

STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION  
HIGHWAY DIVISION 6

**PROPOSAL – REVISED – 8-31-2022**

**NON-EXCLUSIVE CONTRACT**

**ANNUAL RENEWABLE – 3 YEARS**

**DATE AND TIME OF BID  
OPENING:** SEPTEMBER 7, 2022 AT 2:00 PM  
**CONTRACT ID:** D6D2.POC.018  
**FEDERAL AID NO.:** TBD  
**WBS ELEMENT NO.:** 6.104319.9  
**ROUTE NO.:** VARIOUS PRIMARY & SECONDARY  
**LOCATION:** VARIOUS  
**COUNTY:** HARNETT  
**TYPE OF WORK:** STORM DEBRIS CUT & SHOVE CREW  
**LENGTH OF PROJECT:** VARIES

**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 REFRIGERATION 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 ROADWAY PROPOSAL.**

**NO BID BOND OR BID DEPOSIT REQUIRED.**

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**NAME OF BIDDER**

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**ADDRESS OF BIDDER**

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**NC CONTRACTOR'S LICENSE NUMBER (if applicable)**

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

The Bidder has carefully examined the location of the proposed work; has carefully examined the plans and specifications, which are acknowledged to be part of the proposal, the special provisions, the proposal, the form of contract, and the forms of contract payment bond and contract performance bond; and thoroughly understands the stipulations, requirements and provisions. The undersigned bidder agrees to bound upon his execution of the bid and subsequent award to him by the Department of Transportation in accordance with this proposal to provide the necessary contract payment bond and contract performance bond within fourteen days after the written notice of award is received by him. The undersigned Bidder further agrees to provide all necessary machinery, tools, labor, and other means of construction; and to do all the work and to furnish all materials, except as otherwise noted, necessary to perform and complete the said contract in accordance with *the 2018 Standard Specifications for Roads and Structures* by the dates(s) specified in the Project Special Provisions and in accordance with the requirements of the Engineer, and at the unit or lump sum prices, as the case may be, for the various items given on the sheets contained herein.

The Bidder shall provide and furnish all the materials, machinery, implements, appliances and tools, and perform the work and required labor to construct and complete this contract, for the unit or lump sum prices, as the case may be, bid by the Bidder in his bid and according to the proposal, plans, and specifications prepared by said Department, which proposal, plans, and specifications show the details covering this project, and hereby become a part of this contract.

The published volume entitled *North Carolina Department of Transportation, Raleigh, Standard Specifications for Roads and Structures, January 2018* with all amendments and supplements thereto, is by reference incorporated into and made a part of this contract; that, except as herein modified, all the construction and work included in this contract is to be done in accordance with the specifications contained in said volume, and amendments and supplements thereto, under the direction of the Engineer.

If the proposal is accepted and the award is made, the contract is valid only when signed either by the Contract Officer or such other person as may be designated by the Secretary to sign for the Department of Transportation. The conditions and provisions herein cannot be changed except over the signature of the said Contract Officer or Division Engineer.

The quantities shown in the itemized proposal for the project are considered to be approximate only and are given as the basis for comparison of bids. The Department of Transportation may increase or decrease the quantity of any item or portion of the work as may be deemed necessary or expedient.

An increase or decrease in the quantity of an item will not be regarded as sufficient ground for an increase or decrease in the unit prices, nor in the time allowed for the completion of the work, except as provided for the contract.

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**INSTRUCTIONS TO BIDDERS**

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

**NOTE CHANGE IN BID PACKAGE DELIVERY LOCATION TO THE NCDOT DIVISION OFFICE AT 558 GILLESPIE STREET, FAYETTEVILLE, NC 28301, AS SHOWN IN ITEM NO. 11 BELOW.**

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.

**TRADITIONAL PAPER BIDS:**

1. Download the entire proposal from the **Connect NCDOT website** and **return the entire proposal with your bid.**
2. If the Interested Parties List provision SP01 G02 is part of the proposal prior to submitting a bid on a project, the bidder shall sign up on the *Interested Parties List* in conformance with Interested Parties List provision SP01 G02.
3. All entries on the itemized proposal sheet (bid form) shall be written in ink or typed.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. The bid shall not contain any unauthorized additions, deletions, or conditional bids.
10. 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.
11. **THE PROPOSAL WITH THE ITEMIZED PROPOSAL SHEET ATTACHED SHALL BE PLACED IN A SEALED ENVELOPE AND SHALL BE DELIVERED TO AND RECEIVED IN THE NCDOT DIVISION PROPOSALS ENGINEER'S OFFICE AT 558 GILLESPIE STREET, FAYETTEVILLE, N. C. 28301 BY 2:00 P.M., ON WEDNESDAY, SEPTEMBER 7, 2022.**
12. **The sealed bid envelope must display the bidding Contractor's name and address on the front.**
13. The sealed bid must display the following statement on the front of the sealed envelope:

**QUOTATION FOR D6D2.POC.018–HARNETT  
STORM DEBRIS CUT & SHOVE CREW  
TO BE OPENED AT 2:00 PM ON SEPTEMBER 7, 2022**

14. Bid packages should be delivered to the Division Proposals Engineer's office prior to the bid opening deadline listed above, either by hand or express delivery.
15. Bid packages should not be sent through the US Post Office by regular US Mail. Regular US Mail does not guarantee delivery by any certain day or time, and may result in your bid package arriving late. NCDOT is not responsible for ensuring your bid package arrives on time.
16. **Any bid package received after the designated bid opening deadline, for any reason, shall be considered non-responsive, will not be opened and read, and will be destroyed or returned.**

**PROJECT SPECIAL PROVISIONS****GENERAL**

All work and materials shall be in accordance with the provisions of the General Guidelines of this contract, the Project Special Provisions, and the current editions of the North Carolina Department of Transportation Standard Specifications, the North Carolina Department of Transportation Roadway Standards Drawings, and the current edition of the Manual of Uniform Traffic Control Devices (MUTCD).

The Contractor shall keep himself fully informed of all Federal, State and local laws, ordinances, and regulations, and shall comply with the provisions of Section 107 of the Standard Specifications.

**CONTRACT TIME FOR ID/IQ:**

(2-15-22)

108

SP1 G11 - REV

The date of availability for this contract is **October 1, 2022**.

The completion date for this contract is **September 30, 2023**.

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.

Work shall be accomplished in a continuous manner once the contractor begins.

The District Engineer, the County Maintenance Engineer or their duly authorized representatives will notify the Contractor when roadway maintenance services are needed. The Contractor shall begin work within the time frame specified when notification is given. Failure on the part of the Contractor to begin work within the specified timeframe may cause liquidated damages to be assessed.

Any liquidated damages for this contract will be assessed per the Mobilization and Liquidated Damages provision located elsewhere in this Contract.

In the event of multiple awards, another Contractor may be called to complete the assigned project if the notified Contractor fails to do so in a timely manner. In accordance with Section 108-9 of the Standard Specifications, this may be considered a Default of Contract and may be justification for termination.

**INTERMEDIATE CONTRACT TIME NUMBER 1 AND LIQUIDATED DAMAGES:**

(2-20-07)

108

SP1 G14 B

The Contractor shall not narrow or close a lane of traffic on **All Maps**, detain and /or alter the traffic flow on or during holiday weekends, special events, or any other time when traffic is unusually heavy, including the following schedules:

**HOLIDAY AND HOLIDAY WEEKEND LANE CLOSURE RESTRICTIONS**

1. For **unexpected occurrence** that creates unusually high traffic volumes, as directed by the Engineer.
2. For **New Year's Day**, between the hours of **4:00 p.m.** December 31st and **8:30 a.m.** January 2nd. If New Year's Day is on a Friday, Saturday, Sunday or Monday, then until **8:30 a.m.** the following Tuesday.

3. For **Easter**, between the hours of **4:00 p.m.** Thursday and **8:30 a.m.** Monday.
4. For **Memorial Day**, between the hours of **4:00 p.m.** Friday and **8:30 a.m.** Tuesday.
5. For **Independence Day**, between the hours of **4:00 p.m.** the day before Independence Day and **8:30 a.m.** the day after Independence Day.

If **Independence Day** is on a Friday, Saturday, Sunday or Monday, then between the hours of **4:00 p.m.** the Thursday before Independence Day and **8:30 a.m.** the Tuesday after Independence Day.

6. For **Labor Day**, between the hours of **4:00 p.m.** Friday and **8:30 a.m.** Tuesday.
7. For **Thanksgiving Day**, between the hours of **4:00 p.m.** Tuesday and **8:30 a.m.** Monday.
8. For **Christmas**, between the hours of **4:00 p.m.** the Friday before the week of Christmas Day and **8:30 a.m.** the following Tuesday after the week of Christmas Day.

Holidays and holiday weekends shall include New Year's, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. The Contractor shall schedule his work so that lane closures are not required during these periods, unless otherwise directed by the Engineer.

The time of availability for this intermediate contract work shall be the time the Contractor begins to install all traffic control devices for lane closures according to the time restrictions listed herein.

The completion time for this intermediate contract work shall be the time the Contractor is required to complete the removal of all traffic control devices for lane closures according to the time restrictions stated herein and place traffic in the correct traffic pattern.

The liquidated damages are **Two Hundred Fifty Dollars (\$ 250.00)** per hour.

