



**DALLAS COUNTY
PURCHASING DEPARTMENT**

Records Building, 500 Elm Street, Suite 5500
Dallas, Texas 75202

**Michael Frosch
Purchasing Director**

May 20, 2026

**ADDENDUM #4
IFB 2026-030-7115 SIMONDS ROAD BRIDGE AT HICKORY CREEK**

Whereas,

By way of this addendum the cover page for IFB Bid No. 2026-030-75515 has been updated to include engineer seals and signatures. All other bid information remains the same.

Whereas,

Except as provided herein/above, all other specification requirements of the original solicitation referenced shall remain unchanged in full force and effect. This addendum should be signed and returned with your Solicitation package on or before 5/28/2026, @ 2:00 P.M. (CST).

IFB BID NO. 2026-030-7115

CONTRACT AND BID DOCUMENTS FOR

Simonds Road Bridge at Hickory Creek

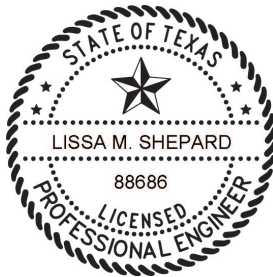
Road and Bridge 3 0002N

TxDOT CSJ 0918-47-148



DEPARTMENT OF PUBLIC WORKS AND TRANSPORTATION

DALLAS COUNTY



Handwritten signature of Lissa M. Shepard in cursive script.

5/20/2026



Handwritten signature of Andrew L. Hooker in cursive script.

5/20/2026

The seals appearing on this document are authorized by Lissa M. Shepard P.E. No. 88686 TX and Andrew L. Hooker, P.E. No. 157158 TX



INVITATION FOR BID FOR	Contract for Road and Bridge 3 Bridge Rehabilitation No. 0002N Simonds Road Bridge at Hickory Creek CSJ: 0918-47-148	
SOLICITATION NO.: 2026-030-7115	OPENING/DUE DATE: May 28, 2026	TIME: 2:00 p.m. (CST)
FOR FURTHER INFORMATION CALL:	PURCHASING CONTACT: Darian Gavin	AT: 214.653.7437 Darian.Gavin@dallascounty.org
PRE-BID CONFERENCE DATE, TIME & LOCATION:	May 14, 2026 @ 2:00 p.m. Purchasing Department, Microsoft TEAMS; Must Register	

INSTRUCTIONS TO BIDDERS

PLEASE READ THE ENTIRE PACKAGE CAREFULLY

[This page will need to be signed and returned with bid submission.](#)

Electronic solicitation responses are to be submitted through a secure mailbox at www.bidnetdirect.com until the date and time as indicated in this solicitation document. Although electronic submissions are the preferred method of receiving solicitation responses from the vending community, respondents may at their discretion, in lieu of submitting their solicitation response electronically through bidnet direct, submit their solicitation response via hard copy to the Dallas County Purchasing Department, 500 Elm Street, 5th Floor, Suite 5500, Dallas, TX. It is the sole responsibility of the bidder to ensure their offer is complete and submitted in bidnet direct before the solicitation closing date and time. There is no cost to the bidder to submit a solicitation response in response to a Dallas County solicitation request via bidnet direct or to submit a hard copy response to Dallas County. Electronic solicitation submissions may require the uploading of electronic attachments. The submission of attachments containing embedded documents or proprietary file extensions is prohibited. All documents should be attached as separate files.

For information concerning technical specifications please utilize the question/answer feature provided by bidnet direct at www.bidnetdirect.com within the solicitation. Questions of a material nature must be received prior to the question due date and time specified in the solicitation. Material changes, if any, to the solicitation terms, scope of services, or procedures will only be transmitted by written addendum. See addendum section of www.bidnetdirect.com. Pre-bid conferences will be held through Microsoft TEAMS (see pre-bid section for date and times for joining the pre-bid conference).

Please allow ample time to complete the online forms and upload of all solicitation documents. The deadline for submitting information and documents will end at the closing date and time indicated in the solicitation. All information and documents must be fully entered, uploaded, acknowledged and recorded into bidnet direct before the due date and time. If submissions are not completed before the due date and time, bidnet direct will not allow the bidder to complete the submission. Any solicitation responses not submitted, electronic or hardcopy, before the due date and time shall be considered late and will not be accepted.

This bid has federal funds which requires all contractors to be registered in SAM.gov. database in order to verify debarment (<https://www.sam.gov/portal/public/SAM/>).

Please note the following:

No part of bid will be submitted via EMAIL and/or FAX. No variation in price or conditions shall be permitted; the official solicitation response submittal shall be considered the bidnet direct submittal, or if the bidder elected to submit a hard copy in lieu of an electronic submission, the original hard copy shall be considered the official solicitation response. If the bidder submitted their response via bidnet direct and in hard copy, the bidnet direct submittal will prevail. Submission in response to a Dallas County solicitation request will be considered evidence that the bidder/proposer has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required.

Dallas County is not responsible for and accepts no liability for any technical issues that result from conducting business electronically. Solicitation responses must be received **BY 2:00 P.M. ON THE ABOVE "OPENING/DUE DATE."** Bids received at 2:01 p.m. and thereafter are late bids and will not be accepted, opened, nor considered. Bids may be withdrawn at any time prior to the official opening date and time. After the official opening, bidder solicitation responses may not be amended, altered, or withdrawn without the written consent of the purchasing agent.

Dallas County is exempt from federal excise and state sales tax; therefore, tax must not be included.

The undersigned agrees, if this solicitation response is accepted, to furnish any and all items upon which prices are offered, at the price(s) and upon the terms and conditions contained in the specifications. The period for acceptance of this offer will be 120 calendar days.

Dallas County reserves the right to accept or reject in part or in whole any solicitation responses submitted. The Commissioners Court will consider for award the recommended contract to the responsible bidder(s) who submits the lowest and responsible bid or most advantageous

bid as determined by the Commissioners Court. The Commissioners Court reserves the right to determine compliance and to waive technicalities or irregularities and to make the award in the best interest of Dallas County.

The undersigned affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other bidder, and that the contents of this offer as to prices, terms or conditions of said offer have not been communicated by the undersigned nor by any employee or agent to any other bidder or to any other person(s) engaged in this type of business prior to the official opening of this solicitation. And further, that the manager, secretary or other agent or officer signing this offer is not and has not been for the past six months directly or indirectly concerned in any pool or agreement or combination to control the price of supplies, services or equipment responding to, or to influence any person to respond, or not, to this solicitation

This page will need to be signed and returned with bid submission.

**NAME AND ADDRESS OF COMPANY/BIDDER:		ALL BIDS MUST BE SIGNED PRIOR TO AWARD
Company/Firm Name (PRINTED):		Name (PRINTED):
Mailing Address:		Title:
		Signature:
City/ State:	ZIP:	E-Mail Address:
Telephone Number:		Fax Number:

** Legal Name, Address and Tax Payer ID number: Bidders are to submit the company's "Legal Name" as identified by their Federal Tax Certification certificate. Bidders are to complete the Federal Form "W-9" for verification and filing purposes. Dallas County reserves the right to withhold any invoices and/or payments, without penalties, for documents submitted under a different name/billing address than that identified on the solicitation document/award court order or contract.

BID NO: 2026-030-7115
Simonds Road Bridge RB 3 0002N
Bridge Rehabilitation Improvements
Dallas County

Bidders Review Checklist

Documents to be returned with bid submission

- Electronic submission is the preferred method to receive vendor responses.
- If a vendor does not have the means to submit an electronic response, the County requires two (2) hardcopies and one (1) electronic version be submitted, as found in Section A: Notice to Contractors, Bid Doc No. 05.
 - Original (copy of all documents Pages 1-428) in a sealed envelope marked “ORIGINAL Bid No. 2026-030-7115 for Simonds Road Bridge RB 3 0002N”
 - Copy 1 (Sections A – L, Pages 1 – 55) in a sealed envelope marked “COPY 1 Bid No. 2026-030-7115 for Simonds Road Bridge RB 3 0002N”
 - Copy 2 (Sections A – L, Pages 1 – 55) in a sealed envelope marked “COPY 2 Bid No. 2026-030-7115 for Simonds Road Bridge RB 3 0002N”
- Electronic version of all documents Pages 1-428 (*e.g.*, flash drive)
- Instructions to Bidders,
- Section A: Notice to Contractors. Bid Guaranty (certified check, cashier’s check, or bidder’s bond), in an amount equal to five percent (5%) of total bid amount, made payable to County of Dallas, Texas, Bid Doc No. 05
- Section B: Invitation to Bid, Bid Doc No. 07
- Section D: Title VI Assurance/Compliance, Bid Doc No. 18
- Section E: Disclosure of Interested Parties (Form 1295), Bid Doc No. 20
- Section F: Conflict of Interest (Form CIQ), Bid Doc No. 22
- Section G: Texas Government Code Chapter 2271 Verification Form
- Section H: Texas Government Code Chapter 2252 Certification Form
- Section I: Insurance Requirement Affidavit, Bid Doc No. 24
- Section J: W-9 Request for Taxpayer Identification Number & Certification (Form W9)

- Section K: Bid Sheets, Bid Doc No. 09
- Section L: Bid Summary Sheets, Bid Doc No. 11
- Section T: State and Federal Requirements Forms

Submission Date: May 28, 2026 by 2:00 p.m.

