall submit a detailed procedure for erection of a structure with Potential to Foul. The erection procedure must be approved by the Engineer prior to beginning work on the project.
- B. Erection work plans shall include a schematic plan depicting the following, at all stages of the construction:
1. All proposed locations of all cranes and equipment, calling out the operating radii.
 2. All proposed access and staging locations with all dimensions referenced from the center line of the nearest track.
 3. All proposed locations for stockpiling material or locations for truck loading.
 4. The location, with relevant dimensions, of all tracks, other railroad facilities; wires, poles, adjacent structures, or buried utilities that could be affected, showing that the proposed lifts are clear of these obstructions.
- C. No crane or equipment may be set on the CSXT rails or track structure and no material may be dropped on CSXT property.
- D. For erection of a structure over the tracks, the following information shall be submitted for review and acceptance by the Engineer, at least thirty (30) days prior to erection:
1. As-built beam seat elevations – field surveyed upon completion of pier/abutment construction.
 2. Current Top of Rail (TOR) elevations – field measured at the time of as-built elevation collection.
 3. Computations verifying the anticipated minimum vertical clearance in the final condition which accounts for all deflection and camber, based upon the current TOR and as-built beam seat elevations. The anticipated minimum vertical clearance shall be greater than or equal to that which is indicated by the approved plans. Vertical clearance (see definitions) is measured from TOR to the lowest point on the overhead structure at any point within six feet (6'-0") from centerline of the track. Calculations shall be signed and sealed by a Professional Engineer.
- E. Girders or girder systems shall be stable at all times during erection. No crane may unhook prior to stabilizing the beam or girder.
1. Lateral wind forces for the temporary conditions shall be considered in accordance with AREMA, Chapter 8, Section 28.6.2. The minimum lateral wind pressure shall be fifteen pounds per square foot (15 psf).
 2. Temporary bracing shall be provided at the piers, abutments, or other locations to resist overturning and/or buckling of the member(s). The agency shall submit a design and details of the proposed temporary bracing system, for review by the Engineer.
 3. Temporary bracing shall not be removed until sufficient lateral bracing or diaphragm members have been installed to establish a stable condition. Supporting calculations, furnished by the Professional Engineer, shall confirm the stable condition.
- F. Erection procedure submissions shall also include the following information:
1. All hoisting details, as dictated by Section III of this document.
 2. A time schedule for each of the various stages must be shown as well as a schedule for the entire lifting procedure. The proposed time frames for all critical subtasks (i.e., performing aerial splices, installing temporary bracing, installation of diaphragm members, etc.) shall be furnished so that the potential impact(s) to CSXT operations may be assessed and eliminated or minimized.
 3. The names and experience of the key Contractor personnel involved in the operation shall be included in the Contractor's means and methods submission.
 4. A guardrail will be required to be installed in a track in the proximity of temporary bents or shoring towers, when located within twelve feet (12'-0") from the centerline of the track. The guardrail will be installed by CSXT forces, at the expense of the Agency or its Contractor.
 5. Design and supporting calculations prepared by the Professional Engineer for items including the temporary support of components or intermediate stages shall be submitted for review.

VI. TEMPORARY EXCAVATION AND SHORING

- A. The Agency or its Contractor shall submit a detailed design and procedure for the installation of a sheeting/shoring system adjacent to the tracks. Shoring protection shall be provided when excavating with Potential to Foul, or as otherwise determined by CSXT. Shoring shall be provided in accordance with the AREMA, except as noted below.
- B. Shoring may not be required if all of the following conditions are satisfied:
1. The excavation does not encroach within the Theoretical Live Load Influence Zone. Please refer to Figure 1.
 2. The track structure is situated on level ground, or in a cut section, and on stable soil.
 3. The excavation does not adversely impact the stability of a CSXT facility (i.e. signal bungalow, drainage facility,

undergrade bridge, building, etc), or the stability of any structure on, over, or adjacent to CSXT property with potential to foul.

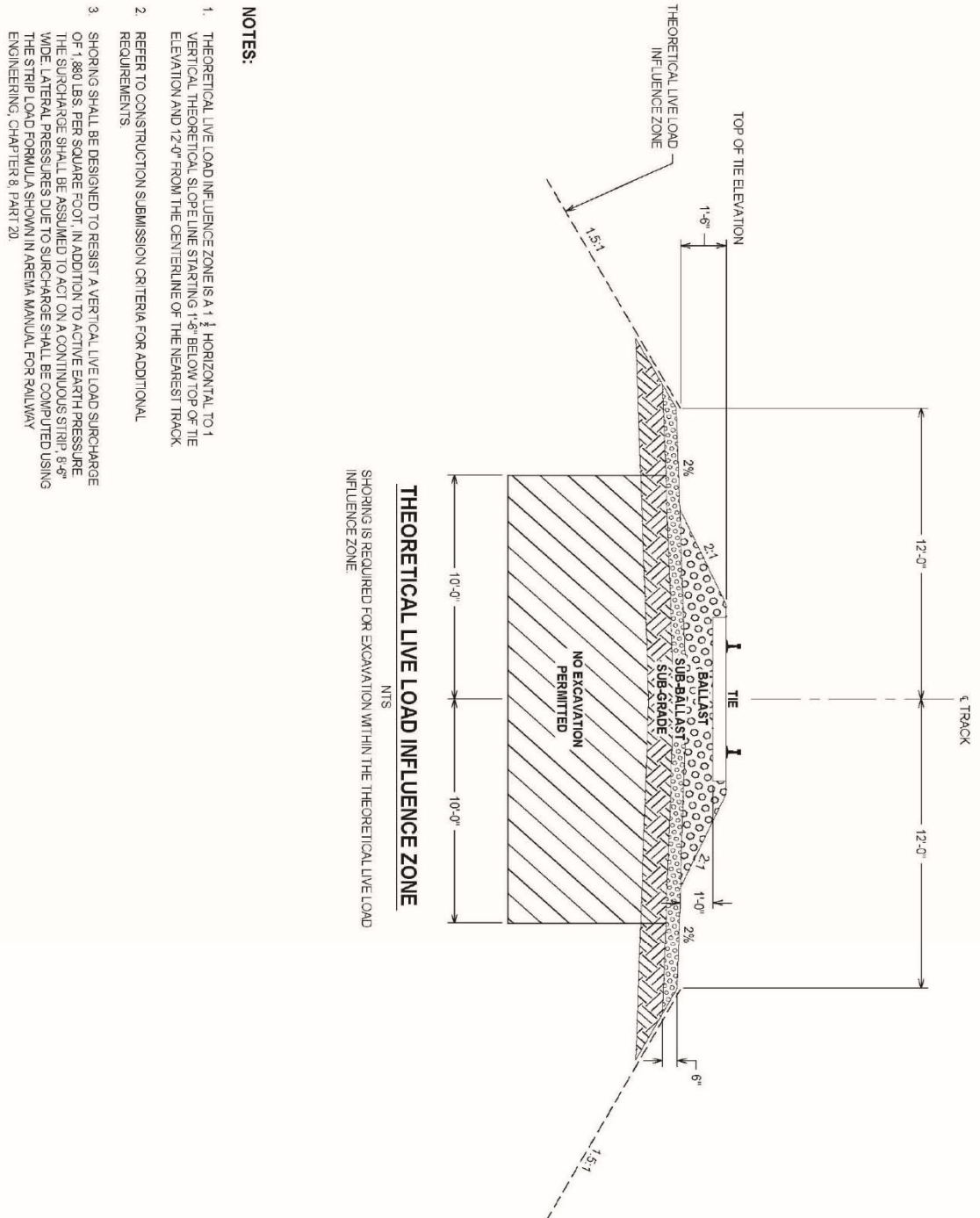
4. Shoring is not required by any governing federal, state, local or other construction code.