**BIDS OVER LIMIT:**

(08-01-16)

SPD 01-400

In accordance with GS 136-28.1(b), if the total bid amount of the contract exceeds \$5.0 million, the bid will not be considered for award.

**DIVISION LET CONTRACT PREQUALIFICATION:**

(07-01-14)(12-1-16)

SPD 01-410

Any firm that wishes to bid as a prime contractor shall be prequalified as a Bidder or PO Prime Contractor prior to submitting a bid. Information regarding prequalification can be found at:

<https://connect.ncdot.gov/business/Prequal/Pages/default.aspx>.

Prior to performing the work, the prime contractor and/or subcontractor(s) shall be prequalified in the work code(s) which are identified as work items in the prime contractor's construction progress schedule that they will complete themselves. Any contractor identified as working outside their expertise may be considered in default of contract.

**BOND REQUIREMENTS – No Bonds Required**

(06-01-16)

SPD 01-420B

The provisions of Articles 102-10 and 103-7 of the *2018 Standard Specifications for Roads and Structures* are waived for this project. No bonds required.

**AUTHORITY OF THE ENGINEER:**

(01-30-14)

105-1

SPD 01-460

The Engineer for this project shall be the Division Engineer, Division 6, Division of Highways, North Carolina Department of Transportation, acting directly or through his duly authorized representative.

The Engineer will decide all questions which may arise as to the quality and acceptability of work performed and as to the rate of progress of the work; all questions which may arise as to the interpretation of the contract; and all questions as to the acceptable fulfillment of the contract on the part of the Contractor. His decision shall be final and he shall have executive authority to enforce and make effective such decisions and orders as the Contractor fails to carry them out promptly.

**RAILROAD GRADE CROSSING:**

(7-1-95) (Rev. 10-20-20)

107-9

SP1 G17R

When the use of slow moving or stopped equipment is required over at-grade railroad crossings, the contractor shall contact the appropriate track owner to gain Right of Entry. The contractor shall be responsible for ascertaining and contacting the railroad track owner.

No separate payment will be made for conforming with the requirements of this Special Provision. Please contact the Resident Engineer or the Surfaces and Encroachment manager with the Rail Division with any questions pertaining to the Right of Entry at 919-707-4132 or [mmclamb@ncdot.gov](mailto:mmclamb@ncdot.gov).

**NO MAJOR CONTRACT ITEMS:**

(2-19-02) (Rev. 8-21-07)

104

SP1 G31

None of the items included in this contract will be major items.

**NO SPECIALTY ITEMS:**

(7-1-95)

108-6

SP1 G34

None of the items included in this contract will be specialty items (see Article 108-6 of the *2018 Standard Specifications*).

**FUEL PRICE ADJUSTMENT PAPER BID:**

(11-15-05) (Rev. 7-20-21)

109-8

SP1 G43

Revise the *2018 Standard Specifications* as follows:

**Page 1-87, Article 109-8, Fuel Price Adjustments**, add the following:

The base index price for DIESEL #2 FUEL is \$ **3.7538** per gallon. Where any of the following are included as pay items in the contract, they will be eligible for fuel price adjustment.

The pay items and the fuel factor used in calculating adjustments to be made will be as follows:

Description	Units	Fuel Usage Factor Diesel
Unclassified Excavation	Gal/CY	0.29
Borrow Excavation	Gal/CY	0.29
Class IV Subgrade Stabilization	Gal/Ton	0.55
Aggregate Base Course	Gal/Ton	0.55
Sub-Ballast	Gal/Ton	0.55
Asphalt Concrete Base Course, Type _____	Gal/Ton	0.90 or 2.90
Asphalt Concrete Intermediate Course, Type _____	Gal/Ton	0.90 or 2.90
Asphalt Concrete Surface Course, Type _____	Gal/Ton	0.90 or 2.90
Open-Graded Asphalt Friction Course	Gal/Ton	0.90 or 2.90
Permeable Asphalt Drainage Course, Type _____	Gal/Ton	0.90 or 2.90
Sand Asphalt Surface Course, Type _____	Gal/Ton	0.90 or 2.90
Aggregate for Cement Treated Base Course	Gal/Ton	0.55
Portland Cement for Cement Treated Base Course	Gal/Ton	0.55
" Portland Cement Concrete Pavement	Gal/SY	0.245
Concrete Shoulders Adjacent to _____ Pavement	Gal/SY	0.245

For the asphalt items noted in the chart as eligible for fuel adjustments, the bidder may include the *Fuel Usage Factor Adjustment Form for Paper Bid* with their bid submission if they elect to use the fuel usage factor. The *Fuel Usage Factor Adjustment Form for Paper Bid* is included toward the end of this paper bid document when asphalt items noted in the chart as eligible for fuel adjustments are part of the project.

Select either 2.90 Gal/Ton fuel factor or 0.90 Gal/Ton fuel factor for each asphalt line item on the *Fuel Usage Factor Adjustment Form for Paper Bid*. The selected fuel factor for each asphalt item will remain in effect for the duration of the contract.

Failure to complete the *Fuel Usage Factor Adjustment Form for Paper Bid* will result in using 2.90 gallons per ton as the Fuel Usage Factor for Diesel for the asphalt items noted above. The contractor will not be permitted to change the Fuel Usage Factor after the bids are submitted.

**SCHEDULE OF ESTIMATED COMPLETION PROGRESS:**

(7-15-08) (Rev. 5-13-19)

108-2

SP1 G58

The Contractor's attention is directed to the Standard Special Provision entitled *Availability of Funds Termination of Contracts* included elsewhere in this proposal. The Department of Transportation's schedule of estimated completion progress for this project as required by that Standard Special Provision is as follows:

<u>Fiscal Year</u>		<u>Progress (% of Dollar Value)</u>
2023	(7/01/22 - 6/30/23)	<b>75%</b> of Total Amount Bid
2024	(7/01/23 - 6/30/24)	<b>25%</b> of Total Amount Bid
2025	(7/01/24 - 6/30/25)	<b>0%</b> of Total Amount Bid
2026	(7/01/25 - 6/30/26)	<b>0%</b> of Total Amount Bid
2027	(7/01/26 - 6/30/27)	<b>0%</b> of Total Amount Bid



The Contractor shall also furnish his own progress schedule in accordance with Article 108-2 of the *2018 Standard Specifications*. Any acceleration of the progress as shown by the Contractor's progress schedule over the progress as shown above shall be subject to the approval of the Engineer.

**DISADVANTAGED BUSINESS ENTERPRISE (DIVISIONS):**

(10-16-07)(Rev. 8-17-21)

102-15(J)

SP1 G62

**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.

*Replacement / Substitution* - A full or partial reduction in the amount of work subcontracted to a committed (or an approved substitute) DBE firm.

*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 estimated amount (based on quantities and unit prices) 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 – **0.0%**

- (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](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**

Bidders shall submit a listing of DBE participation in the appropriate section of the electronic submittal file.

- (1) Submit the names and addresses of DBE firms identified to participate in the contract. If the bidder uses the updated listing of DBE firms shown in the electronic submittal file, the bidder may use the dropdown menu to access the name and address of the DBE firm.
- (2) Submit the contract line numbers of work to be performed by each DBE firm. When no figures or firms are entered, the bidder will be considered to have no DBE participation.
- (3) 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 DBE goal.

(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 DBE goal.
- (2) *If the DBE goal is zero,* entries on the *Listing of DBE Subcontractors* are not required, 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 or 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 Engineer no later than 2:00 p.m. of the fifth calendar day following opening of bids, unless the fifth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the 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 Engineer no later than 2:00 p.m. on the eighth calendar day following opening of bids, unless the eighth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the 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.

One complete set and 6 copies of this information shall be received in the office of the Engineer no later than 2:00 p.m. of the fifth calendar day following opening of bids, unless the fifth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the Engineer no later than 10:00 a.m. on the next official state business day.

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 (2<sup>nd</sup> and 3<sup>rd</sup> 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 BOWD@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 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 Engineer. 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 subcontractor (or an approved substitute DBE subcontractor) to meet all or part of a contract goal requirement, the contractor shall not terminate the DBE subcontractor 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.

The Contractor must give notice in writing both by certified mail and email to the DBE subcontractor, with a copy to the Engineer of its intent to request to terminate and/or substitute, and the reason for the request. The Contractor must give the DBE subcontractor five (5) business days to respond to the Contractor's Notice of Intent to Request Termination and/or Substitution. If the DBE subcontractor objects to the intended termination/substitution, the DBE, within five (5) business days must advise the Contractor and the Department of the reasons why the action should not be approved. The five-day notice period shall begin on the next business day after written notice is provided to the DBE subcontractor.

A committed DBE subcontractor may only be terminated after receiving the Department's written approval based upon a finding of good cause for the proposed termination and/or substitution. For purposes of this section, good cause shall include the following circumstances:

- (a) The listed DBE subcontractor fails or refuses to execute a written contract;
- (b) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- (c) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;
- (d) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (e) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (f) The listed DBE subcontractor is not a responsible contractor;
- (g) The listed DBE voluntarily withdraws from the project and provides written notice of withdrawal;
- (h) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (i) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (j) Other documented good cause that compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

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).
- (3) Exception: If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, 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 and overall goal.

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

**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 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 *2018 Standard Specifications* may be cause to disqualify the Contractor.