Submission via bidnet direct is preferred. If vendor does not have the means to submit electronic then they will need to submit to the Purchasing Department, Attn: Darian Gavin, Contract Specialist, 500 Elm Street, Suite 5500, Dallas, TX 75202

Please duplicate the enclosed label and affix to the outside of your sealed submittal envelope/package or cut along the outer border and affix this label to the outside of the submittal envelope/package to identify it as a "Sealed Bid". Be sure to include the name of the company submitting the response where requested.



SEALED BID • DO NOT OPEN

Title: Invitation for Bid Contract for Bridge Rehabilitation Improvements
SIMONDS ROAD BRIDGE AT HICKORY CREEK – RB 3 0002N

Solicitation Number: 2026-303-7115

Due Date and Time: May 28, 2026 @ 2:00 P.M.

Submitted By:

Company Name: _____

Contact Name: _____

Telephone Number: _____

Contact and Delivery Information Contract

Attn: Darian Gavin, Contracts Specialist

Darian.Gavin@dallascounty.org

214-653-7437

Dallas County Purchasing Department

Records Building

500 Elm Street, Suite 5500

Dallas, Texas 75202

BID NO: 2026-030-7115
Simonds Road Bridge at Hickory Creek – RB 3 0002N
Bridge Rehabilitation Improvements
Dallas County Texas

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SECTION A
NOTICE TO CONTRACTORS

NOTICE TO CONTRACTORS

FOR

DALLAS COUNTY BRIDGE PROGRAM

Electronic solicitation responses are to be submitted through a secure mailbox at <https://www.dallascounty.org/departments/purchasing/currentbids.php> until the date and time as indicated in this solicitation document. Although electronic submissions are the preferred method of receiving solicitation responses from the vending community, respondents may at their discretion, in lieu of submitting their solicitation response electronically through bidnet direct, submit their solicitation response in hard copy to Dallas County Purchasing Department, 500 Elm Street, Suite 5500, Dallas, TX 75202. It is the sole responsibility of the vendor to ensure their offer is complete and submitted in bidnet direct before the solicitation closing date and time. There is no cost to the vendor to submit a solicitation response in response to a Dallas County solicitation via bidnet direct or to submit a hard copy response to Dallas County. Electronic solicitation submissions may require the uploading of electronic attachments. The submission of attachments containing embedded documents or proprietary file extensions is prohibited. All documents should be attached as separate files. Dallas County is not responsible for and accepts no liability for any technical issues that result from conducting business electronically. Solicitation responses must be **received BY 2:00 P.M. ON May 28, 2026 "OPENING/DUE DATE,"** and bid reading shall be conducted at 2:30pm (CST) on the day the bids are due. The reading will be conducted via a live meeting online at (insert bid opening link here). Bids will be publicly opened in compliance with public bid opening statutory requirements. The Dallas County reserves the right to accept or reject any solicitation response submitted.

If a bidder does not have the means to submit an electronic response, Dallas County requires the following copies of the bids:

- a) one (1) original, clearly marked "*ORIGINAL*" (Pages 1 through 430), in a sealed envelope marked "ORIGINAL Bid No. 2026-030-7115 for Simonds Road Bridge RB 3 0002N"
- b) two (2) other copies, each clearly marked "*COPY*" (Pages 1 through 52), in a sealed envelope marked "COPY 1 Bid No. 2026-030-7115 for Simonds Road Bridge RB 3 0002N"
- c) one Electronic version of all documents Pages 1-430 (*e.g.*, flash drive)

shall be submitted in sealed envelopes marked **"Bid No. 2026-030-7115 for Bridge Rehabilitation Improvement RB 3 0002N, Simonds Road Bridge at Hickory Creek, County of Dallas, Texas, District No. 3."** All bids received will be retained by Dallas County and will not be returned to bidders.

DESCRIPTION OF WORK TO BE DONE

The Simonds Road Bridge Rehabilitation Project will include excavation around bridge pilings and concrete encasement of pilings. The existing pilings will be cleaned and painted. This Project will facilitate the movement of public transportation to benefit Dallas County.

Bid Doc No. 05 Rev 2

There are **90 working days** per standard workweek allocated for construction of all improvements.

PRE-BID CONFERENCE

Pre-bid conferences will be held virtually via Microsoft Teams on Thursday, **May 14, 2026 2 O'clock (2:00) p.m. (CST)**. Attendance is through Microsoft TEAMS. All bidders are to attend to discuss the requirements of this bid. It is the responsibility of each bidder to examine the entire bid package, seek clarification in writing, review the plans in detail, visit the Project site and review their bid for accuracy before submitting.

Dallas County will not be bound by any information conveyed verbally during the pre-bid conference. Any verbal responses to questions during the pre-bid conferences are not binding on the Dallas County. All questions must be submitted in writing, and all responses will be provided in writing. Only responses to written questions that are published by the Dallas County Purchasing Department via bidnet direct will be official responses of the Dallas County. Any oral instructions or information concerning the bid given by Dallas County staff or personnel will not bind the Dallas County and should not be considered authoritative when assembling responses to the Invitation for Bid.

BID GUARANTY

Each bid submittal shall be accompanied by an electronic bid bond in an amount indicated on the bid form equal to five percent (5%) of the total bid amount, made payable without recourse to the County of Dallas, Texas.

COMMUNICATIONS REGARDING THE BID

All inquiries regarding the bid must be submitted in writing to Darian Gavin via BidNet direct at <http://www.bidnetdirect.com> . The deadlines for submission of questions relating to this bid are listed below. All questions submitted in writing prior to the deadlines will be compiled and written responses will be published. All addendums, questions, responses and answers will be posted and made available exclusively on the Dallas County's bidnet direct website: <https://www.dallascounty.org/departments/purchasing/currentbids.php> (Go to the appropriate Bid #, click on the appropriate hyperlink for viewing and/or downloading.) Bidders are solely responsible for frequently checking the bidnet direct website for updates and changes to the bid. Questions about the bidnet direct website should be directed to Darian Gavin:

Email: Darian.Gavin@dallascounty.org

Office: 214.653.7115

Mailing Address: 500 Elm Street, Suite 5500, Dallas, Texas 75202

Initial questions regarding this solicitation are to be submitted in writing via bidnet direct, by 10:00 AM (CST), Thursday, May 21, 2026. These questions will be addressed during the pre-bid conference.

Bidders will be required to submit in writing, any questions presented during the pre-bid conference and/or after the pre-bid conference. All questions must be received no later than 10:00 AM (CST), Thursday, May 21, 2026.

All written questions received prior to the deadline will be compiled and answered in writing. Official answers to all written questions will constitute an amendment to this Invitation for Bid and will be posted exclusively on the bidnet direct website:

<http://www.dallascounty.org/department/purchasing/currentbids.php>.

Dallas County will not be bound by any information conveyed verbally. No oral statements or answers by any person, employee, unit, department, or organization shall be considered binding as a part of this Invitation for Bid nor as a part of any contract resulting therefrom. Any and all modifications, changes, addendums, or amendments that shall be considered official and binding will be in writing and published by Dallas County Purchasing Department via bidnet direct.

Dallas County reserves the right, as its sole discretion, to determine appropriate and adequate responses to the written comments, questions, and requests for clarification.

It is the bidder's responsibility to review and monitor Dallas County's bidnet direct website on a regular basis during the solicitation process, through the closing date and time, for any updates, clarifications, amendments, addendums, and/or changes.

Dallas County's bidnet direct website is the primary communication tool for any updates, clarifications, amendments, addendums, and/or changes regarding this bid.

For technical assistance in submitting Small Business Enterprise Forms, please contact the Office of Small Business Enterprises at the following: sbe@dallascounty.org.

Please reference the Bid/Solicitation Number (2026-030-7115), Company Name, Representative Name and email address on all written communication and correspondence to Dallas County.

SECTION B
OFFER TO BID

DALLAS COUNTY ROAD AND BRIDGE CONSTRUCTION
BID IFB 2026-030-7115
TO

County Judge and Commissioners Court for Construction of **Simonds Road Bridge at Hickory Creek 0002N Bridge Rehabilitation Improvements** in Dallas County, Texas.

The undersigned, as bidder(s), declare that:

1. The only persons or parties interested in this bid as principals are those herein named;
2. This bid is made without collusion with any other person, firm or corporation;
3. The bidder(s) has/have carefully examined the form of Contract; instruction to bidders, profiles, grades, specifications, and the plans therein referred to;
4. The bidder(s) has/have carefully examined the location, conditions and classes of materials of the proposed Work;
5. The bidder(s) will provide all necessary machinery, tools, apparatus, and other means of construction; and
6. The bidder will do all the Work and furnish all materials called for in the Contract and specifications, in the manner prescribed in the Contract and according to the requirements of the engineer as set forth in the Contract.