- C. Shoring is required when excavating the toe of an embankment. Excavation of any embankment which supports an active CSXT track structure without shoring will not be permitted.
- D. Trench boxes are not an acceptable means of shoring. Trench boxes are prohibited for use on CSXT property or within the Theoretical Railroad Live Load Influence Zone.
- E. Shoring shall be a cofferdam-type, which completely encloses the excavation. However, where justified by site or work conditions, partial cofferdams with open sides away from the track may be permissible, as determined by the Engineer.
- F. Cofferdams shall be constructed using interlocking steel sheet piles, or when approved by the Engineer, steel soldier piles with timber lagging. Wales and struts shall be included when dictated by the design.
- G. The use of tiebacks can be permissible for temporary shoring systems, when conditions warrant. Tiebacks shall have a minimum clear cover of 6'-0", measured from the bottom of the rail. Upon completion of the work, tiebacks shall be grouted, cut off, and remain in place.
- H. All shoring systems on, or adjacent to CSXT right-of-way, shall be equipped with railings or other fall protection, compliant with the governing federal, state or local requirements. Area around pits shall be graded to eliminate all potential tripping hazards.
- I. Interlocking steel sheet piles shall be used for shoring systems qualifying one or more of the following conditions:
1. Within 18'-0" of the nearest track centerline
 2. Within the live load influence zone
 3. Within slopes supporting the track structure
 4. As otherwise deemed necessary by the Engineer.
- J. Sheet piles qualifying for one or more of the requirements listed in Section VI.I (above) of this document shall not be removed. Sheet piles shall be left in place and cut off a minimum of 3'-0" below the finished grade, the ditch line invert, or as otherwise directed by the Engineer. The ground shall be backfilled and compacted immediately after sheet pile is cut off.
- K. The following design considerations shall be considered when preparing the shoring design package:
1. Shoring shall be designed to resist a vertical live load surcharge of 1,880 lbs. per square foot, in addition to active earth pressure. The surcharge shall be assumed to act on a continuous strip, eight feet six inches (8'-6") wide. Lateral pressures due to surcharge shall be computed using the strip load formula shown in *AREMA Manual for Railway Engineering*, Chapter 8, Part 20.
 2. Allowable stresses in materials shall be in accordance with AREMA Chapter 7, 8, and 15.3.
 3. A minimum horizontal clearance of ten feet (10'-0") from centerline of the track to face of nearest point of shoring shall be maintained, provided a twelve feet (12'-0") roadbed is maintained with a temporary walkway and handrail system.
 4. For temporary shoring systems with Potential to Foul, piles shall be plumb under full dead load. Maximum deflection at the top of wall, under full live load, shall be as follows:
 - i. One-half (1/2) inch for walls within twelve feet (12'-0") of track centerline (Measured from centerline of the nearest track to the nearest point of the supporting structure).
 - ii. One (1) inch for walls located greater than twelve feet (12'-0") from track centerline
- L. Shoring work plans shall be submitted in accordance with Section II of this document, as well as the following additional requirements:
1. The work plan shall include detailed drawings of the shoring systems calling out the sizes of all structural members, details of all connections. Both plan and elevation drawings shall be provided, calling out dimensions from the face of shoring relative to the nearest track centerline. The elevation drawing shall also show the height of shoring, and track elevation in relation to bottom of excavation.
 2. Full design calculations for the shoring system shall be furnished.
 3. A procedure for cutting off the sheet pile, backfilling and restoring the embankment.

VII. TRACK MONITORING

- A. When work being performed has the potential to disrupt the track structure, a work plan must be submitted detailing a track monitoring program which will serve to monitor and detect both horizontal and vertical movement of the CSXT track and roadbed.
- B. The program shall specify the survey locations, the distance between the location points, and frequency of monitoring before, during, and after construction. CSXT reserves to the right to modify the survey locations and monitoring frequency as necessary during the project.
- C. The survey data shall be collected in accordance with the approved frequency and immediately furnished to the Engineer for analysis.
- D. If any movement has occurred as determined by the Engineer, CSXT will be immediately notified. CSXT, at its sole discretion, shall have the right to immediately require all contractor operations to be ceased, have the excavated area immediately backfilled and/or determine what corrective action is required. Any corrective action required by CSXT or performed by CSXT including the monitoring of corrective action of the contractor will be at project expense.

FIGURE 1: Theoretical Live Load Influence Zone



NOTES:

1. THEORETICAL LIVE LOAD INFLUENCE ZONE IS A 1 1/4 HORIZONTAL TO 1 VERTICAL THEORETICAL SLOPE LINE STARTING 1'-6" BELOW TOP OF THE ELEVATION AND 12'-0" FROM THE CENTERLINE OF THE NEAREST TRACK
2. REFER TO CONSTRUCTION SUBMISSION CRITERIA FOR ADDITIONAL REQUIREMENTS
3. SHORING SHALL BE DESIGNED TO RESIST A VERTICAL LIVE LOAD SURCHARGE OF 1,880 LBS. PER SQUARE FOOT. IN ADDITION TO ACTIVE EARTH PRESSURE THE SURCHARGE SHALL BE ASSUMED TO ACT ON A CONTINUOUS STRIP, 8'-6" WIDE. LATERAL PRESSURES DUE TO SURCHARGE SHALL BE COMPUTED USING THE STRIP LOAD FORMULA SHOWN IN AREMA MANUAL FOR RAILWAY ENGINEERING, CHAPTER 8, PART 20

APPENDIX C

CSXT CONSTRUCTION REQUIREMENTS

CONSTRUCTION REQUIREMENTS

When performing work on, over, under or adjacent to CSX Transportation (“CSXT”) right-of-way or operations, the NCDOT selected contractor (“Contractor”) must abide by the current CSXT Special Provisions, CSXT Construction Submission Criteria and the following additional requirements.