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

(3-21-90)

SP1 G85

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.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by *Section 1352, Title 31, U.S. Code*. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

**LIABILITY INSURANCE:**

(1-30-14)

107-15

SPD 01-550

Provide liability insurance in accordance with Article 107-15 of the *2018 Standard Specifications*.

Revise the *2018 Standard Specifications* as follows:

**Page 1-64, Article 107-15 Liability Insurance**, line 26, replace the first sentence of the fourth paragraph with the following:

Upon award of the contract, provide evidence of the above insurance requirements to the Engineer.

**CONTRACT PERIOD:**

(2-19-14)

SPD 01-600

This contract shall be effective for one (1) contract period (12 months). At the option of the Department and upon agreement by the Contractor, this contract may be extended for up to two (2) additional one (1) year periods with a **Three Percent (3%)** increase in prices each year.

No changes in the terms, condition, etc. of this contract will be made when an extension of the contract is implemented. The Engineer will notify the Contractor in writing prior to renewal of the contract. The Contractor must notify the Engineer in writing within thirty (30) days of notification by the Engineer of his acceptance or rejection of this offer. Failure on the part of the Contractor to reply will be viewed as a rejection of the contract extension.

The Contractor shall provide an ACORD insurance certificate showing a minimum of \$5,000,000 Liability Insurance along with proof of all other legally required insurance.

**MULTI-YEAR MAINTENANCE CONTRACTS (ID/IQ):**

(4-20-21) (Rev. 4-19-22)

SP1 G75

This contract is a multi-year maintenance contract let pursuant to the provisions of N.C. General Statute §136-28.1(b). No minimum quantity of services is guaranteed to be awarded bidders under this contract. In accordance with N.C. General Statute §136-28.1(b), an award in a maintenance contract may be for an amount less but shall not exceed \$5,000,000 per year. No payments in excess of this amount will be disbursed, in accordance with the Statute.

**PROSECUTION AND PROGRESS:**

(3-16-10)

108

SPD 1-700

The Contractor shall pursue the work diligently with workmen in sufficient numbers, abilities, and supervision, and with equipment, materials, and methods as may be required to complete the work described in the contract by the completion date and in accordance with the *2018 Standard Specifications*.

The Contractor's operations are restricted to daylight hours on all routes. No work may be performed on weekends and legal State holidays, unless otherwise approved by the Engineer. Work shall only be performed when weather and visibility conditions allow safe operations.

**NON-EXCLUSIVE CONTRACT:**

(6-1-15)

SPD 01-750

The Department may, as it deems to be in the best interest of the state and the Department of Transportation, execute more than one contract based on this proposal. The Contractor(s) understands and agrees, by signature on the Purchase Order Contract Bid Proposal, that this agreement **does not** constitute an exclusive contract. If awarded, the contracts will be executed with the lowest responsible bidders. The Department of Transportation reserves the right to make multiple awards for the services provided by this contract. Furthermore, the Department reserves the right to reject all bids received.

**WORK ORDER ASSIGNMENT (MULTIPLE AWARDS) FOR ID/IQ:**

(2-15-22)(Rev. 4-19-22)

SPD 01-800B

Work orders will be assigned based on the lowest work order cost for the line items and estimated quantities necessary to complete the work order. Unit prices from each awarded contractor's bid will be used to determine the lowest cost for each work order. The assigned Contractor shall respond to the work order assignment with the anticipated start date, within three working days of notification unless noted otherwise. Failure on the part of the Contractor to reply within the specified time frame may be received as a rejection of the work order. If the Contractor with the lowest work order cost cannot complete the work within the time specified in the assignment, the Engineer may contact the Contractor with the next lowest work order cost. If that Contractor can complete the work within the time specified in the assignment, then the work order will be assigned to that contractor. If not, assignment of work order will continue in order of work order cost until all awarded Contractors have had a chance to accept the terms of the assignment.

For federal ID/IQ contracts, all work orders will be assigned via the Work Order Assignment form (Form IDIQ-1MA), and the Contractor is required to formally respond in writing for federal work orders within three working days, unless noted otherwise. The Work Order Assignment form will also be used for any state ID/IQ contract in which the estimated work order cost meets the threshold for Performance and Payment Bonds in accordance with the Bonding Requirements for ID/IQ provision found elsewhere in this contract. For state ID/IQ contracts in which the work order assignment doesn't meet the threshold for bonds, the Department has the option to use the Work Order Assignment Form or other methods for work order assignments as agreed upon by the Engineer and Contractor.

The Contractor shall be required to prosecute the work in a continuous and uninterrupted manner from the time they begin the work until completion and final acceptance of the work order. Multiple failures of the Contractor to mobilize and begin work on the work order within the agreed upon time frame or failure to complete the work within the given time frame may result in the Contractor being excluded from future work on this contract in accordance with the *Standard Specifications*.

**BONDING REQUIREMENTS FOR ID/IQ:**

(2-15-22)

SPD 01-810

For purposes of this ID/IQ contract, the following definitions apply:

**Project Agreement:** A transportation improvement with a defined scope of work; a written agreement between NCDOT and the Federal Government defining the extent of construction work to be undertaken in accordance with the submitted plans, specifications and estimates. Execution of the agreement prompts the authorization to proceed (construction funding).

**Project:** An undertaking issued to a contractor through a Work Order Assignment. The construction under a Project Agreement may be accomplished by one or more work order assignments, from one or more ID/IQ

contracts. Note that for ID/IQ contracts this definition supersedes the definition in the *Standard Specifications*.

Award: The issuance of a signed Work Order Assignment by NCDOT shall constitute the notice of award of a project.

In accordance with North Carolina General Statute 44A-26, bonds are required on contracts awarded for any one project that exceeds \$500,000. Beyond statutory requirements, NCDOT policy requires payment and performance bonds on all projects where the engineer's estimate is \$450,000 or greater, all Asphalt Surface Treatment projects, and projects containing the 12-month guarantee provision. The limit for waiving bonds for all bridge replacement and major bridge rehabilitation projects (latex overlays, etc.) is \$300,000 based on the engineer's estimate. The decision of bonding of a work order assignment below the dollar amounts listed shall be at the discretion of the Division's evaluation of the risks associated with the project.

The need for contract payment and performance bonds will be determined at the Work Order Assignment level. The Work Order Assignment will notify the Contractor of an award of a project and if required, to provide contract payment and performance bonds per Article 103-7 of the *Standard Specifications*. The Work Order Assignment replaces the Notification of Award Letter mentioned in Article 103-4(A) of the *Standard Specifications*.

**MOBILIZATION AND LIQUIDATED DAMAGES FOR ID/IQ:**

(2-15-22)

SPD 01-820

The Contractor shall mobilize to each location he is required to perform work. There will be no direct pay for Mobilization as it will be incidental to the other bid items. The only exception is if there is an Emergency Mobilization provision within the contract.

The Contractor will be provided a Work Order Assignment for each project with location(s), estimated quantities, and liquidated damages unless waived by the Engineer. Notification will be verbal followed by a faxed or emailed signed Work Order Assignment. There will be no minimum quantities for any line item associated with a particular mobilization. The Contractor shall complete the work identified on each Work Order Assignment.

The Contractor shall mobilize and complete the work within the time specified on the Work Order Assignment. Failure to complete the work by the completion date may result in the application of liquidated damages. Liquidated damage amounts will be based on the work order estimate and the liquidated damage table below.

<b>Work Order Value</b>	<b>Liquidated Damages (per calendar day)</b>
\$0 - \$100K	\$100.00
\$100K - \$200K	\$250.00
\$200K - \$300K	\$500.00
\$300K - \$500K	\$600.00
\$500K - \$1M	\$700.00
\$1M - \$2M	\$850.00



**DISPUTE RESOLUTION PROCESS FOR ID/IO:**

(2-15-22)

SPD 01-850

If a question should arise on the contract or assignment of a work order, the contractor should notify the Engineer noted on the assignment documentation or the Division Engineer within 48 hours after the scheduled time of bid opening or work order assignment. The following should be included in the notification if applicable:

- the contract for which bids were solicited;
- the particular law, regulation, or contract specification violated;
- a detailed description of the alleged violation; and
- any other information deemed to be relevant.

Once the initial evaluation has been completed, the contractor may be asked to attend a meeting for further discussion and clarification.

Once a determination has been made, the contractor will be notified of the decision by the Division Engineer. If the decision does not meet the satisfaction of the contractor, they have 24 hours from the Division Engineer's notification to elevate the dispute to the Chief Engineer. The Chief Engineer will make the final decision and will not be subject to further review by NCDOT.

**RESTRICTIONS ON ITS EQUIPMENT AND SERVICES:**

(11-17-20)

SP01 G090

All telecommunications, video or other ITS equipment or services installed or utilized on this project must be in conformance with UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS 2 CFR, § 200.216 **Prohibition on certain telecommunications and video surveillance services or equipment.**

**USE OF UNMANNED AIRCRAFT SYSTEM (UAS):**

(8-20-19)

SP1 G092

The Contractor shall adhere to all Federal, State and Local regulations and guidelines for the use of Unmanned Aircraft Systems (UAS). This includes but is not limited to US 14 CFR Part 107 *Small UAS Rule*, NC GS 15A-300.2 *Regulation of launch and recovery sites*, NC GS 63-95 *Training required for the operation of unmanned aircraft systems*, NC GS 63-96 *Permit required for commercial operation of unmanned aircraft system*, and NCDOT UAS Policy. The required operator certifications include possessing a current Federal Aviation Administration (FAA) Remote Pilot Certificate, a NC UAS Operator Permit as well as operating a UAS registered with the FAA.