The bidder understands that Dallas County reserves the right to reject any and all bids.

The bidder understands that the quantities of Work and materials set forth in Section K: Bid Sheets are only approximations, which are intended to serve as a guide in assembling the bids. The bidder further understands that the Project Engineer, in his/her professional opinion, may increase or decrease the quantities of Work and materials required to complete the Work as planned and contemplated. The bidder agrees that all quantities of Work and materials, whether increased or decreased, shall be performed at the unit prices provided in the Bid Sheets, unless otherwise provided in the Contract specifications.

NOTE: Unit prices must be provided on each item checked in the Bid Sheets, regardless of whether quantities are shown. If a bidder fails to provide a unit price for any item, Dallas County reserves the right to apply the lowest price submitted by other bidders for payment of Work and/or materials under this bid, and the bidder agrees to be bound by such price.

The bidder agrees and pledges to complete the Work in full in **90 Working days per standard Work week**. Time will start within ten (10) days after receipt of a Work Order from the Director of Public Works or Project Engineer, authorizing the start of the Work. The Work shall be finally accepted when fully completed to the entire satisfaction of the Dallas County Commissioners Court.

Accompanying this bid is a bid guaranty in the form of a certified check, cashier's check, or bidder's bond payable to the order of the County of Dallas for: _____ dollars, (\$ _____), which represents an amount equal to five percent (5%) of the total bid amount.

If Dallas County accepts the bid of the undersigned, the undersigned agree(s) to enter into a Contract with Dallas County in accordance with the terms of such bid (as set forth in Section M: Contract), and further agrees to give a performance bond, payment bond, and maintenance/warranty bond (as required in Section N: Payment, Performance, and Maintenance/Warranty Bonds) in the amount of _____ dollars, (\$_____) to secure proper compliance with the terms and provisions of this Contract, as required in and given by the undersigned, and to insure and guarantee the Work until final completion and acceptance, is hereto attached and made a part hereof.

If Dallas County accepts the bid and the bid guaranty is in the form of a check, the check will be returned to the bidder *unless* the bidder fails to execute the Contract and/or fails to provide the bonds required under the Contract within twenty (20) days of Dallas County's of the bid acceptance. If such failure occurs, the bid guaranty check shall become property of Dallas County and considered payment for damages due to delay and other inconveniences suffered by Dallas County on account of the bidders's failure to perform.

The undersigned wishes to list additional Work of a similar character completed by him:

Pursuant to Sec. 9.001 of the Texas Business Organization Code, non-Texas entities, including, but not limited to corporations, limited partnerships, and limited liability companies must have an application for registration filed with the Texas Secretary of State and shall provide to Dallas County a Certificate of Status issued by the Texas Secretary of State that serves as official evidence of the entity's existence or authority to transact business in Texas.

To transact business with Dallas County, all entities must be in legal compliance pursuant to applicable laws, and shall provide to Dallas County evidence of said compliance.

Specify your firm's Texas Secretary of State Filing Number, Jurisdiction, and Formation Date:

BIDDER: _____

SIGNED: _____

BY: _____

TITLE: _____

COMPANY: _____

ADDRESS: _____

SECTION C
DISADVANTAGED BUSINESS ENTERPRISES
REQUIREMENTS

**Control 0918-47-473
Project 2026-030-7115
Highway VA
County DALLAS**

DISADVANTAGED BUSINESS ENTERPRISES

Effective October 3, 2025, the U.S. Department of Transportation issued Interim Final Rule (90 FR 47969) related to Disadvantaged Business Enterprise (DBE) Program implementation modifications IFR. Per the IFR, DBE program participation is not required for Simonds Road Bridge at Hickory Creek. Any reference to the DBE Program in the contract and bid documents for Simonds Road Bridge at Hickory Creek is not applicable to the Project.

SECTION D

TITLE VI ASSURANCE/COMPLIANCE

DALLAS COUNTY, TEXAS

TITLE VI

TITLE VI ASSURANCES/COMPLIANCE POLICY

The County, 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.

Pursuant to Title VI requirements, any entity or person that enters into a contract with Dallas County including, but not limited to prime contractors, sub-contractors, and sub-recipients, may not discriminate on the basis of race, color, national origin, age, sex, disability, or religion in their selection and retention of subcontractors (including consultants), in connection with any federally funded program or activity (including any program or activity undertaken/funded by a Dallas County Division/Department that receives federal funds).

This solicitation packet contains information concerning Dallas County's Title VI Assurances/Compliance Policy (**Appendix A**) and bidders/contractor responsibilities.

TITLE VI ASSURANCES/COMPLIANCE - APPENDIX A

A. *Assurances*

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will 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 will 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.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will 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.

4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration 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 will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will 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 will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration 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.

B. Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- 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 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

C. Representations/Warranties

The Contractor also makes the following representations and warranties to Dallas County:

1. It has taken the steps necessary to effectuate Title VI requirements.
2. Disadvantaged business enterprises are afforded equal opportunity to submit bids/proposals as sub-contractors or sub-consultants and will not be discriminated against on the grounds of race, color, sex, age, disability, religion, veteran status, or national origin in consideration of a selection or award.
3. Neither contractor or any subcontractors or sub-recipients that will participate in activities to be funded as a result of this contract/bid/solicitation, are listed on the debarred list due to violations of Title VI or VII of the Civil Rights Act of 1964, nor are any proposed parties to this contract, or any subcontract resulting therefrom, aware of any pending action which might result in such debarment or disqualification.

D. Title VI Complaints

Any person, contractor, or subcontractor who believes that they have been subjected to an unlawful discriminatory practice under Title VI will be notified of their right to file a formal complaint within one hundred eighty (180) days following the alleged discriminatory action or the date the person(s) became aware of the alleged act(s) of discrimination. Any such complaint must be filed in writing or in person with the Dallas County Title VI Coordinator:

Dallas County Human Resources

c/o: Dallas County Director of Human Resources and Title VI Coordinator
500 Elm Street, Suite 4100, Records Building
Dallas, TX 75202
(214) 653-7638 (phone)
(214) 653-7608 (fax)

A copy of Dallas County Title VI Non-Discrimination Plan and Documents, and complaint forms, may be obtained at http://www.dallascounty.org/department/HR/title_vi.html or at the address above.

A complainant may also contact the Federal Coordination and Compliance Office, Civil Rights Division at the Title VI Hotline: 888-TITLE-06 (888-848-5306) or send a letter to: U.S. Department of Justice Civil Rights Division Federal Coordination and Compliance Section, NWB 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530. More information on Title VI is available from the Justice Department online at www.justice.gov.

Contractor shall comply with all reasonable requests made in the course of an investigation of Title VI and these assurances by Dallas County, the Texas Department of Transportation, the US Department of Transportation, the US Department of Justice, or any other federal or state agency. Failure to comply with such reasonable requests will be deemed a breach of this contract/bid/solicitation.

E. Enforcement

The contractor affirmatively acknowledges that it will be subject to Title VI, and implementing regulations, and any enforcement measures therein. In addition to any enforcement action by Dallas County, the contractor acknowledges that the United States and the State of Texas has a right to seek judicial enforcement with regard to any matter arising under Title VI, including the assurances herein.

Contractor's Full Name:

Signature, Authorized Representative of Contractor

Date

Title

SECTION E

DISCLOSURE OF INTERESTED PARTIES

DALLAS COUNTY, TEXAS

DISCLOSURE OF INTERESTED PARTIES

Effective January 1, 2016, Dallas County, must comply with the “Disclosure of Interested Parties”, mandated by Texas HB 1295, as implemented by the Texas Ethics Commission. Briefly stated, all contracts requiring an action or vote by the governing body of the entity or agency before the contract may be signed (regardless of the dollar amount) or has a value of at least \$1 million will require the on-line completion of Form 1295 "Certificate of Interested Parties," per Texas Government Code Statute §2252.908. Form 1295 is also required for any and all contract amendments, extensions, or renewals. A sample copy (for illustration purpose only) of a completed electronic form is provided with this solicitation. All business entities are required to complete and file electronically with the Texas Ethics Commission using the online filing application.

Step 1: Business entity completes Form 1295 in electronic format on the Texas Ethics Commission website (<https://ethics.state.tx.us/filinginfo/1295/>).

Step 2: Upon receipt of a completed Interested Parties Disclosure Form, the Texas Ethics Commission issues a Certification of Filing to the business entity and the business entity download(s), print(s), sign(s) and notarize(s) Form 1295. An authorized agent of the business entity will need to sign the printed copy of the form and have the form notarized.

Step 3: At the time of submission of the solicitation to Dallas County the business entity must submit the completed notarized Form 1295 with the Certification of Filing with their contract (i.e., bid, rfp, rfq, soq, etc.) to Dallas County. Upon receipt, Dallas County may proceed with the award and/or execution of the contract.

Step 4: Not later than the 30th day after the date the contract has been signed by all parties, Dallas County must notify the Texas Ethics Commission (in electronic format) of the receipt of (1) Form 1295 and (2) the Certification of Filing.

Step 5: Not later than the 7th business day after receipt of the above notice, the Texas Ethics Commission makes the disclosure available to the public by posting the disclosure on its website.