1. All construction related correspondence will be directed to STV, Inc., acting as the Construction Monitoring Representative (“CMR”) on behalf of CSXT, with the following contact and address:

Brian Byrd
Construction Manager – Rail Division
STV Inc.
1500 Perimeter Park Dr, Suite 120
Morrisville, NC 27560
brian.byrd@stvinc.com
(919) 369-6693

Upon receipt of notification, the CMR will direct the Contractor to the local CSXT construction contact for the project.

2. Prior to construction, NCDOT or its Contractor shall provide two (2) hard copy sets as well as one (1) digital/electronic copy (CD preferred) of the Final Approved-For-Construction Plans for the subject project to this STV, Inc. office at the address listed above. Any subsequent revisions to the Final Approved-For-Construction Plans shall also be provided.
3. Prior to any construction activities on or about CSXT, the Contractor shall have a pre-construction meeting with CSXT’s designated representative and the CMR to discuss potential On-Track Safety issues during project construction activities.
4. The Contractor shall submit, including but not limited to, the following construction procedures and documents. The Contractor shall obtain written acceptance from CSXT or their representative before proceeding with construction.
 - a. Means and Methods – The Contractor shall develop a detailed submission indicating the progression of work with specific times when tasks will be performed during the project. This submission may require a walkthrough at which time CSXT and/or the CMR will be present. Work will not be permitted to commence until the Contractor has provided CSXT with a satisfactory plan that the project will be undertaken without scheduling, performance or safety related issues. Provide a listing of the anticipated equipment to be used, the location of all equipment to be used and insure a contingency plan of action is in place should a primary piece of equipment malfunction. All work in the vicinity of CSXT property that has the potential of affecting CSXT train operations must be submitted and approved by CSXT prior to work being performed. This submission will also include a detailed narrative discussing the coordination of project safety issues between NCDOT, Contractor, CSXT and the CMR. The narrative shall address project level coordination and day to day, specific work operations including crane and equipment operations, erection plans and temporary works.
 - b. Demolition Procedures, Demolition Debris Shields, Erection Procedures, Excavation and Shoring, and Track Monitoring Procedures are required to be submitted to CSXT or the CMR in accordance with the CSXT Construction Submission Criteria. The CSXT Construction Submission Criteria should be referred to and complied with prior to the preparation of submissions, as it contains specific requirements that could impact the Contractor’s material selection and methods or operations for work near the railroad. **Revisions to Contractor**

submissions may not be field approved. Any deviation(s) from a previously accepted plan including equipment substitutions will require a formal resubmission of the procedure for review and acceptance prior to performing any work. A Professional Engineer in the State of North Carolina must sign and seal the plans.

- c. Ballast Protection – A ballast protection system is required for the project. The proposed system shall use filter fabric and indicate the anchorage system. The ballast protection is to extend 25' beyond the proposed limit of work and be continuously maintained to prevent all contaminants from entering the ballast section of all tracks for the entire duration of the project.
 - d. Construction Schedule – Within 30 days of the pre-construction meeting, Contractor shall submit a detailed construction schedule for the duration of the project clearly indicating the time periods while working on and around CSXT right-of-way. As the work progresses, this schedule shall be updated and resubmitted as necessary to reflect changes in work sequence, duration and method, etc.
 - e. Insurance – Submit all necessary insurance information in accordance with the current CSXT Insurance Requirements for approval. The complete original policies should be submitted to:

insurancedocuments@csx.com

with a copy to the CMR. The insurance policies will be required to be in place and approved prior to any work commencing on or that could potentially impact CSXT right-of-way.
 - f. Emergency Action Plan – Submit an emergency action plan indicating the location of the site, contact numbers, access to the site, instructions for emergency response and location of the nearest hospitals. This plan should cover all items required in the event of an emergency at the site including fire suppression. Coordinate the Emergency Action Plan with the safety related discussion of the Means and Methods submission discussed above. The plan should also include a method to provide this information to each project worker for each day on site.
5. Up to thirty (30) days will be required to review all construction submissions. Up to an additional thirty (30) days will be required to review any subsequent submissions returned not approved.
 6. **CSXT Emergency Number:** The CSXT telephone number for emergencies is 800-232-0144. Reference the CSXT Milepost and DOT # for the project, as shown in the subject project description above, when calling.
 7. The Contractor must ensure that proper erosion control is implemented on and adjacent to CSXT right-of-way during construction. The Contractor must prevent silt and debris accumulation in the railroad roadbed, ditches and other railroad facilities. The Contractor may be required to submit a detailed erosion control plan for review and acceptance by CSXT or the CMR prior to performing any work.
 8. The Contractor must not use CSXT right-of-way for storage of materials or equipment during construction without the written permission from CSXT. The CSXT right-of-way must remain clear for railroad operation at all times. Equipment may not be positioned to block the railroad access road, track area or any part of the CSXT right-of-way without prior CSXT approval.
 9. The Contractor will be required to abide by the provisions of the NCDOT/CSXT Construction Agreement. Periodically, throughout the project duration, the Contractor will be required to meet, discuss and, if necessary, take immediate action at the discretion of CSXT personnel and/or the CMR to comply with provisions of that agreement and these specifications.

10. This project will require extensive use of CSXT Flagmen to protect train operations from project activity in the area of the tracks. While CSXT cannot guarantee the availability of flagmen at all requested times, every accommodation will be extended to the Contractor when forces are available. Flagging requests should be made to CSXT Roadmaster Robert Lester, at telephone XXX-XXX-XXXX at least thirty (30) days in advance. Termination or cancellation of a flagman requires ten (10) days notice to avoid incurring costs.
11. All crane and equipment operations that could potentially impact CSXT right-of-way must be coordinated with the CSXT Flagman.
12. The Contractor shall execute Schedule I (Contractor's Acceptance) prior to starting work on, over, under or adjacent to CSXT right of way, which is part of the Construction Agreement to be executed between the NCDOT and CSXT.
13. Contractor access will be limited to the immediate project area only. The CSXT right-of-way may not be used for contractor access to the project site and no temporary at-grade crossings will be allowed.