**EQUIPMENT IDLING GUIDELINES:**

(1-19-21)

107

SP1 G096

Exercise reduced fuel consumption and reduced equipment emissions during the construction of all work associated with this contract. Employees engaged in the construction of this project should turn off vehicles when stopped for more than thirty (30) minutes and off-highway equipment should idle no longer than fifteen (15) consecutive minutes.

These guidelines for turning off vehicles and equipment when idling do not apply to:

1. Idling when queuing.
2. Idling to verify the vehicle is in safe operating condition.
3. Idling for testing, servicing, repairing or diagnostic purposes.
4. Idling necessary to accomplish work for which the vehicle was designed (such as operating a crane, mixing concrete, etc.).
5. Idling required to bring the machine system to operating temperature.
6. Emergency vehicles, utility company, construction, and maintenance vehicles where the engines must run to perform needed work.
7. Idling to ensure safe operation of the vehicle.
8. Idling when the propulsion engine is providing auxiliary power for other than heating or air conditioning. (such as hydraulic systems for pavers)
9. When specific traffic, safety, or emergency situations arise.
10. If the ambient temperature is less than 32 degrees Fahrenheit. Limited idling to provide for the safety of vehicle occupants (e.g. to run the heater).
11. If the ambient temperature is greater than 90 degrees Fahrenheit. Limited idling to provide for the safety of vehicle occupants of off-highway equipment (e.g. to run the air conditioning) no more than 30 minutes.
12. Diesel powered vehicles may idle for up to 30 minutes to minimize restart problems.

Any vehicle, truck, or equipment in which the primary source of fuel is natural gas or electricity is exempt from the idling limitations set forth in this special provision.

**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.

**SUBSURFACE INFORMATION:**

(7-1-95)

450

SP1 G112 A

There is **no** subsurface information available on this project. The Contractor shall make his own investigation of subsurface conditions.

**AWARD LIMITS:**

(4-19-22)

103

SP1 G141

Revise the 2018 Standard Specifications as follows:

**Page 1-29, Subarticle 103-4(C), Award Limits**, line 4-8, delete and replace the first sentence in the first paragraph with the following:

A bidder who desires to bid on more than one project on which bids are to be opened in the same letting and who desires to avoid receiving an award of more projects than he is equipped to handle, may bid on any number of projects but may limit the total amount of work awarded to him on selected projects by completing the form Award Limits on Multiple Projects for each project subject to the award limit.

**MATERIAL AND EQUIPMENT STORAGE & PARKING OF PERSONAL VEHICLES:**

11-17-21(Rev. 8-16-22)

1101

SP11 R03

Revise the *2018 Standard Specifications* as follows:

**Page 11-2, Article 1101-8 MATERIAL AND EQUIPMENT STORAGE, line 35-38, delete and replace with the following:**

When work is not in progress, keep all personnel, equipment, machinery, tools, construction debris, materials and supplies away from active travel lanes that meets Table 1101-1.

<b>TABLE 1101-1 MATERIAL AND EQUIPMENT STORAGE FROM ACTIVE TRAVEL LANES</b>	
Posted Speed Limit (mph)	Distance (ft)
40 or less	≥ 18
45-50	≥ 28
55	≥ 32
60 or higher	≥ 40

When vehicles, equipment and materials are protected by concrete barrier or guardrail, they shall be offset at least 5 feet from the barrier or guardrail.

**Page 11-2, Article 1101-9 PARKING OF PERSONAL VEHICLES, line 40-41, delete and replace with the following:**

Provide staging areas for personal vehicle parking in accordance with Article 1101-8 or as directed by the Engineer before use.

**EQUIPMENT:**

The Contractor shall furnish all equipment in good operating condition, and shall be operated by properly trained and qualified personnel. The Contractor shall be responsible for all costs or charges incurred in the operation and maintenance of the equipment during the performance of this contract. Upon request, the contractor shall provide any and all state and federal certifications for equipment safety.

Payment for equipment and labor required to perform bid items is included in the bid item price provided by the contractor. Mobilization of labor and equipment shall be included in the bid item price provided by the contractor.

**PAYMENT:**

The **INVOICE** shall be completed for each month work is performed and shall be submitted to the Department. Upon verification, the Engineer will submit the invoice for payment.

Invoices shall be submitted to:

**N.C. Department of Transportation  
Division 6 – District 2  
ATTENTION: Mr. Richie Hines, P.E.  
P.O. Box 1150  
Fayetteville, N.C. 28302**

**PRECONSTRUCTION CONFERENCE**

In accordance with Section 108-3 of the Standard Specifications, a preconstruction conference will be required prior to beginning work.

**INSPECTION:**

All work shall be subject to inspection by the Engineer at any time. Routinely, the Engineer will make periodic inspections of the completed work. It will be the responsibility of the Contractor to keep the Engineer informed of his proposed work plan and to submit written reports of work accomplished on a frequency to be determined by the Engineer.

**CONFORMITY WITH THE CONTRACT:**

The presence of the engineer or an inspector at the work site shall in no way lessen the contractor's responsibility for conformity with the provisions of this contract. Should the engineer or inspector fail to point out work that does not conform with the plans and specifications, whether from lack of discovery or for any other reason, it shall in no way prevent later rejection or correction to the unsatisfactory work when discovered. The contractor shall have no claim for losses suffered due to any necessary removals or repairs resulting from unsatisfactory work.

**SUPERVISION BY CONTRACTOR:**

At all times during the life of the project the Contractor shall provide one permanent employee who shall have the authority and capability for overall responsibility of the project and who shall be personally available at the work site within 24 hours notice. Such employee shall be fully authorized to conduct all business with the Subcontractors, to negotiate and execute all supplemental agreements, and to execute the orders or directions of the Engineer.

At all times that work is actually being performed, the Contractor shall have present on the project one competent individual who is authorized to act in a supervisory capacity over all work on the project, including work subcontracted. The individual who has been so authorized shall be experienced in the type of work being performed and shall be fully capable of managing, directing, and coordinating the work; of reading and thoroughly understanding the contract; and receiving and carrying out directions from the Engineer or his authorized representatives. He shall be an employee of the Contractor unless otherwise approved by the Engineer.

The Contractor may, at his option, designate one employee to meet the requirements of both positions. However, whenever the designated employee is absent from the work site, an authorized individual qualified to act in a supervisory capacity on the project shall be present.

**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(D) of the *2018 Standard Specifications*.

**STANDARD SPECIAL PROVISION****ERRATA**

(10-16-18) (Rev. 8-16-22)

Z-4

Revise the *2018 Standard Specifications* as follows:

**Division 4**

**Page 4-84, Article 458-5 MEASUREMENT AND PAYMENT, line 31,** replace article number “454-1” with “458-1”.

**Division 6**

**Page 6-7, Article 609-1 DESCRIPTION, line 29,** replace article number “609-10” with “609-9”.

**Page 6-26, Subarticle 610-13(A)(1) Acceptance for New Construction, line 31,** replace Table number “610-7” with “610-8”.

**Page 6-29, Subarticle 610-13(B) North Carolina Hearne Straightedge, line 32,** replace Table number “610-8” with “610-9”.

**Page 6-31, Article 610-14 DENSITY ACCEPTANCE, Specified Density prior to line 30 and line 32,** replace Table number “610-6” with “610-7”.

**Division 7**

**Page 7-27, Article 725-1 MEASUREMENT AND PAYMENT, line 4,** replace article number “725-1” with “724-4”.

**Page 7-28, Article 725-1 MEASUREMENT AND PAYMENT, line 10,** replace article number “725-1” with “725-3”.

**Division 10**

**Page 10-37, Article 1012-4, LIGHTWEIGHT AGGREGATE, line 4,** replace Table number “1012-8” with “1012-5”.

**Page 10-78, Article 1056-4 GEOTEXTILES, TABLE 1056-1, Permittivity, Type 2,** replace “Table 6<sup>D</sup>” with “Table 7<sup>D</sup>” and **Permittivity, Type 3<sup>B</sup>,** replace “Table 7<sup>D</sup>” with “Table 8<sup>D</sup>”.

**Page 10-121, Article 1076-7, REPAIR OF GALVANIZING, line 8,** replace article number “1080-9” with “1080-7”.

**Page 10-162, Article 1080-50 PAINT FOR VERTICAL MARKERS, line 1,** replace article number “1080-50” with “1080-10”.

**Page 10-162, Article 1080-61 EPOXY RESIN FOR REINFORCING STEEL, line 5,** replace article number “1080-61” with “1080-11”.

**Page 10-162, Article 1080-72 ABRASIVE MATERIALS FOR BLAST CLEANING STEEL, line 22,** replace article number “1080-72” with “1080-12”.

**Page 10-163, Article 1080-83 FIELD PERFORMANCE AND SERVICES, line 25,** replace article number “1080-83” with “1080-13”.