Definitions:

(a) “Contract” includes an amended, extended, or renewed contract.

(b) “Business entity” includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.

(c) “Controlling interest” means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.

(d)“Interested party” means: (1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or (2) a person who actively participates in facilitating a contract or negotiating the terms of a contract with a governmental entity or state agency, including a broker, intermediary, adviser, or attorney for the business entity.

(e)“Intermediary,” for purposes of this rule, means, a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

- (1) receives compensation from the business entity for the person’s participation;
- (2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
- (3) is not an employee of the business entity.

To obtain additional information on HB 1295, to learn more about Texas Ethics Commission process to create a new account, or to complete an electronic version of Form 1295 for submission with a signed contract, please go to the following website <https://ethics.state.tx.us/filinginfo/1295/>
Instructional Videos for Business Entities on how to file online can be found at <https://ethics.state.tx.us/filinginfo/1295/>

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

OFFICE USE ONLY

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
(month) (year)

 Signature of authorized agent of contracting business entity
 (Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

SECTION F
CONFLICT OF INTEREST

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

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

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Name of signatory

Signature

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

- (i) a contract between the local governmental entity and vendor has been executed;
- or
- (ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

- (1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);
- (2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or
- (3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

- (A) begins discussions or negotiations to enter into a contract with the local governmental entity; or
- (B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

- (A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);
- (B) that the vendor has given one or more gifts described by Subsection (a); or
- (C) of a family relationship with a local government officer.

SECTION F

TEXAS GOVERNMENT CODE CHAPTER

2271 VERIFICATION FORM



DALLAS COUNTY

TEXAS GOVERNMENT CODE CHAPTER 2271 VERIFICATION – BOYCOTT ISRAEL

Effective September 1, 2017, the State of Texas requires all governmental entity, state agency or political subdivision (which includes counties) to obtain written verification from the Company that their Company does NOT boycott Israel and will not boycott Israel during the life of this contract, agreement or purchase order (hereafter referred to as "Contract"). By accepting this Contract, the Company (Professional or other applicable term defining the contracting party) verifies that it does not Boycott Israel, and agrees that during the term of this Contract it will not Boycott Israel as that term is defined in Texas Government Code Section 808.001, as amended." The County cannot execute a contract for goods and services without this declaration. Please refer to Texas Government Code, Subtitle F, Title 10, Government Code Chapter 2271.

COMPLETE TEXAS GOVERNMENT CODE CHAPTER 2271

VERIFICATION FORM MUST SUBMIT WITH BID PACKAGE



TEXAS GOVERNMENT CODE CHAPTER 2271 VERIFICATION FORM

In accordance with Section 2271.002, provision required in contract.

I, _____(Person name), the undersigned representative of (Company name) _____

being an adult over the age of eighteen (18) years of age, do hereby attest and verify that the company named above, under the provisions of Title 10, Subtitle F, Government Code Chapter 2271:

- Does not boycott Israel currently; and

- Will not boycott Israel during the term of the contract between company and Dallas-County, Texas.

Pursuant to Texas Government Code, Section 2271.001 and Title 8, Subchapter A, Section 808.001

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*

2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

Signature

Printed Name

Title

Date

SECTION G

TEXAS GOVERNMENT CODE CHAPTER

2252 CERTIFICATION FORM



DALLAS COUNTY

TEXAS GOVERNMENT CODE CHAPTER 2252, SECTION 2252.152 and 2252.153

Effective September 1, 2017, the State of Texas requires a governmental entity, state agency or political subdivision (which includes counties) to obtain written verification from the company that their company IS NOT listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051, or Section 2253.153 during the life of this contract, agreement or purchase order (hereafter referred to as "Contract"). By accepting this Contract, the Company (Professional or other applicable term defining the contracting party) verifies that it IS NOT listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051, or Section 2253.153 and agrees that during the term of this Contract IS NOT listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051, or Section 2253.153. Dallas County cannot execute a contract for goods and services without this declaration. Please refer to Texas Government Code, Subtitle F, Title 10, Government Code Chapter 2252.

CERTIFICATION FORM MUST SUBMIT WITH BID PACKAGE



TEXAS GOVERNMENT CODE CHAPTER 2252 CERTIFICATION FORM

I, _____ (Person name), the undersigned representative of (Company name) _____ being an adult over the age of eighteen (18) years of age, do hereby attest and verify that the company named above, under the provisions of Title 10, Subtitle F, Government Code Chapter 2252:

- IS NOT listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, 807.051 or Section 2252.153; and
- Will not be listed during the term of the contract between company and Dallas County, Texas.

Pursuant to Section 2252.152 and 2252.153, Texas Government Code:

*Sec. 2252.152. Contracts with companies engaged in business with Iran, Sudan, or foreign **terrorist organization prohibited**. A governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Section 806.051, 807.051, or [2252.153](#).*

Sec. 2252.153. LISTED COMPANIES. The Comptroller shall prepare and maintain, and make available to each governmental entity, a list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization.

Signature

Printed Name

Title

Date

SECTION I

INSURANCE REQUIREMENT AFFIDAVIT



DALLAS COUNTY

INSURANCE REQUIREMENT AFFIDAVIT

THIS FORM IS NOT A SUBSTITUTE FOR THE REQUIRED POLICY AND/OR STATE APPROVED CERTIFICATE OF INSURANCE FORM

To Be Completed By Insurance Agent/Broker and Bidder

I, the undersigned Agent/Broker, reviewed the insurance requirement contained in this bid document. If the Bidder shown below is awarded this contract by Dallas County, I will be able to, within ten (10) days after contract award and prior to commencement of services, meet all of the insurance requirements in this bid.

Insurance Coverage Reviewed: _____

Agent's Name: _____

Agency Name: _____

Address: _____

City/State/Zip: _____

Telephone No: (____) _____

Fax No: (____) _____

Bidder's Name and Company: _____

Project/Bid No. and Title: _____

By submitting a bid and signing below I affirm the following: I am aware of all costs to provide the required insurance, will do so pending contract award, and will have my insurance agent provide this information to Dallas County, meeting all requirements within ten days of notification of award.

If the above ten day requirement is not met, Dallas County reserves the right to cancel the contract for non-performance. If you have any questions concerning these requirements, please contact the Dallas County Human Resource / Civil Service's Risk Manager at 214-653-7668.

Insurance Agent/Broker Signature: _____

Date: _____

Bidder's Signature: _____

Date: _____

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

Texas Labor Code § 406.096, the Texas Workers' Compensation Act, states:

(a) **A governmental entity that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project.**

(b) Each subcontractor on the public project shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the governmental entity.

(c) A contractor who has a contract that requires workers' compensation insurance coverage may provide the coverage through a group plan or other method satisfactory to the governing body of the governmental entity.

(d) The employment of a maintenance employee by an employer who is not engaging in building or construction as the employer's primary business does not constitute engaging in building or construction.

AFFIDAVIT

I, _____ (name), am over twenty-one years of age, have never been convicted of a felony or a crime involving moral turpitude, and am fully competent to make this affidavit. I have personal knowledge of the facts stated herein and they are true and correct.

I am the owner of _____, whose principal office is located at _____ . I am a sole proprietor pursuant to Section 406.097(c) and Section 406.097(a) of the Texas Workers' Compensation Act (the "Act"). I do not operate as a general contractor and **I DO NOT HAVE ANY EMPLOYEES OR SUBCONTRACTORS.** I am exempt from providing workers compensation insurance in accordance with the Act. In the event I have to hire (or borrow) employee(s), I will provide such employee(s) Workers' Compensation coverage as required by the Texas Labor Code § 409.096 and immediately notify the County contract administrator and the Director of Purchasing and get written permission before any such employees does any work/services on a Dallas County project. In the event I have to hire (or borrow) any subcontractor(s), I will provide a certificate of coverage that such subcontractor has Workers Compensation and immediately notify the contract administrator and the Director of Purchasing and get written permission before any such subcontractor does any work/services on a Dallas County project. I assume the responsibilities of an independent contractor in the performance of the work/services that I will perform for Dallas County as a sole proprietor, on _____(project/bid/RFP no.) _____ (project name), and **AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS DALLAS COUNTY, DALLAS COUNTY COMMISSIONERS COURT, DALLAS COUNTY JUDGE, AND DALLAS COUNTY ELECTED OFFICIALS, OFFICERS, AGENTS, CONSULTANTS, EMPLOYEES, AND REPRESENTATIVES FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, EXPENSES, AND JUDGMENTS, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING, IN WHOLE OR IN PART, FROM MY WORK/SERVICES AS A SOLE PROPRIETOR, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY MY NEGLIGENT ACTS OR OMISSIONS, REGARDLESS OF WHETHER OR NOT SUCH A CLAIM, DAMAGE, LOSS, EXPENSE, OR JUDGMENT IS CAUSED IN PART BY A PARTY INDEMNIFIED HEREIN.**

Signature

SWORN TO and SUBSCRIBED before me by _____ on this the _____ day of _____, 20____.