APPENDIX D

CSXT SPECIAL PROVISIONS

CSXT SPECIAL PROVISIONS

I. AUTHORITY OF CSXT ENGINEER

The CSXT Representative shall have final authority in all matters affecting the safe maintenance of CSXT operations and CSXT property, and his or her approval shall be obtained by the Agency or its Contractor for methods of construction to avoid interference with CSXT operations and CSXT property and all other matters contemplated by the Agreement and these Special Provisions.

II. INTERFERENCE WITH CSXT OPERATIONS

- A. Agency or its Contractor shall arrange and conduct its work so that there will be no interference with CSXT operations, including train, signal, telephone and telegraphic services, or damage to CSXT's property, or to poles, wires, and other facilities of tenants on CSXT's Property or right-of-way. Agency or its Contractor shall store materials so as to prevent trespassers from causing damage to trains, or CSXT Property. Whenever Work is likely to affect the operations or safety of trains, the method of doing such Work shall first be submitted to the CSXT Representative for approval, but such approval shall not relieve Agency or its Contractor from liability in connection with such Work.
- B. If conditions arising from or in connection with the Project require that immediate and unusual provisions be made to protect train operation or CSXT's property, Agency or its Contractor shall make such provision. If the CSXT Representative determines that such provision is insufficient, CSXT may, at the expense of Agency or its Contractor, require or provide such provision as may be deemed necessary, or cause the Work to cease immediately.

III. NOTICE OF STARTING WORK

Agency or its Contractor shall not commence any work on CSXT Property or rights-of-way until it has complied with the following conditions:

- A. Notify CSXT in writing of the date that it intends to commence Work on the Project. Such notice must be received by CSXT at least ten (10) business days in advance of the date Agency or its Contractor proposes to begin Work on CSXT property. The notice must refer to this Agreement by date. If flagging service is required, such notice shall be submitted at least thirty (30) business days in advance of the date scheduled to commence the Work.
- B. Obtain authorization from the CSXT Representative to begin Work on CSXT property, such authorization to include an outline of specific conditions with which it must comply.
- C. Obtain from CSXT the names, addresses and telephone numbers of CSXT's personnel who must receive notice under provisions in the Agreement. Where more than one individual is designated, the area of responsibility of each shall be specified.

IV. WORK FOR THE BENEFIT OF THE CONTRACTOR

- A. No temporary or permanent changes to wire lines or other facilities (other than third party fiber optic cable transmission systems) on CSXT property that are considered necessary to the Work are anticipated or shown on the Plans. If any such changes are, or become, necessary in the opinion of CSXT or Agency, such changes will be covered by appropriate revisions to the Plans and by preparation of a force account estimate. Such force account estimate may be initiated by either CSXT or Agency, but must be approved by both CSXT and Agency. Agency or Contractor shall be responsible for arranging for the relocation of the third party fiber optic cable transmission systems, at no cost or expense to CSXT.
- B. Should Agency or Contractor desire any changes in addition to the above, then it shall make separate arrangements with CSXT for such changes to be accomplished at the Agency or Contractor's expense.

V. HAUL ACROSS RAILROAD

- A. If Agency or Contractor desires access across CSXT property or tracks at other than an existing and open public road crossing in or incident to construction of the Project, the Agency or Contractor must first obtain the permission of CSXT and shall execute a license agreement or right of entry satisfactory to CSXT, wherein Agency or Contractor agrees to bear all costs and liabilities related to such access.
- B. Agency and Contractor shall not cross CSXT's property and tracks with vehicles or equipment of any kind or character, except at such crossing or crossings as may be permitted pursuant to this section.

VI. COOPERATION AND DELAYS

- A. Agency or Contractor shall arrange a schedule with CSXT for accomplishing stage construction involving work by CSXT. In arranging its schedule, Agency or Contractor shall ascertain, from CSXT, the lead time required for assembling crews and materials and shall make due allowance therefore.

- B. Agency or Contractor may not charge any costs or submit any claims against CSXT for hindrance or delay caused by railroad traffic; work done by CSXT or other delay incident to or necessary for safe maintenance of railroad traffic; or for any delays due to compliance with these Special Provisions.
- C. Agency and Contractor shall cooperate with others participating in the construction of the Project to the end that all work may be carried on to the best advantage.
- D. Agency and Contractor understand and agree that CSXT does not assume any responsibility for work performed by others in connection the Project. Agency and Contractor further understand and agree that they shall have no claim whatsoever against CSXT for any inconvenience, delay or additional cost incurred by Agency or Contractor on account of operations by others.

VII. STORAGE OF MATERIALS AND EQUIPMENT

Agency and Contractor shall not store their materials or equipment on CSXT's property or where they may potentially interfere with CSXT's operations, unless Agency or Contractor has received CSXT Representative's prior written permission. Agency and Contractor understand and agree that CSXT will not be liable for any damage to such materials and equipment from any cause and that CSXT may move, or require Agency or Contractor to move, such material and equipment at Agency's or Contractor's sole expense. To minimize the possibility of damage to the railroad tracks resulting from the unauthorized use of equipment, all grading or other construction equipment that is left parked near the tracks unattended by watchmen shall be immobilized to the extent feasible so that it cannot be moved by unauthorized persons.

VIII. CONSTRUCTION PROCEDURES

A. General

- 1. Construction work on CSXT property shall be subject to CSXT's inspection and approval.
- 2. Construction work on CSXT property shall be in accord with CSXT's written outline of specific conditions and with these Special Provisions.
- 3. Contractor shall observe the terms and rules of the CSXT Safe Way manual, which Agency and Contractor shall be required to obtain from CSXT, and in accord with any other instructions furnished by CSXT or CSXT's Representative.

B. Blasting

- 1. Agency or Contractor shall obtain CSXT Representative's and Agency Representative's prior written approval for use of explosives on or adjacent to CSXT property. If permission for use of explosives is granted, Agency or Contractor must comply with the following:
 - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of Agency or Contractor.
 - b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.
 - c. No blasting shall be done without the presence of an authorized representative of CSXT. At least thirty (30) days advance notice to CSXT Representative is required to arrange for the presence of an authorized CSXT representative and any flagging that CSXT may require.
 - d. Agency or Contractor must have at the Project site adequate equipment, labor and materials, and allow sufficient time, to (i) clean up (at Agency's expense) debris resulting from the blasting without any delay to trains; and (ii) correct (at Agency's expense) any track misalignment or other damage to CSXT's property resulting from the blasting, as directed by CSXT Representative, without delay to trains. If Agency's or Contractor's actions result in delay of any trains, including Amtrak passenger trains, Agency shall bear the entire cost thereof.
 - e. Agency and Contractor shall not store explosives on CSXT property.
- 2. CSXT Representative will:
 - a. Determine the approximate location of trains and advise Agency or Contractor of the approximate amount of time available for the blasting operation and clean-up.
 - b. Have the authority to order discontinuance of blasting if, in his or her opinion, blasting is too hazardous or is not in accord with these Special Provisions.