**Division 17**

**Page 17-15, Article 1715-4 MEASUREMENT AND PAYMENT, lines 42-44,** replace the second sentence with the following:

An example is an installation of a single 1.25 inch HDPE conduit would be paid as:

Directional Drill (1)(1.25") Linear Foot

**Page 17-15, Subarticle 1715-3(E) Bore and Jack, line 5,** replace article number “1540-4” with “1550-4”.

**Page 17-15, Subarticle 1715-3(E) Bore and Jack, lines 10 & 11,** replace "*NCDOT Policies and Procedures for Accommodating Utilities on Highway Rights of Way*" with "*NCDOT Utilities Accommodations Manual*".



**STANDARD SPECIAL PROVISION****PLANT AND PEST QUARANTINES****(Imported Fire Ant, Gypsy Moth, Witchweed, Emerald Ash Borer, Guava Root Knot Nematode, And Other Noxious Weeds)**

(3-18-03) (Rev. 5-21-19)

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 <https://www.ncagr.gov/plantindustry/Plant/quaran/table2.htm> 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, guava root knot nematode, or other noxious weeds.

**STANDARD SPECIAL PROVISION****MINIMUM WAGES**

(7-21-09)

Z-5

**FEDERAL:** The Fair Labor Standards Act provides that with certain exceptions every employer shall pay wages at the rate of not less than SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

**STATE:** The North Carolina Minimum Wage Act provides that every employer shall pay to each of his employees, wages at a rate of not less than SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all skilled labor employed on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all intermediate labor employed on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all unskilled labor on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

This determination of the intent of the application of this act to the contract on this project is the responsibility of the Contractor.

The Contractor shall have no claim against the Department of Transportation for any changes in the minimum wage laws, Federal or State. It is the responsibility of the Contractor to keep fully informed of all Federal and State Laws affecting his contract.

**STANDARD SPECIAL PROVISION****TITLE VI AND NONDISCRIMINATION:**

(6-28-77)(Rev 6/19/2018)

Z-6

Revise the *2018 Standard Specifications* as follows:

Replace Article 103-4(B) with the following:

The North Carolina Department of Transportation is committed to carrying out the U.S. Department of Transportation's policy of ensuring nondiscrimination in the award and administration of contracts.

The provisions of this section related to United States Department of Transportation (US DOT) Order 1050.2A, Title 49 Code of Federal Regulations (CFR) part 21, 23 United States Code (U.S.C.) 140 and 23 CFR part 200 (or 49 CFR 303, 49 U.S.C. 5332 or 49 U.S.C. 47123) are applicable to all North Carolina Department of Transportation (NCDOT) contracts and to all related subcontracts, material supply, engineering, architectural and other service contracts, regardless of dollar amount. Any Federal provision that is specifically required not specifically set forth is hereby incorporated by reference.

**(1) Title VI Assurances (USDOT Order 1050.2A, Appendix A)**

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

**(a) Compliance with Regulations**

The contractor (hereinafter includes consultants) shall comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

**(b) 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 directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

**(c) Solicitations for Subcontractors, Including Procurements of Materials and Equipment**

In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

(d) Information and Reports

The contractor shall provide all information and reports required by the Acts, the Regulations, and 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 Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor shall so certify to the Recipient or the FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(e) Sanctions for Noncompliance:

In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it and/or the FHWA may determine to be appropriate, including, but not limited to:

- (i) Withholding payments to the contractor under the contract until the contractor complies; and/or
- (ii) Cancelling, terminating, or suspending a contract, in whole or in part.

(f) Incorporation of Provisions

The contractor shall include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor shall take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**(2) Title VI Nondiscrimination Program (23 CFR 200.5(p))**

The North Carolina Department of Transportation (NCDOT) has assured the USDOT that, as a condition to receiving federal financial assistance, NCDOT will comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by Title 49 CFR part 21 and related nondiscrimination authorities to ensure that no person shall, on the ground of race, color, national origin, limited English proficiency, sex, age, or disability (including religion/creed or income-level, where applicable), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programs, activities, or services conducted or funded by NCDOT. Contractors and other organizations under contract or agreement with NCDOT must also comply with Title VI and related authorities, therefore:

- (a) During the performance of this contract or agreement, contractors (e.g., subcontractors, consultants, vendors, prime contractors) are responsible for complying with NCDOT's Title VI Program. Contractors are not required to prepare or submit Title VI Programs. To comply with this section, the prime contractor shall:

1. Post NCDOT's Notice of Nondiscrimination and the Contractor's own Equal Employment Opportunity (EEO) Policy in conspicuous locations accessible to all employees, applicants and subcontractors on the jobsite.
  2. Physically incorporate the required Title VI clauses into all subcontracts on federally-assisted and state-funded NCDOT projects, and ensure inclusion by subcontractors into all lower-tier subcontracts.
  3. Required Solicitation Language. The Contractor shall include the following notification in all solicitations for bids and requests for work or material, regardless of funding source:

“The North Carolina Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. In accordance with other related nondiscrimination authorities, bidders and contractors will also not be discriminated against on the grounds of sex, age, disability, low-income level, creed/religion, or limited English proficiency in consideration for an award.”
  4. Physically incorporate the FHWA-1273, in its entirety, into all subcontracts and subsequent lower tier subcontracts on Federal-aid highway construction contracts only.
  5. Provide language assistance services (i.e., written translation and oral interpretation), free of charge, to LEP employees and applicants. Contact NCDOT OCR for further assistance, if needed.
  6. For assistance with these Title VI requirements, contact the NCDOT Title VI Nondiscrimination Program at 1-800-522-0453.
- (b) Subrecipients (e.g. cities, counties, LGAs, planning organizations) may be required to prepare and submit a Title VI Plan to NCDOT, including Title VI Assurances and/or agreements. Subrecipients must also ensure compliance by their contractors and subrecipients with Title VI. (23 CFR 200.9(b)(7))
- (c) If reviewed or investigated by NCDOT, the contractor or subrecipient agrees to take affirmative action to correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days, unless additional time is granted by NCDOT. (23 CFR 200.9(b)(15))
- (d) The Contractor is responsible for notifying subcontractors of NCDOT's External Discrimination Complaints Process.
1. Applicability

Title VI and related laws protect participants and beneficiaries (e.g., members of the public and contractors) from discrimination by NCDOT employees, subrecipients and contractors, regardless of funding source.

## 2. Eligibility

Any person—or class of persons—who believes he/she has been subjected to discrimination based on race, color, national origin, Limited English Proficiency (LEP), sex, age, or disability (and religion in the context of employment, aviation, or transit) may file a written complaint. The law also prohibits intimidation or retaliation of any sort.

## 3. Time Limits and Filing Options

Complaints may be filed by the affected individual(s) or a representative and must be filed no later than 180 calendar days after the following:

- (i) The date of the alleged act of discrimination; or
- (ii) The date when the person(s) became aware of the alleged discrimination; or
- (iii) 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 related discrimination complaints may be submitted to the following entities:

- North Carolina Department of Transportation, Office of Civil Rights, Title VI Program, 1511 Mail Service Center, Raleigh, NC 27699-1511; toll free 1-800-522-0453
- Federal Highway Administration, North Carolina Division Office, 310 New Bern Avenue, Suite 410, Raleigh, NC 27601, 919-747-7010
- 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

## 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 Civil Rights 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 (LEP), sex, age, disability, or religion (in the context of employment, aviation or transit). "Basis" refers to the complainant's membership in a protected group category.

**TABLE 103-1  
COMPLAINT BASIS**

Protected Categories	Definition	Examples	Applicable Nondiscrimination Authorities
Race and Ethnicity	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; 49 U.S.C. 5332(b); 49 U.S.C. 47123. ( <i>Executive Order 13166</i> )
Color	Color of skin, including shade of skin within a racial group	Black, White, brown, yellow, etc.	
National Origin ( <i>Limited English Proficiency</i> )	Place of birth. Citizenship is not a factor. ( <i>Discrimination based on language or a person's accent is also covered</i> )	Mexican, Cuban, Japanese, Vietnamese, Chinese	
Sex	Gender. The sex of an individual. <i>Note: Sex under this program does not include sexual orientation.</i>	Women and Men	1973 Federal-Aid Highway Act; 49 U.S.C. 5332(b); 49 U.S.C. 47123.
Age	Persons of any age	21-year-old person	Age Discrimination Act of 1975 49 U.S.C. 5332(b); 49 U.S.C. 47123.
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic	Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990
Religion (in the context of employment) ( <i>Religion/ Creed in all aspects of any aviation or transit-related construction</i> )	An individual belonging to a religious group; or the perception, based on distinguishable characteristics that a person is a member of a religious group. In practice, actions taken as a result of the moral and ethical beliefs as to what is right and wrong, which are sincerely held with the strength of traditional religious views. <i>Note: Does not have to be associated with a recognized religious group or church; if an individual sincerely holds to the belief, it is a protected religious practice.</i>	Muslim, Christian, Sikh, Hindu, etc.	Title VII of the Civil Rights Act of 1964; 23 CFR 230; FHWA-1273 Required Contract Provisions. ( <i>49 U.S.C. 5332(b); 49 U.S.C. 47123</i> )

### (3) 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);
- (g) 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);
- (h) 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;
- (i) The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- (j) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Nondiscrimination 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;
- (k) 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);
- (l) 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).
- (m) 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).

**(4) Additional Title VI Assurances**

*\*\*The following Title VI Assurances (Appendices B, C and D) shall apply, as applicable*

- (a) Clauses for Deeds Transferring United States Property (1050.2A, Appendix B)



The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4.