Notary Public in and for the State of Texas

My commission expires:

[seal]

SECTION J

W-9 REQUEST FOR TAXPAYER

IDENTIFICATION NUMBER & CERTIFICATION

Request for Taxpayer Identification Number and Certification

Go to www.irs.gov/FormW9 for instructions and the latest information.

Give form to the requester. Do not send to the IRS.

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

Print or type. See Specific Instructions on page 3.	1 Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)	
	2 Business name/disregarded entity name, if different from above.	
	3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C corporation <input type="checkbox"/> S corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) _____ Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____ <i>(Applies to accounts maintained outside the United States.)</i>
	3b If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions <input type="checkbox"/>	
	5 Address (number, street, and apt. or suite no.). See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Social security number										
				-			-			
or										
Employer identification number										
				-						

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person	Date

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

must obtain your correct taxpayer identification number (TIN), which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid).
- Form 1099-DIV (dividends, including those from stocks or mutual funds).
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds).
- Form 1099-NEC (nonemployee compensation).
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers).
- Form 1099-S (proceeds from real estate transactions).
- Form 1099-K (merchant card and third-party network transactions).
- Form 1098 (home mortgage interest), 1098-E (student loan interest), and 1098-T (tuition).
- Form 1099-C (canceled debt).
- Form 1099-A (acquisition or abandonment of secured property).

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

Caution: If you don't return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued);
2. Certify that you are not subject to backup withholding; or
3. Claim exemption from backup withholding if you are a U.S. exempt payee; and
4. Certify to your non-foreign status for purposes of withholding under chapter 3 or 4 of the Code (if applicable); and
5. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting is correct. See *What Is FATCA Reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding. Payments made to foreign persons, including certain distributions, allocations of income, or transfers of sales proceeds, may be subject to withholding under chapter 3 or chapter 4 of the Code (sections 1441–1474). Under those rules, if a Form W-9 or other certification of non-foreign status has not been received, a withholding agent, transferee, or partnership (payor) generally applies presumption rules that may require the payor to withhold applicable tax from the recipient, owner, transferor, or partner (payee). See Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

The following persons must provide Form W-9 to the payor for purposes of establishing its non-foreign status.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the disregarded entity.
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the grantor trust.
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust and not the beneficiaries of the trust.

See Pub. 515 for more information on providing a Form W-9 or a certification of non-foreign status to avoid withholding.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person (under Regulations section 1.1441-1(b)(2)(iv) or other applicable section for chapter 3 or 4 purposes), do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515). If you are a qualified foreign pension fund under Regulations section 1.897(l)-1(d), or a partnership that is wholly owned by qualified foreign pension funds, that is treated as a non-foreign person for purposes of section 1445 withholding, do not use Form W-9. Instead, use Form W-8EXP (or other certification of non-foreign status).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a saving clause. Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if their stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first Protocol) and is relying on this exception to claim an exemption from tax on their scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include, but are not limited to, interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third-party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester;
2. You do not certify your TIN when required (see the instructions for Part II for details);
3. The IRS tells the requester that you furnished an incorrect TIN;
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only); or
5. You do not certify to the requester that you are not subject to backup withholding, as described in item 4 under "*By signing the filled-out form*" above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

See also *Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding*, earlier.

What Is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all U.S. account holders that are specified U.S. persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you are no longer tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

• **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note for ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040 you filed with your application.

• **Sole proprietor.** Enter your individual name as shown on your Form 1040 on line 1. Enter your business, trade, or “doing business as” (DBA) name on line 2.

• **Partnership, C corporation, S corporation, or LLC, other than a disregarded entity.** Enter the entity’s name as shown on the entity’s tax return on line 1 and any business, trade, or DBA name on line 2.

• **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. Enter any business, trade, or DBA name on line 2.

• **Disregarded entity.** In general, a business entity that has a single owner, including an LLC, and is not a corporation, is disregarded as an entity separate from its owner (a disregarded entity). See Regulations section 301.7701-2(c)(2). A disregarded entity should check the appropriate box for the tax classification of its owner. Enter the owner’s name on line 1. The name of the owner entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For

example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner’s name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity’s name on line 2. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, enter it on line 2.

Line 3a

Check the appropriate box on line 3a for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3a.

IF the entity/individual on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation.
• Individual or • Sole proprietorship	Individual/sole proprietor.
• LLC classified as a partnership for U.S. federal tax purposes or • LLC that has filed Form 8832 or 2553 electing to be taxed as a corporation	Limited liability company and enter the appropriate tax classification: P = Partnership, C = C corporation, or S = S corporation.
• Partnership	Partnership.
• Trust/estate	Trust/estate.

Line 3b

Check this box if you are a partnership (including an LLC classified as a partnership for U.S. federal tax purposes), trust, or estate that has any foreign partners, owners, or beneficiaries, and you are providing this form to a partnership, trust, or estate, in which you have an ownership interest. You must check the box on line 3b if you receive a Form W-8 (or documentary evidence) from any partner, owner, or beneficiary establishing foreign status or if you receive a Form W-9 from any partner, owner, or beneficiary that has checked the box on line 3b.

Note: A partnership that provides a Form W-9 and checks box 3b may be required to complete Schedules K-2 and K-3 (Form 1065). For more information, see the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

If you are required to complete line 3b but fail to do so, you may not receive the information necessary to file a correct information return with the IRS or furnish a correct payee statement to your partners or beneficiaries. See, for example, sections 6698, 6722, and 6724 for penalties that may apply.

Line 4 Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third-party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys’ fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space on line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2).

- 2—The United States or any of its agencies or instrumentalities.
- 3—A state, the District of Columbia, a U.S. commonwealth or territory, or any of their political subdivisions or instrumentalities.
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities.
- 5—A corporation.
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or territory.
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission.
- 8—A real estate investment trust.
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940.
- 10—A common trust fund operated by a bank under section 584(a).
- 11—A financial institution as defined under section 581.
- 12—A middleman known in the investment community as a nominee or custodian.
- 13—A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
• Interest and dividend payments	All exempt payees except for 7.
• Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
• Barter exchange transactions and patronage dividends	Exempt payees 1 through 4.
• Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5. ²
• Payments made in settlement of payment card or third-party network transactions	Exempt payees 1 through 4.

¹ See Form 1099-MISC, Miscellaneous Information, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) entered on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37).

B—The United States or any of its agencies or instrumentalities.

C—A state, the District of Columbia, a U.S. commonwealth or territory, or any of their political subdivisions or instrumentalities.

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i).

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i).

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state.

G—A real estate investment trust.

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940.

I—A common trust fund as defined in section 584(a).

J—A bank as defined in section 581.

K—A broker.

L—A trust exempt from tax under section 664 or described in section 4947(a)(1).

M—A tax-exempt trust under a section 403(b) plan or section 457(g) plan.

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, enter "NEW" at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have, and are not eligible to get, an SSN, your TIN is your IRS ITIN. Enter it in the entry space for the Social security number. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/EIN. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or Form SS-4 mailed to you within 15 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and enter "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, you will generally have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon. See also *Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding*, earlier, for when you may instead be subject to withholding under chapter 3 or 4 of the Code.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third-party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABL accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))**	The grantor*

For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing Form 1041 or under the Optional Filing Method 2, requiring Form 1099 (see Regulations section 1.671-4(b)(2)(i)(B))**	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name on line 1, and enter your business or DBA name, if any, on line 2. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

* **Note:** The grantor must also provide a Form W-9 to the trustee of the trust.

** For more information on optional filing methods for grantor trusts, see the Instructions for Form 1041.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information, such as your name, SSN, or other identifying information, without your permission to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax return preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity, or a questionable credit report, contact the IRS Identity Theft Hotline at 800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 877-777-4778 or TTY/TDD 800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Go to www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and territories for use in administering their laws. The information may also be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payors must generally withhold a percentage of taxable interest, dividends, and certain other payments to a payee who does not give a TIN to the payor. Certain penalties may also apply for providing false or fraudulent information.