IX. MAINTENANCE OF DITCHES ADJACENT TO CSXT TRACKS

Agency or Contractor shall maintain all ditches and drainage structures free of silt or other obstructions that may result from their operations. Agency or Contractor shall provide erosion control measures during construction and use methods that accord with applicable state standard specifications for road and bridge construction, including either (1) silt fence; (2) hay or straw barrier; (3) berm or temporary ditches; (4) sediment basin; (5) aggregate checks; and (6) channel lining. All such maintenance and repair of damages due to Agency's or Contractor's operations shall be performed at Agency's expense.

X. FLAGGING / INSPECTION SERVICE

- A. CSXT has sole authority to determine the need for flagging required to protect its operations and property. In general, flagging protection will be required whenever Agency or Contractor or their equipment are, or are likely to be, working within fifty (50) feet of live track or other track clearances specified by CSXT, or over tracks.
- B. Agency shall reimburse CSXT directly for all costs of flagging that is required on account of construction within CSXT property shown in the Plans, or that is covered by an approved plan revision, supplemental agreement or change order.
- C. Agency or Contractor shall give a minimum of thirty (30) days advance notice to CSXT Representative for anticipated need for flagging service. No work shall be undertaken until the flag person(s) is/are at the job site. If it is necessary for CSXT to advertise a flagging job for bid, it may take up to ninety (90) days to obtain this service, and CSXT shall not be liable for the cost of delays attributable to obtaining such service.
- D. CSXT shall have the right to assign an individual to the site of the Project to perform inspection service whenever, in the opinion of CSXT Representative, such inspection may be necessary. Agency shall reimburse CSXT for the costs incurred by CSXT for such inspection service. Inspection service shall not relieve Agency or Contractor from liability for its Work.
- E. CSXT shall render invoices for, and Agency shall pay for, the actual pay rate of the flagpersons and inspectors used, plus standard additives, whether that amount is above or below the rate provided in the Estimate. If the rate of pay that is to be used for inspector or flagging service is changed before the work is started or during the progress of the work, whether by law or agreement between CSXT and its employees, or if the tax rates on labor are changed, bills will be rendered by CSXT and paid by Agency using the new rates. Agency and Contractor shall perform their operations that require flagging protection or inspection service in such a manner and sequence that the cost of such will be as economical as possible.

XI. UTILITY FACILITIES ON CSXT PROPERTY

Agency shall arrange, upon approval from CSXT, to have any utility facilities on or over CSXT Property changed as may be necessary to provide clearances for the proposed trackage.

XII. CLEAN-UP

Agency or Contractor, upon completion of the Project, shall remove from CSXT's Property any temporary grade crossings, any temporary erosion control measures used to control drainage, all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings belonging to Agency or Contractor. Agency or Contractor, upon completion of the Project, shall leave CSXT Property in neat condition, satisfactory to CSXT Representative.

XIII. FAILURE TO COMPLY

If Agency or Contractor violate or fail to comply with any of the requirements of these Special Provisions, (a) CSXT may require Agency and/or Contractor to vacate CSXT Property; and (b) CSXT may withhold monies due Agency and/or Contractor; (c) CSXT may require Agency to withhold monies due Contractor; and (d) CSXT may cure such failure and the Agency shall reimburse CSXT for the cost of curing such failure.

APPENDIX E

CSXT INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS

I. Insurance Policies:

Agency and Contractor, if and to the extent that either is performing work on or about CSXT's property, shall procure and maintain the following insurance policies:

1. Commercial General Liability (CGL) coverage at their sole cost and expense with limits of not less than \$5,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional insured.

2. Statutory Worker's Compensation and Employers Liability Insurance with limits of not less than \$1,000,000, which insurance must contain a waiver of subrogation against CSXT and its affiliates [if permitted by state law].

3. Commercial Automobile Liability insurance with limits of not less than \$1,000,000 combined single limit for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional insured.

4. Railroad Protective Liability (RPL) insurance with limits of not less than \$5,000,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate annual limit of \$10,000,000, which insurance shall satisfy the following additional requirements:

a. The Railroad Protective Liability Insurance Policy must be on the ISO/RIMA Form of Railroad Protective Insurance - Insurance Services Office (ISO) Form CG 00 35.

b. CSX Transportation must be the named insured on the Railroad Protective Liability Insurance Policy. The named insured's address should be listed as:

CSX Transportation, Inc.
500 Water Street, C-907
Jacksonville, FL 32202

c. The Name and Address of the Contractor and of the Project Sponsor/Involved Governmental Agency must be shown on the Declarations page.

d. A description of operations and location must appear on the Declarations page and must match the Project description.

e. Terrorism Risk Insurance Act (TRIA) coverage must be included.

f. Authorized endorsements must include:

(i) Pollution Exclusion Amendment - CG 28 31, unless using form CG 00 35 version 96 and later

g. Authorized endorsements may include:

- (i) Broad Form Nuclear Exclusion - IL 00 21
- (ii) Notice of Non-renewal or cancellation
- (iii) Required State Cancellation Endorsement
- (iv) Quick Reference or Index - CL/IL 240

h. Authorized endorsements may not include:

- (i) A Pollution Exclusion Endorsement except CG 28 31
- (ii) An Endorsement that excludes TRIA coverage

- (iii) An Endorsement that limits or excludes Professional Liability coverage
- (iv) A Non-Cumulation of Liability or Pyramiding of Limits Endorsement
- (v) A Known Injury Endorsement
- (vi) A Sole Agent Endorsement
- (vii) A Punitive or Exemplary Damages Exclusion
- (viii) A "Common Policy Conditions" Endorsement
- (ix) Policies that contain any type of deductible
- (x) Any endorsement that is not named in Section 4 (f) or (g) above that CSXT deems unacceptable

5. All insurance companies must be A. M. Best rated A- and Class VII or better.

6. Such additional or different insurance as CSXT may require.

II. Additional Terms

1. Contractor must submit the complete Railroad Protective Liability policy, Certificates of Insurance and all notices and correspondence regarding the insurance policies in an electronic format to:

insurancedocuments@csx.com

2. Neither Agency nor Contractor may begin work on or about CSXT property until written approval of the required insurance has been received from CSXT or CSXT's Insurance Compliance vendor, Ebix.