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the North Carolina Department of Transportation (NCDOT) will accept title to the lands and maintain the project constructed thereon in accordance with the North Carolina General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the NCDOT all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the North Carolina Department of Transportation (NCDOT) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the NCDOT, its successors and assigns.

The NCDOT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the NCDOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

(b) Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program (1050.2A, Appendix C)

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the North Carolina Department of Transportation (NCDOT) pursuant to the provisions of Assurance 7(a):

1. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
  - (i.) In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. \*
3. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the NCDOT and its assigns. \*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

(c) Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program (1050.2A, Appendix D)

The following clauses will be included in deeds, licenses, permits, or similar instruments/ agreements entered into by the North Carolina Department of Transportation (NCDOT) pursuant to the provisions of Assurance 7(b):

1. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
2. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the NCDOT will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. \*
3. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will there upon revert to and vest in and become the absolute property of the NCDOT and its assigns. \*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

**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 for 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%

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

- I. General
- II. Nondiscrimination
- III. Non-segregated 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. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

**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, United States Code, as required in 23 CFR 633.102(b) (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). 23 CFR 633.102(e).

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. 23 CFR 633.102(e).

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) in accordance with 23 CFR 633.102. 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 solicitation-for-bids or request-for-proposals 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). 23 CFR 633.102(b).

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. 23 CFR 633.102(d).

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. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

**II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)**

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A 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 Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 230, Subpart A, 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 (*see* 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 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 Part 35 and 29 CFR Part 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. 23 CFR 230.409 (g)(4) & (5).

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, sexual orientation, gender identity, 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 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 or other knowledgeable company official.

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, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure 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. 23 CFR 230.409. 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 thereunder. 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, sexual orientation, gender identity, 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, 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. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient 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 recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**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.

a. 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 more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, 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, sexual orientation, gender identity, 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), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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 (29 CFR 5.5)

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, 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 Administrator for determination. The 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 (29 CFR 5.5)

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 (29 CFR 5.5)

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. 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 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), 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 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 18 U.S.C. 1001 and 31 U.S.C. 231.

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 (29 CFR 5.5)

##### 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. 23 CFR 230.111(e)(2). 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 as provided in 29 CFR 5.5.

**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 as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, 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 (29 CFR 5.5)**

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**

Pursuant to 29 CFR 5.5(b), 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. 29 CFR 5.5.

**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 currently provided in 29 CFR 5.5(b)(2)\* 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. 29 CFR 5.5.

\* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

**3. Withholding for unpaid wages and liquidated damages.**

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 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. 29 CFR 5.5.

**VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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" in paragraph 1 of Section VI 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: (based on longstanding interpretation)

- (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. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), 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. Pursuant to 23 CFR 635.116(c), 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. (based on longstanding interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

**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 Part 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. 23 CFR 635.108.

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 Part 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). 29 CFR 1926.10.

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 Part 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 11, 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 (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

### **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. 2 CFR 180.220 and 1200.220.

#### **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. 2 CFR 180.320.

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. 2 CFR 180.325.

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. 2 CFR 180.345 and 180.350.

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, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 180.330.

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. 2 CFR 180.220 and 180.300.

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. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. 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 System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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 CFR 180.325.

\* \* \* \* \*

## **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 CFR 180.335;

(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, 2 CFR 180.800;

(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, 2 CFR 180.700 and 180.800; 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. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

## **3. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant 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. 2 CFR 180.365.

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, Subpart I, 180.900 – 180.1020, 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 recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "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 recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers to 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. 2 CFR 1200.220 and 1200.332.

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. 2 CFR 180.220 and 1200.220.

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 System for Award Management website (<https://www.sam.gov>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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. 2 CFR 180.325.

\*\*\*\*\*

**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:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should 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 Part 20, App. A.

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.

#### **XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

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

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

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

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

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

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

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

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

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

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

**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.

**STANDARD SPECIAL PROVISION**  
**MINIMUM WAGES**  
**GENERAL DECISION NC20220091 02/25/2022 NC91**

Z-091

Date: February 25, 2022

General Decision Number: NC20220091 02/25/2022 NC91

Superseded General Decision Numbers: NC20210091

State: North Carolina

Construction Type: HIGHWAY

**COUNTIES:**

Beaufort	Granville	Pasquotank
Bertie	Halifax	Perquimans
Bladen	Harnett	Robeson
Camden	Hertford	Sampson
Carteret	Hyde	Scotland
Chowan	Jones	Tyrrell
Columbus	Lenoir	Vance
Craven	Martin	Warren
Dare	Northampton	Washington
Duplin	Pamlico	Wilson
Gates		

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: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<p>Executive Order 14026 generally applies to the contract.</p> <p>The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.</p>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<p>Executive Order 13658 generally applies to the contract.</p> <p>The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.</p>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	02/25/2022

SUNC2014-006 11/17/2014

	Rates	Fringes
BLASTER	21.85	
CARPENTER	13.72 **	
CEMENT MASON/CONCRETE FINISHER	14.26 **	
ELECTRICIAN		
Electrician	18.69	2.66
Telecommunications Technician	14.72 **	1.67
IRONWORKER	16.32	
LABORER		
Asphalt Raker and Spreader	12.42 **	
Asphalt Screed/Jackman	13.48 **	
Carpenter Tender	10.85 **	
Cement Mason/Concrete Finisher Tender	11.35 **	
Common or General	10.12 **	
Guardrail/Fence Installer	13.39 **	
Pipelayer	13.31 **	
Traffic Signal/Lighting Installer	16.88	
PAINTER		
Bridge	19.62	
POWER EQUIPMENT OPERATORS		
Asphalt Broom Tractor	13.28 **	
Bulldozer Fine	18.46	
Bulldozer Rough	14.09 **	
Concrete Grinder/Groover	24.66	
Crane Boom Trucks	17.25	
Crane Other	21.48	
Crane Rough/All-Terrain	19.00	
Drill Operator Rock	15.43	1.61
Drill Operator Structure	19.12	
Excavator Fine	17.61	
Excavator Rough	12.99 **	
Grader/Blade Fine	16.73	
Grader/Blade Rough	15.28	
Loader 2 Cubic Yards or Less	10.28 **	
Loader Greater Than 2 Cubic Yards	13.58 **	
Material Transfer Vehicle (Shuttle Buggy)	17.39	
Mechanic	18.63	
Milling Machine	14.38 **	
Off-Road Hauler/Water Tanker	9.30 **	
Oiler/Greaser	13.45 **	
Pavement Marking Equipment	11.87 **	
Paver Asphalt	15.53	
Roller Asphalt Breakdown	12.13 **	



	Rates	Fringes
Roller Asphalt Finish	13.65 **	
Roller Other	10.48 **	
Scraper Finish	13.98 **	
Scraper Rough	10.17 **	
Slip Form Machine	19.29	
Tack Truck/Distributor Operator	14.56 **	
TRUCK DRIVER		
GVWR of 26,000 Lbs or Less	10.35 **	
GVWR of 26,001 Lbs or Greater	12.04 **	

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

\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$15.00) or 13658 (\$11.25). Please see the Note at the top of the wage determination for more information.

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 <https://www.dol.gov/agencies/whd/government-contracts>.

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 National Office because National Office has responsibility for the David-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

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

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

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

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

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

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

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

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

END OF GENERAL DECISION

**PROJECT SPECIAL PROVISIONS**

**ROADWAY**

**NOTES TO CONTRACTOR:**

1. Contract payment and performance bonds are not required for this contract.
2. Operate equipment and conduct operations in the same direction as the flow of traffic unless a Temporary Road Closure is in place.
3. In the event of weather-related disaster situations, such as a hurricane or tornado, work under this contract may not apply, and may have to be rebid.

**INTERPRETATION OF QUANTITIES IN BID FORM**

The quantities appearing in the bid form are approximate only and are to be used for the comparison of bids. Payment to the Contractor will be made only for the actual quantities of the various items that are completed and accepted, in accordance with the terms of the contract.

**MOBILIZATION:**

Mobilization costs for Cut & Shove Crew operations will be considered incidental to the other items in this contract. No direct compensation will be paid for the cost to mobilize for any work performed.

**ON-SITE STANDBY:**

The Contractor may be required to standby due to weather conditions at the mobilization site. This line item is to compensate the Contractor for being on the mobilization site while waiting for instructions from the Engineer. The on-site standby time will not exceed a maximum of 12 hours per day.

<b>Pay Item</b>	<b>Pay Unit</b>
On-Site Standby.....	Hour

**CUT & SHOVE CREW:**

The Contractor shall provide *a minimum of one (1) crew* to perform cut and shove work for removal of storm related debris from state-maintained roadways and shove it to the shoulder of the roadway in accordance with these specifications and as directed by the Engineer. The Engineer will identify the location where the Contractor will provide the crew to work. The Engineer or his duly authorized representative will monitor the Contractor's operations. The Contractor shall comply with all applicable Federal, State, and local laws, ordinances, and regulations governing safety, health, and sanitation. The Contractor shall take any other needed actions that are 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.

A Cut & Shove Crew shall consist of One Equipment Operator, Two Chain Saw Operators, Two Laborer/Flaggers, One piece of Mechanical Equipment suitable for pushing trees from the roadway **(30 hp minimum with loader)**.