SECTION K
BID SHEETS

Bid No. 2026-030-7115
SOLICITATION FOR SIMONDS ROAD BRIDGE at HICKORY CREEK RB 3 0002N
Bridge Rehabilitation Improvements
IN COUNTY OF DALLAS, TEXAS, DISTRICT NO. 3

BID

TOTAL WORKING DAYS: 90

ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	TOTAL UNIT PRICE	EXTENSION
SCHEDULE 1 -- PAVING & DRAINAGE					
100-7001	PREPARING ROW	AC	0.50	\$0.00	\$0.00
110-7003	EXCAVATION (SPECIAL)	CY	29.00	\$0.00	\$0.00
164-7019	HYDRO MULCH (PERM_RURAL_SAND)	SY	2430.00	\$0.00	\$0.00
420-7060	CL C CONC (PILE ENCASEMENT)	CY	41.80	\$0.00	\$0.00
446-7005	CLEAN & PAINT EXIST RAIL (SYSTEM II)	LS	1.00	\$0.00	\$0.00
446-7008	CLEAN & PAINT EXIST PILING (SYSTEM II)	LS	1.00	\$0.00	\$0.00
500-7001	MOBILIZATION	LS	1.00	\$0.00	\$0.00
502-7001	BARRICADES, SIGNS AND TRAFFIC HANDLING	MO	3.00	\$0.00	\$0.00
506-7003	ROCK FILTER DAMS (INSTALL)(TY1)	LF	30.00	\$0.00	\$0.00
506-7011	ROCK FILTER DAM (REMOVE)	LF	30.00	\$0.00	\$0.00
506-7020	CONSTRUCTION EXITS (INSTALL)(TY1)	SY	50.00	\$0.00	\$0.00
506-7024	CONSTRUCTION EXITS (REMOVE)	SY	50.00	\$0.00	\$0.00
506-7039	TEMP SEDMT CONT FENCE (INSTALL)	LF	720.00	\$0.00	\$0.00
506-7041	TEMP SEDMT CONT FENCE (REMOVE)	LF	720.00	\$0.00	\$0.00
505-7001	TMA (STATIONARY)	DAY	30.00	\$0.00	\$0.00
				SUBTOTAL SCHEDULE 1:	\$0.00

TOTAL BASE BID:	\$0.00
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SECTION L
BID SUMMARY SHEET

BID NO: 2026-030-7115
BID SUMMARY
BRIDGE REHABILITATION IMPROVEMENTS RB 3 0002N
SIMONDS ROAD BRIDGE at HICKORY CREEK
IN THE COUNTY OF DALLAS TEXAS, DISTRICT NO. 3

PAVEMENT AND DRAINAGE IMPROVEMENTS

SUBTOTAL: SCHEDULE 1 – PAVING & DRAINAGE..... \$ _____

TOTAL BASE BID \$ _____

BID NO: 2026-030-7115
BID SUMMARY
BRIDGE REHABILITATION IMPROVEMENTS RB 3 0002N
SIMONDS ROAD BRIDGE at HICKORY CREEK

BIDDER PROFILE SHEET:

Please indicate whether the principal company owner is a: (Please Check One)

Dallas County Tax Payer Other County Tax Payer (Specify): _____

Please indicate whether the principal place of business or headquarters is physically located within Dallas County (Please Check One):

Yes No

Legal Name of Company/Firm/Business: _____

Doing Business As (if applicable): _____

Address: _____ City _____ State _____ Zip Code _____

Company/Firm/Business Legal Status (check one below):

Sole Proprietorship _____ Owner's Full Name: _____
 Corporation Limited Liability Company S Corporation Partnership Limited Liability Partnership Joint Venture
 Other (Specify) _____

Texas Secretary of State (SOS) File Number: _____ Effective Texas Secretary of State Registration Date: _____

State of Formation: _____

Employer Identification Number (EIN)/Federal Tax Identification Number or Social Security Number: _____

Dun & Bradstreet (D-U-N-S) Number: _____ Cage Code: _____

What is your company primary type of business: _____ Years in Business: _____

Name of Parent Corporation (if any): _____

Is Company certified (i.e.; MBE, WBE, HUB) through an agency other than NCTRCA? _____ Yes _____ No

If yes, please provide which agency and the applicable certification number: _____

BID NO: 2026-030-7115
BID SUMMARY
BRIDGE REHABILITATION IMPROVEMENTS RB 3 0002N
SIMONDS ROAD BRIDGE at HICKORY CREEK

Specify the name, telephone number and email address of the account representative who will be handling and managing this account:

Note: It is the responsibility of the awarded bidder to notify Dallas County of any account representative and/or contact person changes at least ten (10) working days prior to change.

Contact Person Name: _____

Telephone Number: _____

E-mail address: _____

Secondary (Back-up) Contact Person: _____

Telephone Number: _____

E-mail address: _____

NOTES:

All questions and inquiries regarding the bid must be submitted in writing to Darian Gavin, Contract Specialist, by e-mail, fax or via mail. All addendums, questions, responses and answers will be posted and made available *exclusively* on the Dallas County Purchasing Department's website:

<http://www.dallascounty.org/department/purchasing/currentbids.php>. (Go to the appropriate Bid #, click on the appropriate hyperlink for viewing and/or downloading.)

Bidders are solely responsible for frequently checking this website for updates and changes to this bid.

E-mail: Darian.Gavin@dallascounty.org

Office: 214.653.7437

Fax: 214.653.7449

Mailing Address: 500 Elm Street, Suite 5500, Dallas, Texas 75202

Only written responses to written communications shall be considered official and binding upon the county. The county reserves the right, at its sole discretion, to determine appropriate and adequate responses to the written comments, questions, and requests for clarification.

Note: All questions, comments and requests for clarification must reference the Bid Number on all correspondence to Dallas County. Dallas County at its sole discretion may elect to accept or reject any bid.

CONTRACT DOCUMENTS

SECTION M
CONTRACT

DALLAS COUNTY ROAD AND BRIDGE CONSTRUCTION

CONTRACT

This agreement, made pursuant to Court Order No. _____ dated the ____ day of _____ 2026, by and between Dallas County, Texas, represented by its County Judge and Commissioners Court (hereinafter "County") and _____, including any successors or assigns (hereinafter the "Contractor").

WITNESSETH that WHEREAS, Dallas County desires to contract for the construction of the **BRIDGE REHABILITATION IMPROVEMENTS RB 3 0002N SIMONDS ROAD BRIDGE at HICKORY CREEK** (hereinafter "Project"). Dallas County will construct in accordance with the provisions of the applicable statutes and regulations, the Contract Specifications, Bid Documents, and Plans.

WHEREAS, the Contractor has been engaged in and now does construct public transportation improvements, including roadway, trails, and utility improvements as required for this Project and in this Contract (the "Work"). Contractor further represents that he is fully equipped, competent, and capable of performing the Work and is ready and willing to perform the Work in accordance with the applicable statutes and regulations, the Notice to Contractors, the Contract Specifications, Bid Documents, and Plans.

NOW, THEREFORE, IT IS MUTUALLY AGREED by and between Dallas County and the Contractor that for and in consideration of the prices and agreement set forth in the Bid Documents made a part of this Contract, the Contractor agrees to do, at his own proper cost and expense, the Work necessary for the construction of **BRIDGE REHABILITATION IMPROVEMENTS RB 3 0002N SIMONDS ROAD BRIDGE at HICKORY CREEK**, in Dallas County, in accordance with the the Bid Documents, and Plans, which are all hereby made a part of this Contract, and in full compliance with all of the terms of the Contract Specifications and the requirements of the Project Engineer.

The Contractor further agrees to begin the Work after the pre-construction meeting and issuance of a Work Order and to complete the Work in **90 working days** per standard workweek.

The County, in consideration of the full and true performance of the Work by the Contractor, hereby agrees and binds itself to pay Contractor the prices set forth in the attached Bid and in the manner provided in the attached Contract Specifications.

The Contractor EXPRESSLY WARRANTS that: 1) he has employed no third person to solicit or obtain this Contract in his behalf, or to cause or procure this Contract to be obtained upon compensation in any way contingent, in whole or in part, upon such procurement; 2) that he has not paid, or promised or agreed to pay, to any third person, in consideration of such procurement, or in compensation for services in connection therewith, any brokerage, commission, or percentage upon the amount receivable by him hereunder; 3) that he has not, in estimating the Contract price demanded by him, included any sum by reason of any such brokerage, commission or percentage; 4) that all monies payable to him hereunder are free from all obligations of any other person or services rendered, or supposed to have been rendered, in the procurement of this contract. The Contractor further agrees that any break of this warranty shall constitute adequate cause for the annulment of this contract by the County and that the County may retain for its own

use, from any sums due or to become due thereunder, an amount equal to any brokerage, commission, or percentage so paid or agreed to be paid.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract, to be EXECUTED by their duly authorized representatives on this the _____ day of _____, 2026.

APPROVED BY:

DALLAS COUNTY, TEXAS

Alberta L. Blair, P.E.
Director of Public Works

BY: _____
Clay Lewis Jenkins
Dallas County Judge

CONTRACTOR

BY : _____

TITLE: _____

Approved as to Form*
John Creuzot
Dallas County District Attorney

By: _____
Clara H. Saafir
Dallas County Assistant District Attorney

*By law, the District Attorney’s Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Review of this document by the District Attorney’s Office was conducted solely from the legal perspective of Dallas County. Approval of this document as to form was offered solely for the benefit of Dallas County. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).

SECTION N

**PAYMENT, PERFORMANCE, &
MAINTENANCE/WARRANTY BONDS**

BOND FORMS

Required Bonds: A Payment Bond guaranteeing payment to all claimants supplying labor and materials or subcontractors providing work under the Contract is required in the amount of one hundred percent (100%) of the Contract amount, if the Contract amount exceeds \$25,000. A Performance Bond guaranteeing performance of the Work under the Contract according to the true intent and meaning of the Contract is required in the amount of one hundred percent (100%) of the Contract amount, if the Contract amount exceeds \$100,000. A Maintenance/Warranty Bond guaranteeing to maintain and keep in good repair the Work for the Project for one year is required in the amount of one hundred percent (100%) of the Contract amount.