ATTACHMENT A: INSTRUCTIONS TO VENDORS

1. **READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Vendors or elsewhere in this CONTRACT PROPOSAL document.
2. **LATE PROPOSALS:** Late proposals, regardless of cause, will not be opened or considered, and will automatically be disqualified from further consideration. It shall be the Vendor's sole responsibility to ensure delivery at the designated office by the designated time.
3. **ACCEPTANCE AND REJECTION:** The State reserves the right to reject any and all proposals, to waive any informality in proposals and, unless otherwise specified by the Vendor, to accept any item in the proposal. If either a unit price or an extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.
4. **BASIS FOR REJECTION:** Pursuant to 01 NCAC 05B .0501, the State reserves the right to reject any and all offers, in whole or in part, by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered, non-compliance with the requirements or intent of this solicitation, lack of competitiveness, error(s) in specifications or indications that revision would be advantageous to the State, cancellation or other changes in the intended project or any other determination that the proposed requirement is no longer needed, limitation or lack of available funds, circumstances that prevent determination of the best offer, or any other determination that rejection would be in the best interest of the State.
5. **EXECUTION:** Failure to sign EXECUTION PAGE in the indicated space will render proposal non-responsive, and it shall be rejected.
6. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this solicitation or those in any resulting contract, the order of precedence shall be (high to low) (1) any special terms and conditions specific to this CONTRACT PROPOSAL, including any negotiated terms; (2) requirements and specifications in Sections 4, 5 and 6 of this CONTRACT PROPOSAL; (3) North Carolina General Contract Terms and Conditions in ATTACHMENT B: NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS; (4) Instructions in ATTACHMENT A: INSTRUCTIONS TO VENDORS; and (5) Vendor's Proposal.
7. **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor shall furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this proposal, each Vendor must submit with their proposal sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous proposal or available elsewhere will not satisfy this provision. Proposals that do not comply with these requirements shall be subject to rejection without further consideration.
8. **SUSTAINABILITY:** To support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort. It is desirable that all responses meet the following:
 - All copies of the proposal are printed double sided.
 - All submittals and copies are printed on recycled paper with a minimum post-consumer content of 30%.
 - Unless absolutely necessary, all proposals and copies should minimize or eliminate use of non-recyclable or non-reusable materials such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
 - Materials should be submitted in a format which allows for easy removal, filing and/or recycling of paper and binder materials. Use of oversized paper is strongly discouraged unless necessary for clarity or legibility.
9. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150 (1999), the State invites and encourages participation in this procurement process by businesses owned

by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.

10. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference requirement to discourage other states from favoring their own resident Vendors by applying a percentage increase to the price of any proposal from a North Carolina resident Vendor. The "Principal Place of Business" is defined as that principal place from which the trade or business of the Vendor is directed or managed.
11. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, the State will maintain confidential trade secrets that the Vendor does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Vendor, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Vendor may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. 132-1.2. Any material labeled as confidential constitutes a representation by the Vendor that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. 132-1.2. Vendors are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible.
12. **PROTEST PROCEDURES:** When a Vendor wishes to protest a Contract resulting from this solicitation that is awarded by the Division of Purchase and Contract, or awarded by an agency in an awarded amount of at least \$25,000, a Vendor shall submit a written request addressed to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. A protest request related to an award amount of less than \$25,000 shall be sent to the purchasing officer of the agency that issued the award. The protest request must be received in the proper office within thirty (30) consecutive calendar days from the date of the Contract award. Protest letters **shall** contain specific grounds and reasons for the protest, how the protesting party was harmed by the award made and any documentation providing support for the protesting party's claims. **Note:** Contract award notices are sent only to the Vendor actually awarded the Contract, and not to every person or firm responding to a solicitation. Proposal status and Award notices are posted on the Internet at <https://www.ips.state.nc.us/ips/>. All protests will be handled pursuant to the North Carolina Administrative Code, 01 NCAC 05B .1519.
13. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.
14. **COMMUNICATIONS BY VENDORS:** In submitting its proposal, the Vendor agrees not to discuss or otherwise reveal the contents of its proposal to any source, government or private, outside of the using or issuing agency until after the award of the Contract or cancellation of this CONTRACT PROPOSAL. All Vendors are forbidden from having any communications with the using or issuing agency, or any other representative of the State concerning the solicitation, during the evaluation of the proposals (i.e., after the public opening of the proposals and before the award of the Contract), unless the State directly contacts the Vendor(s) for purposes of seeking clarification or another reason permitted by the solicitation. A Vendor shall not: (a) transmit to the issuing and/or using agency any information commenting on the ability or qualifications of any other Vendor to provide the advertised good, equipment, commodity; (b) identify defects, errors and/or omissions in any other Vendor's proposal and/or prices at any time during the procurement process; and/or (c) engage in or attempt any other communication or conduct that could influence the evaluation and/or award of the Contract that is the subject of this CONTRACT PROPOSAL. Vendors not in compliance with this provision may be disqualified, at the option of the State, from the Contract award. Only those communications with the using agency or issuing agency authorized by this CONTRACT PROPOSAL are permitted.
15. **TABULATIONS:** Proposal tabulations can be electronically retrieved at the Interactive Purchasing System (IPS), <https://www.ips.state.nc.us/ips/BidNumberSearch.aspx>. Click on the IPS BIDS icon, click on Search for Bid, enter the proposal number, and then search. Tabulations will normally be available at this website not later than one working day after the proposal opening. Lengthy or complex tabulations may be summarized, with other details not made available on IPS, and requests for additional details or information concerning such tabulations cannot be honored.
16. **VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM:** The North Carolina electronic Vendor Portal (eVP) allows Vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services of potential interests to them available on the Interactive

Purchasing System, as well as notifications of status changes to those solicitations. Online registration and other purchasing information is available at the following website <https://www.ips.state.nc.us/>.

- 17. **WITHDRAWAL OF PROPOSAL:** a Proposal may be withdrawn only in writing and actually received by the office issuing the CONTRACT PROPOSAL prior to the time for the opening of Proposals identified on the cover page of this CONTRACT PROPOSAL (or such later date included in an Addendum to the CONTRACT PROPOSAL). A withdrawal request must be on Vendor's letterhead and signed by an official of the Vendor authorized to make such request. Any withdrawal request made after the opening of Proposals shall be allowed only for good cause shown and in the sole discretion of the Division of Purchase and Contract.

- 18. **INFORMAL COMMENTS:** The State shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of the State during the competitive process or after award. The State is bound only by information provided in this CONTRACT PROPOSAL and in formal Addenda issued through IPS.