At all times that work is actually being performed, the Contractor shall have present with each Cut & Shove Crew, **One Competent Individual** who is authorized to act in a supervisory capacity over all activities of the crew. The Contractor may, at his option, designate One Crew Member to meet the requirements of on-site supervisor.

All Contractors' personnel must wear an OSHA approved reflective vest or outer garment at all times while on the project. **All OSHA mandated PPE shall be worn while performing work requiring the PPE.** Trucks and tractors shall be equipped with strobe lights and working back up alarms. Lights, alarms, and other safety items are not pay items, but are considered incidental to other contract items and the contractor is expected to provide these items.

The Contractor will be required to operate during daylight hours, or as directed. When contacted by the Department, the Contractor shall notify the Department how many crews he may have available beyond the required single crew. The Department may request that the Contractor provide more than one crew, depending on the severity of the storm and the amount of debris on the roadways.

All equipment used by the contractor shall be well maintained in a safe operational condition.

The Contractor's Cut & Shove Crew shall report to the designated site with the required equipment, at the time specified by the Engineer.

Compensation for providing a Cut & Shove Crew will be made at the contract unit price, per hour, for "Cut & Shove Crew". Such payment will be full compensation for all work covered by this section including, but not limited to, furnishing a crew consisting of One Equipment Operator, Two Chain Saw Operators, Two Laborer/Flaggers, One piece of Mechanical Equipment suitable for pushing trees from the roadway **(30 hp minimum with loader)**.

Any additional equipment needed to perform the work, and for transportation to and from the job site, will not be paid for directly, and will be considered incidental to the other pay items.

**Time will be started at the direction of the Engineer, or when the on-site standby time has exceeded 12 hours.** Time will stop when the traffic control has been removed from the job site. Time will be paid for travel between job sites within the same workday.

The Engineer, or his duly authorized representative, will maintain a time sheet. The Department's representative and the Contractor's supervisor shall review and agree on the recorded time on a daily basis. The hours worked shall be recorded to the nearest 15 minute interval.

<b>Pay Item</b>	<b>Pay Unit</b>
Cut & Shove Crew.....	Hour

**COOPERATION WITH STATE FORCES AND OTHER CONTRACTORS**

The Contractor must cooperate with State forces and other Contractors working within the limits of this project as directed by the Engineer.

**PRESERVATION OF PROPERTY**

The Contractor shall exercise care to avoid damage to all public and private property and facilities. Any damage to properties, such as, but not limited to, mailboxes, fences, gates, vehicles, driveways, etc. shall immediately be restored to the previously existing condition by the contractor. No payment will be made to the Contractor for such restorative work.

**DAMAGE TO EXISTING PAVEMENT**

In addition to the requirements of the Standard Specifications concerning this subject, the contractor is cautioned that he will be held responsible for all damages to the pavement, base, and subgrade caused by his operations; including, but not limited to, rutting and shoving of the existing pavement and yielding or rutting of the existing base and subgrade.

Any damage to the pavement caused by the Contractor's operations will be repaired by the Contractor at no cost to the department.

**DRIVEWAY ACCESS**

The Contractor shall maintain access to driveways for all residents and property owners throughout the life of the project.

The Contractor shall not perform work for private citizens or agencies in conjunction with this project or within the project limits of this contract. Any driveway to be paved by the Contractor, which ties into a NCDOT system road being paved by the Contractor, must be paved either prior to the road paving project or after its completion.

**TRAFFIC SIGNS & MAILBOXES**

Permanent traffic signs and mailboxes that interfere with the road construction operations are to be removed during the course of a day's work and be re-installed at the conclusion of each workday. The contractor shall mark the proper location of the signs and mailboxes by placing an offset stake behind the ditch line to ensure proper replacement.

**MISCELLANEOUS**

All work items necessary to complete the work other than those listed on the "Bid Proposal Form" will be considered incidental in nature and no further compensation will be made. Any work performed in an unsatisfactory manner shall be basis for cancellation of the contract.

All work performed by the Contractor shall be in compliance with the Standard Specifications and workmanship/appearance done to the satisfaction of the Engineer.

Under the terms of this contract for multiple awards, NCDOT has the right to move to the next low bidder that was issued this contract, provided one exists, for such things as, but not limited to:

1. Non-responsiveness to the Engineer's call to work within the allotted or agreed to time frame.
2. Lack of quality control or supervision.
3. Lack of proper equipment to perform the required task.
4. Equipment malfunctions or breakdowns.
5. Inadequate or insufficient number of crew members.

**PROJECT SPECIAL PROVISIONS****WORK ZONE TRAFFIC CONTROL****TRAFFIC CONTROL AND WORK ZONE SAFETY:**

The contractor shall maintain traffic during construction and provide, install, and maintain all traffic control devices in accordance with these project guidelines, the Project Special Provisions, NCDOT Standard Specifications for Roads and Structures, NCDOT Roadway Standard Drawings and the current edition of the Manual of Uniform Traffic Control Devices (MUTCD). All traffic control devices shall meet all requirements of NCHRP 350.

The Contractor shall utilize complete and proper traffic controls and traffic control devices during all operations. All traffic control and traffic control devices required for any operation shall be functional and in place prior to the commencement of that operation. Signs for temporary operations shall be removed during periods of inactivity. The Contractor is required to leave the project in a manner that will be safe to the traveling public and which will not impede motorists.

Traffic movements through lane closures on roads with two way traffic shall be controlled by flaggers stationed at each end of the work zone. In situations where sight distance is limited, the Contractor shall provide additional means of controlling traffic, including, but not limited to, two-way radios, pilot vehicles, or additional flaggers. Flaggers shall be competent personnel, adequately trained in flagging procedures, and furnished with proper safety devices and equipment, including, but not limited to, safety vests and stop/slow paddles.

All personnel when working in traffic areas or areas in close proximity to traffic shall wear an approved safety vest, or shirt or jacket which meets the color requirements of the Manual of Uniform Traffic Control Devices (MUTCD).

The Contractor shall comply with all applicable Federal, State, and local laws, ordinances, and regulations governing safety, health, and sanitation, and shall provide all safeguards, safety devices, and protective equipment, and shall take any other needed actions, on his own responsibility that are 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.

Failure to comply with any of the requirements for safety and traffic control of this contract shall result in suspension of work as provided in subarticle 108-7(2) of the Standard Specifications.

No direct payment will be made for traffic control as the cost will be considered incidental to the work being paid for under those contract item(s) that have been included.

**TRAFFIC CONTROL SUPERVISION:**

Provide the service of at least one qualified work zone supervisor. The work zone supervisor shall have the overall responsibility for the proper implementation of the TMP and ensure all employees working inside the NCDOT right of way have received the proper training appropriate to the job decisions each individual is required to make.



The work zone supervisor is not required to be on site at all times but shall be available to address concerns of the Engineer. The name and contact information of the work zone supervisor shall be provided to the Engineer prior to or at the preconstruction conference.

Qualification of work zone supervisors shall be done by an NCDOT approved training agency or other approved training provider. For a complete listing of these, see the Work Zone Traffic Control's webpage.

Coordinate with and cooperate with work zone supervisors of adjacent or overlapping construction projects to ensure safe and adequate traffic control is maintained throughout the projects at all times, including periods of construction inactivity in accordance with Article 105-7.

### **WORK ZONE INSTALLER:**

(7-20-21)(Rev. 8-16-22)

1101, 1150

SP11 R04

Provide the service of at least one qualified work zone installer during the setup, installation, and removal of temporary traffic control within the highway right of way. The qualified work zone installer shall serve as crew leader and shall be on site and directing the installation and removal of temporary traffic control. If multiple temporary traffic control installations or removals are occurring simultaneously, then each shall have a qualified work zone installer.

The work zone installer shall be qualified by an NCDOT approved training agency or other NCDOT approved training provider in the safe and competent set up of temporary traffic control. For a complete listing of approved training agencies, see the Work Zone Safety Training webpage.

A work zone supervisor, in accordance with Article 1101-13 of the *Standard Specifications*, may fulfill the role of the work zone installer during the setup, installation, and removal of temporary traffic control within the highway right of way provided they are on site and directing the installation and removal of temporary traffic control.

All other individuals participating in the setup, installation, and removal of temporary traffic control within the highway right of way shall be certified as a qualified flagger in accordance with Article 1150-3 of the *Standard Specifications*, even if flagging is not being performed as part of the traffic control.

Provide the name and contact information of all qualified work zone installers to the Engineer prior to or at the preconstruction conference. Additionally, provide a qualification statement that all other individuals participating in the setup, installation, and removal of temporary traffic control are qualified flaggers that have been properly trained through an NCDOT approved training agency or other NCDOT approved training provider.

All certification records for qualified work zone installers and flaggers shall be uploaded by the approved training agency or other NCDOT approved training provider to the Department's Work Zone Education Verification App (WZ-EVA) prior to the qualified work zone installer or flagger performing any traffic control duties on the project. For more information about WZ-EVA, see the Work Zone Safety Training webpage.

### **FLAGGERS**

Provide the service of properly equipped and qualified flaggers, in accordance with Section 1150 of the *Standard Specifications* and *Roadway Standard Drawing* 1150.01, at locations and times for such period as necessary for the control and protection of vehicular and pedestrian traffic. Anyone who controls traffic is required to be qualified. Qualification consists of each flagger receiving proper training in the set-up and

techniques of safely and competently performing a flagging operation. Qualification of flaggers is to be done by an NCDOT approved training agency. For a complete listing of these, see the Work Zone Traffic Control's webpage, <https://connect.ncdot.gov/projects/WZTC/Pages/Training.aspx>.