Identification of Parties: The Principal (also referred to herein as Contractor) and Surety should be identified along with the Owner (also referred to herein as the County). It is especially important that the Principal and Surety be identified by using their full legal names and addresses, including the legal status of the parties: sole proprietorship, general partnership, joint venture, unincorporated association, limited partnership, corporation (general or professional), etc. The identification of the Owner is for information only, since they are not parties to the bond agreement.

Description of the Contract: The Contract should be described by date and amount and by the official name and location of the Project as used in the Contract. The amount of the Contract should be in both written and numerical form.

Bond Amount: The bonds must be executed by a surety authorized to conduct business in Texas. The dollar amount of the bond should be in both written and numerical form. The Performance Bond, Payment Bond and Maintenance/Warranty Bond shall be written to equal one hundred percent (100%) of the Contract Amount. If applicable, if change orders are made to the Contract amount, the Contractor will update their bonds once a quarter per year through the end of Contract and warranty periods. Surety Bond update documentation is subsidiary to other pay items.

Dallas County reserves the right in the event of a change order to require proof of bonding for additional amount from the Contractor.

Bond Date: This date should not be earlier than the date of the Contract which is adopted by reference.

Execution of Bonds: Pursuant to Texas Government Code, Section 2253.021, the bonds must be executed by a corporate surety in accordance with Article 7.19-1, Vernon's Texas Insurance Code. Each bond must be separately signed by the Principal and the Surety. The parties executing the bond should indicate their company, print their name and title, and impress the corporate seal, if any. Where appropriate, attach a copy of the resolution or bylaw authorizing the individual to act on behalf of the firm or entity. Evidence of authority to sign on behalf of each party should be obtained. As to the Surety, this usually takes the form of a power of attorney issued by the Surety Company to the agent who signs on its behalf.

Bond Payable To: All bonds executed for Public Works Contracts must be payable to the Dallas County.

PAYMENT BOND

STATE OF TEXAS
COUNTY OF DALLAS

KNOW ALL MEN BY THESE PRESENTS:

That _____, (“Principal”), as Principal, and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (“Surety”), as Surety, are held and firmly bound unto the County of Dallas, State of Texas, (“Owner”), in the amount of Dollars and no cents, (\$ _____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a certain written Contract with the Owner, dated the _____ day of _____, 20____, to commence Work and complete Work within the time established in Contract to construct **Bridge Rehabilitation Improvements RB 3 0002N, Simonds Road Bridge at Hickory Creek**, and the Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, Title 10, as amended, and in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon’s Texas Insurance Code), as amended, and all liabilities on this bond to all such claimants shall be determined in accordance with the provisions of Chapter 2253 to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or the Work performed thereunder, or the Plans, Contract Specifications or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

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

Done in the presence of:

PRINCIPAL

SURETY

BY: _____
General Contractor

BY: _____

Title

Title

ADDRESS:

ADDRESS:

The (*printed*) name, address, and telephone number of the Resident Agent of Surety is:

Name

Street Number & Name

City, State & Zip

Phone Number

PERFORMANCE BOND

STATE OF TEXAS
COUNTY OF DALLAS

KNOW ALL MEN BY THESE PRESENTS:

That _____, (“Principal”), as Principal, and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____, (“Surety”), as Surety, are held and firmly bound unto the County of Dallas, State of Texas, (“Owner”), in the amount of _____ Dollars and no cents, (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a certain written Contract with the Owner, dated the _____ day of _____, 20____, to commence Work and complete Work within the time established in Contract to construct **Bridge Rehabilitation Improvements RB 3 0002N, Simonds Road Bridge at Hickory Creek**, and the Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

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

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, Title 10, as amended, and in accordance with Section 1, Chapter 87, Acts of the 56th Legislature, Regular Session, 1959 (Article 7.19-1, Vernon’s Texas Insurance Code), as amended, and all liabilities on this bond to all such claimants shall be determined in accordance with the provisions of Chapter 2253 to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or the Work performed thereunder, or the plans specifications or drawings accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract, or to the Work to be performed thereunder.

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

Done in the presence of:

PRINCIPAL

SURETY

BY: _____
General Contractor

BY: _____

Title

Title

ADDRESS:

ADDRESS:

The (*printed*) name, address, and telephone number of the Resident Agent of Surety is:

Name

Street Number & Name

City, State & Zip

Phone Number

CONTRACTOR’S MAINTENANCE/WARRANTY BOND

STATE OF TEXAS

COUNTY OF DALLAS

KNOW ALL MEN BY THESE PRESENTS:

That _____, (“Principal” or “Contractor”), as Principal, and _____, a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____, (“Surety”), as Surety, are held and firmly bound unto the County of Dallas, State of Texas, (“Owner”), in the amount of _____ Dollars and no cents, (\$ _____), for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents:

WHEREAS, the Principal has entered into a certain written Contract with the Owner, dated the _____ day of _____, 20____, to commence Work and complete Work within the time established in Contract to construct **Bridge Rehabilitation Improvements RB 3 0002N, Simonds Road Bridge at Hickory Creek**, and the Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

WHEREAS, under the plans, specifications, and Contract, it is provided that the Contractor will maintain and keep in good repair the Work herein contracted to be done and performed for a period of **one (1) year** from the date of final acceptance by the Dallas County Commissioners Court, and to do all necessary backfilling that may arise on account of sunken conditions in ditches, or otherwise, and to do and perform all necessary work and repair any defective condition growing out of or arising from the improperly joining of the same, or on account of any defect arising in any of said part of said Work laid or contracted by the Contractor, or on account of improper excavation or backfilling; it being understood that the purpose of this section is to cover all defective conditions arising by reason of defective materials, work or labor performed by the Contractor, and in case the Contractor shall fail to do, it is agreed that the Owner may do said work and supply such materials, and charge the same against the Contractor and Sureties on this obligation, and the Contractor and Sureties hereon shall be subject to the liquidated damages mentioned in the Contract for each day’s failure on its part to comply with the terms of the said provisions of the Contract;

NOW, THEREFORE, if the Contractor shall keep and perform its agreement to maintain the Work and keep the same in repair for the maintenance period of **one (1) year**, as provided, then these presents shall be null and void and have no further effect, but if default shall be made by Contractor in the performance of its Contract to so maintain and repair said Work, then these presents shall have full force and effect, and said Owner shall have and recover from Contractor and its Sureties damages in the premises, as provided and it is further understood and agreed that

this obligation shall be a continuing one against the Principal and Sureties hereon and that successive recoveries may be had hereon for successive branches until the full amount shall have been exhausted; and it is further understood that the obligation herein to maintain said Work shall continue throughout the maintenance period, and the same shall not be changed, diminished, or in any manner affected from any cause during said time.

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

Done in the presence of:

PRINCIPAL

SURETY

BY: _____
General Contractor

BY: _____

Title

Title

ADDRESS:

ADDRESS:

The (*printed*) name, address, and telephone number of the Resident Agent of Surety is:

Name

Street Number & Name

Phone Number

City, State & Zip

CONTRACT SPECIFICATIONS

SECTION O

**LOCAL GOVERNMENT GENERAL
REQUIREMENTS AND COVENANTS**

Items 1L-9L

Local Government General Requirements and
Covenants

Item 1L

Abbreviations and Definitions

1. APPLICABILITY

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

2. ABBREVIATIONS

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

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

3. DEFINITIONS

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

- 3.4. **Additive Alternate.** A bid item contained in a bid that is not a regular item or a replacement alternate bid item. The additive alternate item(s) include work that may be added to the base bid at the time of letting.
- 3.5. **Deductive Alternate.** A bid item contained in the bid documents that is not a regular item or a replacement alternate bid item. The deductive alternate items include work that may be deducted from the base bid work.
- 3.6. **Advertisement.** The public announcement required by law inviting bids for work to be performed or materials to be furnished.
- 3.7. **Affiliates.** Two or more Bidders are affiliated if they share common officers, directors, or stockholders; a family member of an officer, director, or stockholder of one Bidder serves in a similar capacity in another of the Bidders; an individual who has an interest in, or controls a part of, one Bidder either directly or indirectly also has an interest in, or controls a part of, another of the Bidders; the Bidders are so closely connected or associated that one of the Bidders, either directly or indirectly, controls or has the power to control another Bidder; one Bidder controls or has the power to control another Bidder; or the Bidders are closely allied through an established course of dealings, including, but not limited to, the lending of financial assistance. Refer to 43 TAC § 9.12(g), "Affiliated Entities."
- 3.8. **Air Blasting.** Spraying blasts of pressurized air free of oil and moisture.
- 3.9. **Air Temperature.** The temperature measured in degrees Fahrenheit (°F) in the shade, not in the direct rays of the sun, and away from artificial heat.
- 3.10. **Anticipated Profit.** Profit for work not performed.
- 3.11. **Apparent Low Bidder.** The Bidder determined to have the numerically lowest total bid as a result of the tabulation of bids by the Owner.
- 3.12. **Architect of Record.** A person registered as an architect or licensed as a landscape architect, in conformance with State law, exercising overall responsibility for the design or a significant portion of the design and performing certain Contract administration responsibilities as described in the Contract; or a firm employed by the Owner to provide professional architectural services.
- 3.13. **Arterial Highway.** A highway used primarily for through traffic and usually on a continuous route.
- 3.14. **Available Bidding Capacity.** Not applicable to Locally Let projects.
- 3.15. **Award.** The Owner's acceptance of a Contractor's bid for a proposed Contract that authorizes the Owner to enter into a Contract.
- 3.16. **Base Bid.** The total bid amount without additive alternates.
- 3.17. **Bid.** The offer from the Bidder for performing the work described in the bid.
- 3.18. **Bid Bond.** The security executed by the Contractor and the Surety furnished to the Owner to guarantee payment of liquidated damages if the Contractor fails to enter into an awarded Contract.
- 3.19. **Bid Documents.** The complete set of documents necessary for a Bidder to submit a bid. The documents may include plans, specifications, special specifications, special provisions, addenda, and the prescribed form a Bidder is to submit as the Bid. Other terms used may include general conditions, instructions to bidders, and construction specifications.
- 3.20. **Bid Error.** A mathematical mistake made by a Bidder in the unit price entered into the bid.
- 3.21. **Bidder.** An individual, partnership, limited liability company, corporation, or joint venture submitting a bid for a proposed Contract.