- 19. **COST FOR PROPOSAL PREPARATION:** Any costs incurred by Vendor in preparing or submitting offers are the Vendor's sole responsibility; the State of North Carolina will not reimburse any Vendor for any costs incurred prior to award.

- 20. **VENDOR'S REPRESENTATIVE:** Each Vendor shall submit with its proposal the name, address, and telephone number of the person(s) with authority to bind the firm and answer questions or provide clarification concerning the firm's proposal.

- 21. **SUBCONTRACTING:** Unless expressly prohibited, a Vendor may propose to subcontract portions of the work to identified subcontractor(s), provided that its proposal clearly describe what work it plans to subcontract and that Vendor includes in its proposal all information regarding employees, business experience, and other information for each proposed subcontractor that is required to be provided for Vendor itself.

- 22. **INSPECTION AT VENDOR'S SITE:** The State reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective Vendor prior to Contract award, and during the Contract term as necessary for the State determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the Contract.

ATTACHMENT B: NORTH CAROLINA GENERAL CONTRACT TERMS & CONDITIONS

1. **PERFORMANCE AND DEFAULT:** If, through any cause, Vendor shall fail to fulfill in timely and proper manner the obligations under this contract, the State shall have the right to terminate this contract by giving written notice to the Vendor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Vendor shall, at the option of the State, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any acceptable work completed on such materials. Notwithstanding, Vendor shall not be relieved of liability to the State for damages sustained by the State by virtue of any breach of this contract, and the State may withhold any payment due the Vendor for the purpose of setoff until such time as the exact amount of damages due the State from such breach can be determined. The State reserves the right to require at any time a performance bond or other acceptable alternative performance guarantees from a Vendor without expense to the State.

In case of default by the Vendor, the State may procure the goods and services necessary to complete performance hereunder from other sources and hold the Vendor responsible for any excess cost occasioned thereby. In addition, in the event of default by the Vendor under this contract, or upon the Vendor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Vendor, the State may immediately cease doing business with the Vendor, immediately terminate this contract for cause, and may act to debar the Vendor from doing future business with the State.

2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the goods or services offered prior to their delivery, it shall be the responsibility of the Vendor to notify, in writing, the Contract Lead at once, indicating the specific regulation which required such alterations. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.
3. **AVAILABILITY OF FUNDS:** Any and all payments to the Vendor shall be dependent upon and subject to the availability of funds to the agency for the purpose set forth in this contract.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.
- a. G.S. 143-59.1 bars the Secretary of Administration from entering into Contracts with Vendors if the Vendor or its affiliates meet one of the conditions of G.S. 105-164.8(b) and refuses to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G.S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the Vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the proposal document the Vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
 - b. All agencies participating in this Contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Vendor will be executed and returned by the using agency.
 - c. Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
5. **SITUS:** The place of this Contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in Contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **GOVERNING LAWS:** This Contract is made under and shall be governed, construed and enforced in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules.

PAYMENT TERMS: Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the Vendor under the Contract.

Payment by some agencies may be made by procurement card, if the Vendor accepts that card (Visa, MasterCard, etc.) from other customers, and it shall be accepted by the Vendor for payment under the same terms and conditions as any other method of payment accepted by the Vendor. If payment is made by procurement card, then payment may be processed immediately by the Vendor.

- 7. **AFFIRMATIVE ACTION:** The Vendor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
- 9. **INTELLECTUAL PROPERTY INDEMNITY:** Vendor shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract.
- 10. **ADVERTISING:** Vendor agrees not to use the existence of this Contract or the name of the State of North Carolina as part of any commercial advertising or marketing of products or services. A Vendor may inquire whether the State is willing to act as a reference by providing factual information directly to other prospective customers.
- 11. **ACCESS TO PERSONS AND RECORDS:** During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Contract to verify accounts and data affecting fees or performance under the Contract, as provided in G.S. 143-49(9).
- 12. **ASSIGNMENT:** No assignment of the Vendor's obligations nor the Vendor's right to receive payment hereunder shall be permitted.

However, upon written request approved by the issuing purchasing authority and solely as a convenience to the Vendor, the State may:

- a. Forward the Vendor's payment check directly to any person or entity designated by the Vendor, and
- b. Include any person or entity designated by Vendor as a joint payee on the Vendor's payment check.

In no event shall such approval and action obligate the State to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, the State may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Vendor's assets. Any purported assignment made in violation of this provision shall be void and a material breach of this Contract.

13. INSURANCE:

COVERAGE - During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract. As a minimum, the Vendor shall provide and maintain the following coverage and limits:

- a. **Worker's Compensation** - The Vendor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Vendor's employees who are engaged in any work under the Contract. If any work is sub-contracted, the Vendor shall require the sub-Contractor to provide the same coverage for any of his employees engaged in any work under the Contract.
- b. **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$5,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.) Revise the 2012 Standard Specifications as follows:

Page 1-60, Article 107-15 LIABILITY INSURANCE, line 16, add the following as the second sentence of the third paragraph:

Prior to beginning services, all contractors shall provide proof of coverage issued by a workers' compensation insurance carrier, or a certificate of compliance issued by the Department of Insurance for self-insured subcontractors, irrespective of whether having regularly in service fewer than three employees.

c. **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the Contract. The minimum combined single limit shall be \$250,000.00 bodily injury and property damage; \$250,000.00 uninsured/under insured motorist; and \$2,500.00 medical payment.

REQUIREMENTS - Providing and maintaining adequate insurance coverage is a material obligation of the Vendor and is of the essence of this Contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The Vendor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this Contract. The limits of coverage under each insurance policy maintained by the Vendor shall not be interpreted as limiting the Vendor's liability and obligations under the Contract.