Prior to beginning work on the project, a Qualification Statement that all flaggers used on the project have been properly trained through an NCDOT approved training resource shall be provided to the Engineer.

Flagging operations are not allowed for the convenience of the Contractor's operations. However, if safety issues exist (i.e. sight or stopping sight distance), the Engineer may approve the use of flagging operations. Use flagging methods that comply with the guidelines in the MUTCD.

No direct payment shall be made for Flagging operations, as it shall be considered incidental to other contract items.

**PROJECT SPECIAL PROVISIONS****UTILITY CONSTRUCTION****UTILITY CONFLICTS:**

It shall be the responsibility of the Contractor to contact all affected utility owners and determine the precise locations of all utilities prior to beginning construction. Utility owners shall be contacted a minimum of 48 hours prior to the commencement of operations.

Special care shall be used in working around or near existing utilities, protecting them when necessary to provide uninterrupted service. In the event that any utility service is interrupted, the Contractor shall notify NCDOT personnel and the utility owner immediately, and shall cooperate with the owner, or his representative, in the restoration of service in the shortest time possible.

Existing fire hydrants shall be kept accessible to fire departments at all times.

The Contractor shall adhere to all applicable regulations and follow accepted safety procedures when working in the vicinity of utilities in order to insure the safety of construction personnel and the public.

**LISTING OF DBE SUBCONTRACTORS**

Sheet of

Firm Name and Address	Item No.	Item Description	* Agreed upon Unit Price	** Dollar Volume of Item
Name  Address				
Name  Address				
Name  Address				
Name  Address				
Name  Address				
Name  Address				

\*\* 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 will be used to determine the percentage of the DBE participation in the contract.

\*\* Dollar Volume of DBE Subcontractor Percentage of Total Contract Bid Price:

If firm is a Material Supplier Only, show Dollar Volume as 60% of Agreed Upon Amount from Letter of Intent.

If firm is a Manufacturer, show Dollar Volume as 100% of Agreed Upon Amount from Letter of Intent.

**EXECUTION OF BID**

**NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN  
CERTIFICATION**

**CORPORATION**

The prequalified bidder being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. §133-24* within the last three years, and that the prequalified bidder intends to do the work with his own bonafide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER**

\_\_\_\_\_ 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**

**EXECUTION OF BID**

**NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION**

**PARTNERSHIP**

The prequalified bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bonafide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER**

\_\_\_\_\_  
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

**EXECUTION OF BID**

**NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION**

**LIMITED LIABILITY COMPANY**

The prequalified bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bonafide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER**

\_\_\_\_\_  
Full Name of Firm

\_\_\_\_\_  
Address as Prequalified

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Member/Manager/Authorized Agent  
*Select appropriate title*

\_\_\_\_\_  
Print or type Signer's name

\_\_\_\_\_  
Print or type Signer's name

**EXECUTION OF BID**

**NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION**

**JOINT VENTURE (2) or (3)**

The prequalified bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bonafide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER**

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 \_\_\_\_\_  
Print or type Signer's name Signature of Contractor  
Print or type Signer's name

*If Corporation, affix Corporate Seal* and

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

\_\_\_\_\_  
Address as Prequalified

\_\_\_\_\_  
Signature of Witness or Attest By \_\_\_\_\_  
Print or type Signer's name Signature of Contractor  
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 \_\_\_\_\_  
Print or type Signer's name Signature of Contractor  
Print or type Signer's name

*If Corporation, affix Corporate Seal*



**EXECUTION OF BID**

**NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION**

**INDIVIDUAL DOING BUSINESS UNDER A FIRM NAME**

The prequalified bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bonafide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER**

Name of Prequalified Bidder

\_\_\_\_\_

Individual name

Trading and doing business as

\_\_\_\_\_

Full name of Firm

\_\_\_\_\_

Address as Prequalified

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Prequalified Bidder, Individually

\_\_\_\_\_  
Print or type Signer's name

\_\_\_\_\_  
Print or type Signer's name

**EXECUTION OF BID**

**NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN  
CERTIFICATION**

**INDIVIDUAL DOING BUSINESS IN HIS OWN NAME**

The prequalified bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee 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 prequalified bidder has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the prequalified bidder intends to do the work with its own bonafide employees or subcontractors and will not bid for the benefit of another contractor.

By submitting this non-collusion, debarment and gift ban certification, the Contractor is attesting his 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 PREQUALIFIED BIDDER**

Name of Prequalified Bidder \_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Address as Prequalified

\_\_\_\_\_  
Signature of Prequalified Bidder, Individually

\_\_\_\_\_  
Print or type Signer's Name

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Print or type Signer's name

**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.

Form IDIQ-1MA  
Rev Feb 18, 2022

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
**WORK ORDER ASSIGNMENT – Multiple Award Contracts**

<b>Contract Title:</b>		<b>Bonding Required (yes or no)</b>
<b>Awarded Contractors:</b>		<b>LDs (yes or waived):</b>
<b>1<sup>st</sup> Award</b>		<b>PO #:</b>
<b>2<sup>nd</sup> Award</b>		<b>PO #:</b>
<b>3<sup>rd</sup> Award</b>		<b>PO #:</b>

**Work order Number:** \_\_\_\_\_  
**Project Location:** \_\_\_\_\_  
**Project WBS:** \_\_\_\_\_

**Project Description and Special Notes:**

Estimate of Line Items and Quantities, add additional rows if needed. Payment will be based on actual line items and quantities verified in the field.			
Line Code Item No.	Description	Unit	Quantity
<b>Estimate Total:</b>			

**Estimate Approved By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

In acceptance of this work order, the contractor agrees to mobilize and pursue the work diligently with workers in sufficient numbers, abilities, and supervision, and with equipment, materials and methods of construction as may be required to complete the work described in the contract or as may be amended by the completion date.

Date of Availability:	Completion Date:
NCDOT's Signature:	Date of Signature:
Contractor's Signature:	Date of Signature:

**Fuel Usage Factor Adjustment Form**

Contract Number	
County	
Contractor Name	
HiCAMS Vendor Number	

Select a Fuel Usage Factor for each of the Asphalt Material Descriptions to be used on the project. Within the Selected Fuel Usage Factor column, choose either 2.90 or 0.90 Gallons per Ton for the corresponding asphalt material description.

The Selected Fuel Usage Factor chosen will be used for the entire contract duration.

Description	Unit	Selected Fuel Usage Factor	
		0.90	2.90
Asphalt Concrete Base Course, Type B25.0C	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Intermediate Course, Type I19.0C	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type SA-1	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type SA-1 (Leveling Course)	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type S4.75	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type S4.75 (Leveling Course)	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type S9.5B	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type S9.5B (Leveling Course)	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type S9.5C	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type S9.5C (Leveling Course)	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type S9.5D	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Asphalt Concrete Surface Course, Type S9.5D (Leveling Course)	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Open-Graded Asphalt Friction Course	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Permeable Asphalt Drainage Course, Type _____	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>
Sand Asphalt Surface Course, Type _____	Gal/Ton	<input type="checkbox"/>	<input type="checkbox"/>

If the Contractor does not mark either Fuel Usage Factor or marks both Fuel Usage Factors for an asphalt item description, the 2.90 Fuel Usage Factor shall be used for that asphalt line item.

**EXECUTION OF CONTRACT**

**Contract No: D6D2.POC.018**

**County: Harnett**

ACCEPTED BY THE DEPARTMENT

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**Engineer**

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Date

EXECUTION OF CONTRACT AND BONDS  
APPROVED AS TO FORM:

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**Engineer**

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Date

Signature Sheet (Bid) - ACCEPTANCE SHEET

**ADDENDUM(S)**

ADDENDUM #1

I, \_\_\_\_\_  
(SIGNATURE)

representing \_\_\_\_\_

Acknowledge receipt of Addendum #1.

ADDENDUM #2

I, \_\_\_\_\_  
(SIGNATURE)

representing \_\_\_\_\_

Acknowledge receipt of Addendum #2.

ADDENDUM #3

I, \_\_\_\_\_  
(SIGNATURE)

representing \_\_\_\_\_

Acknowledge receipt of Addendum #3.

# North Carolina Department of Transportation

## CONTRACT BID FORM

**CONTRACT NO.:** D6D2.POC.018  
**WBS ELEMENT NO.:** 6.104319.9  
**COUNTY:** Harnett  
**DESCRIPTION:** Storm Debris Cut & Shove Crew

LINE	SEC	DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT BID
10	SP	On-Site Standby	60	HR		
20	SP	Cut and Shove Crew	250	HR		

***TOTAL BID:*** \_\_\_\_\_

CONTRACTOR \_\_\_\_\_

ADDRESS \_\_\_\_\_

Federal Identification Number \_\_\_\_\_ Contractors License Number \_\_\_\_\_

Authorized Agent \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Witness \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Point of Contact for Post Bid Inquiries (e.g., Letters of Intent, Insurance, Bonds, Contract Execution, etc.):

Name \_\_\_\_\_

Email \_\_\_\_\_

Phone \_\_\_\_\_