14. **GENERAL INDEMNITY:** The Vendor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the Vendor in the performance of this Contract and that are attributable to the negligence or intentionally tortious acts of the Vendor provided that the Vendor is notified in writing within 30 days that the State has knowledge of such claims. The Vendor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of Vendor goods or services to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this Contract.
15. **INDEPENDENT CONTRACTOR:** Vendor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Vendor represents that it has, or will secure at its own expense, all personnel required in performing the services under this contract. Such employees shall not be employees of, or have any individual contractual relationship with the State.
16. **KEY PERSONNEL:** Vendor shall not substitute key personnel assigned to the performance of this contract without prior written approval by the State's assigned Contract Lead. The individuals designated as key personnel for purposes of this contract are those specified in the CONTRACT PROPOSAL and persons identified in Vendor's proposal.
17. **SUBCONTRACTING:** Work proposed to be performed under this contract by the Vendor or its employees shall not be subcontracted without prior written approval of the State's assigned Contract Administrator. Unless otherwise indicated, acceptance of a Vendor's proposal shall include approval to use the subcontractor(s) that have been specified therein in accordance with paragraph 20 of Attachment A: Instructions to Vendor.
18. **TERMINATION FOR CONVENIENCE:** The State may terminate this contract at any time by providing 10 days' notice in writing from the State to the Vendor. In that event, all finished or unfinished deliverable items prepared by the Vendor under this contract shall, at the option of the State, become its property. If the contract is terminated by the State as provided in this section, the State shall pay for services satisfactorily completed by the Vendor, less any payment or compensation previously made.
19. **CONFIDENTIALITY:** Any State information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Vendor under this contract shall be kept as confidential, used only for the purpose(s) required to perform this contract and not divulged or made available to any individual or organization without the prior written approval of the State.
20. **CARE OF PROPERTY:** The Vendor agrees that it shall be responsible for the proper custody and care of any

property furnished it by the State for use in connection with the performance of this contract or purchased by or for the State for this contract, and Vendor will reimburse the State for loss or damage of such property while in Vendor's custody.

- 21. PROPERTY RIGHTS:** All deliverable items and materials produced for or as a result of this contract shall become the property of the State, and Vendor hereby assigns all ownership rights in such deliverables, including all intellectual property rights, to the State; provided, however, that as to any preexisting works imbedded in such deliverables, Vendor hereby grants the State a fully-paid, perpetual license to copy, distribute and adapt the preexisting works.
- 22. OUTSOURCING:** Any Vendor or subcontractor providing call or contact center services to the State of North Carolina shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the contractor wishes to relocate or outsource any portion of the work to a location outside the United States, or to contract with a subcontractor for the performance of any work, which subcontractor and nature of the work has not previously been disclosed to the State in writing, prior written approval must be obtained from the State agency responsible for the contract.

Vendor shall give notice to the using agency of any relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing services under a State contract to a location outside of the United States.

- 23. COMPLIANCE WITH LAWS:** Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and its performance in accordance with this contract, including those of federal, state, and local agencies having jurisdiction and/or authority.
- 24. ENTIRE AGREEMENT:** This CONTRACT PROPOSAL and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This CONTRACT PROPOSAL, any addenda thereto, and the Vendor's proposal are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

- 25. AMENDMENTS:** This contract may be amended only by a written amendment duly executed by the State and the Vendor. The NC Division of Purchase and Contract shall give prior approval to any amendment to a contract awarded through that office.
- 26. WAIVER:** The failure to enforce or the waiver by the State of any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.
- 27. FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
- 28. SOVEREIGN IMMUNITY:** Notwithstanding any other term or provision in this contract, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity that otherwise would be available to the State under applicable law.

ATTACHMENT C: LOCATION OF WORKERS UTILIZED BY VENDOR

In accordance with NC General Statute 143-59.4, the Vendor shall detail the location(s) at which performance will occur, as well as the manner in which it intends to utilize resources or workers outside of the United States in the performance of this Contract. The State will evaluate the additional risks, costs, and other factors associated with such utilization prior to making an award. Please complete items a, b, and c below.

a) Will any work under this Contract be performed outside the United States? YES NO

If the Vendor answered "YES" above, Vendor must complete items 1 and 2 below:

1. List the location(s) outside the United States where work under this Contract will be performed by the Vendor, any sub-Contractors, employees, or other persons performing work under the Contract:

2. Describe the corporate structure and location of corporate employees and activities of the Vendor, its affiliates or any other sub-Contractors that will perform work outside the U.S.:

b) The Vendor agrees to provide notice, in writing to the State, of the relocation of the Vendor, employees of the Vendor, sub-Contractors of the Vendor, or other persons performing services under the Contract outside of the United States YES NO

NOTE: All Vendor or sub-Contractor personnel providing call or contact center services to the State of North Carolina under the Contract **shall** disclose to inbound callers the location from which the call or contact center services are being provided.

c) Identify all U.S. locations at which performance will occur:

ATTACHMENT D: CERTIFICATION OF FINANCIAL CONDITION

Name of Vendor: _____

The undersigned hereby certifies that: [check all applicable boxes]

The Vendor is in sound financial condition and, if applicable, has received an unqualified audit opinion for the latest audit of its financial statements.

Date of latest audit: _____

The Vendor has no outstanding liabilities, including tax and judgment liens, to the Internal Revenue Service or any other government entity.

The Vendor is current in all amounts due for payments of federal and state taxes and required employment-related contributions and withholdings.

The Vendor is not the subject of any current litigation or findings of noncompliance under federal or state law.

The Vendor has not been the subject of any past or current litigation, findings in any past litigation, or findings of noncompliance under federal or state law that may impact in any way its ability to fulfill the requirements of this Contract.

He or she is authorized to make the foregoing statements on behalf of the Vendor.

Note: This is a continuing certification and Vendor shall notify the Contract Lead within 15 days of any material change to any of the representations made herein.

If any one or more of the foregoing boxes is NOT checked, Vendor shall explain the reason in the space below:



Signature Date

Printed Name Title

[This Certification must be signed by an individual authorized to speak for the Vendor]

ATTACHMENT E: IRAN DIVESTMENT ACT CERTIFICATION

**CERTIFICATION OF ELIGIBILITY
Under the Iran Divestment Act**

As provided in G.S. 147-86.59, any person identified as engaging in investment activities in Iran, determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, is ineligible to contract with the State of North Carolina or any political subdivision of the State. The Iran Divestment Act of 2015, G.S. 147-86.55 *et seq.** requires that each Vendor, prior to contracting with the State certify, and the undersigned on behalf of the Vendor does hereby certify, to the following:

1. that the Vendor is not identified on the Final Divestment List of entities that the State Treasurer has determined engages in investment activities in Iran;
2. that the Vendor shall not utilize on any contract with the State agency any subcontractor that is identified on the Final Divestment List; and
3. that the undersigned is authorized by the Vendor to make this Certification.

Vendor: _____

By: _____
 Signature Date

 Printed Name Title

The State Treasurer’s Final Divestment List can be found on the State Treasurer’s website at the address <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>, which will be updated every 180 days. For questions about the Department of State Treasurer’s Iran Divestment Policy, please contact Meryl Murtagh at Meryl.Murtagh@nctreasurer.com or (919) 814-3852.

* Note: Enacted by Session Law 2015-118 as G.S. 143C-55 *et seq.*, but renumbered for codification at the direction of the Revisor of Statutes.