- 3.22. **Bidders Questionnaire.** A prequalification form that reflects detailed equipment and experience data but waives audited financial data.
- 3.23. **Bidding Capacity.** Not applicable to Locally Let projects.
- 3.24. **Blast Cleaning.** Using one of the blasting methods including, but not limited to water blasting, low-pressure water blasting, high-pressure water blasting, abrasive blasting, water-abrasive blasting, shot blasting, slurry blasting, water -injected abrasive blasting, and brush blasting.
- 3.25. **Bridge.** A structure, including supports, erected over a depression or an obstruction (e.g., water, a highway, or a railway) with a roadway or track for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 ft. between faces of abutments, spring lines of arches, or extreme ends of the openings for multiple box culverts.
- 3.26. **Brush Blasting.** Sweeping lightly with an abrasive blast to remove loose material.
- 3.27. **Building Contract.** Not applicable to Locally Let projects.
- 3.28. **Callout Work.** Contracts, or work items in Contracts, that require a Contractor's response on an as-needed basis (e.g., see Item 351, "Flexible Pavement Structure Repair").
- 3.29. **Certificate of Insurance.** A form approved by the Owner covering insurance requirements stated in the Contract.
- 3.30. **Change Order.** Written order to the Contractor detailing changes to the specified work, item quantities, or any other modification to the Contract.
- 3.31. **Commissioners Court.** Dallas County Commissioners Court consisting of Commissioners from four Road and Bridge Districts and the County Judge..
- 3.32. **Concrete Construction Joint.** A joint formed by placing plastic concrete in direct contact with concrete that has attained its initial set.
- 3.33. **Concrete Repair Manual.** TxDOT manual specifying methods and procedures for concrete repair as an extension of the standard specifications.
- 3.34. **ConcreteWorks®.** TxDOT-owned software for concrete heat analysis. Software is available on the TxDOT's website.
- 3.35. **Confidential Questionnaire.** A prequalification form that reflects detailed financial and experience data.
- 3.36. **Construction Contract.** A Contract entered under state law for the construction, reconstruction, repair, or maintenance of a segment of the Owner's or State transportation highway system.
- 3.37. **Consultant.** The licensed professional engineer or engineering firm, or the architect or architectural firm, registered in the State of Texas and under Contract to the Owner to perform professional services. The consultant may be the Engineer or architect of record or may provide services through and be subcontracted to the Engineer or architect of record.
- 3.38. **Contract.** The agreement between the Owner and the Contractor establishing the obligations of the parties for furnishing of materials and performance of the work prescribed in the Contract documents.
- 3.39. **Contract Documents.** Elements of the Contract including, but not limited to, the plans, specifications incorporated by reference, special provisions, special specifications, Contract bonds, change orders, and supplemental agreements.

- 3.40. **Contract Time.** The number of working days specified for completion of the work, including authorized additional working days.
- 3.41. **Contractor.** The individual, partnership, limited liability company, corporation, or joint venture and all principals and representatives with which the Contract is made by the Owner.
- 3.42. **Control of Access.** The condition in which the right to access of owners or occupants of abutting land or other persons in connection with a highway is fully or partially controlled by public authority.
- 3.43. **Control Point.** An established point shown on the plans to provide vertical and horizontal references for geometric control for construction.
- 3.44. **Controlled Access Highway.** Any highway to or from which access is denied or controlled, in whole or in part, from or to abutting land or intersecting streets, roads, highways, alleys, or other public or private ways.
- 3.45. **County.** Governmental division of the State of Texas, United States of America, referring to Dallas County, Texas.
- 3.46. **Cross-Sections.** Graphic representations of the original ground and the proposed facility, at right angles to the centerline or base line.
- 3.47. **Culvert.** Any buried structure providing an opening under a roadway for drainage or other purposes. Culverts may also be classified as bridges. (See Article 1.3.22., "Bridge.")
- 3.48. **Cycle.** The activity necessary for performing the specified work within the right of way project limits once.
- 3.49. **Daily Road-User Cost.** Damages based on the estimated daily cost of inconvenience to the traveling public resulting from the work.
- 3.50. **Debar (Debarment).** Disqualification of an entity from bidding on or entering into a Contract with the Owner, from participating as a subcontractor under a Contract with the Owner, and from participating as a supplier of materials or equipment to be used under a Contract with the Owner.
- 3.51. **Department.** The Texas Department of Transportation (TxDOT).
- 3.52. **Departmental Materials Specifications.** Reference specifications for various materials published by the Materials and Tests Division.
- 3.53. **Detour.** A temporary traffic route around a closed portion of a road.
- 3.54. **Direct Traffic Culvert.** Concrete box culvert whose top slab is used as the final riding surface or is to have an overlay or other riding surface treatment.
- 3.55. **Divided Highway.** A highway with separate roadways intended to move traffic in opposite directions.
- 3.56. **Easement.** A real property right acquired by one party to use land belonging to another party for a specified purpose.
- 3.57. **Electronic Vault.** The Owner's bidding system where electronic bids are stored before bid opening.
- 3.58. **Engineer.** The Chief Engineer of the Owner or the authorized representative of the Chief Engineer.
- 3.59. **Engineer of Record.** A person registered as a Professional Engineer in accordance with State Law, exercising overall responsibility for the design or a significant portion of the design and performs certain responsibilities as described in the contract; or a firm employed by Dallas County to provide professional engineering services.

- 3.60. **Entity.** Political subdivision for which the project is designed and constructed. Either a Municipality (City) or a County or other entity organized under the authority of State of Texas statutes. May also be referred to as an Owner.
- 3.61. **Equipment Watch.** Publication containing equipment rental rates.
- 3.62. **Escalation Ladder.** A process to determine issue resolution during the course of the Contract.
- 3.63. **Expressway.** A divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections.
- 3.64. **Family Member.** A family member of an individual is the individual's parent, parent's spouse, stepparent, stepparent's spouse, sibling, sibling's spouse, spouse, child, child's spouse, spouse's child, spouse's child's spouse, grandchild, grandparent, uncle, uncle's spouse, aunt, aunt's spouse, first cousin, or first cousin's spouse. Refer to 43 TAC § 9.12(g), "Affiliated Entities."
- 3.65. **Force Account.** Payment for directed work based on the actual cost of labor, equipment, and materials furnished with markups for project overhead and profit.
- 3.66. **Freeway.** An expressway with full control of access.
- 3.67. **Frontage Road.** A local street or road auxiliary to and located along an arterial highway for service to abutting property and adjacent areas and for control of access (sometimes known as a service road, access road, or insulator road).
- 3.68. **Hazardous Materials or Waste.** Hazardous materials or waste include, but are not limited to, explosives, compressed gas, flammable liquids, flammable solids, combustible liquids, oxidizers, poisons, radioactive materials, corrosives, etiologic agents, and other material classified as hazardous by 40 CFR 261, or applicable state and federal regulations.
- 3.69. **High-Pressure Water Blasting.** Water blasting with pressures between 5,000 and 10,000 psi.
- 3.70. **Highway, Street, or Road.** General terms denoting a public way for purposes of and related to vehicular, pedestrian, and bicycle travel, including the entire area within the right of way including Intersections and Easements; all related structures, improvements, and appurtenances, including but not limited to the roadside and roadside facilities, drainage systems, signal systems, and other traffic in formation and control systems; or other structures or improvements that directly or indirectly serve public travel. Recommended usage in urban areas is highway or street, and in rural areas, highway or road.
- 3.71. **Historically Underutilized Business (HUB).** A corporation, sole proprietorship, partnership, or joint venture formed for the purpose of making a profit certified by the Texas Building and Procurement Commission, and 51% owned by one or more persons who are economically disadvantaged because of their identification as members of certain groups, including African Americans, Hispanic Americans, Asian-Pacific Americans, Native Americans, or women, and have a proportionate interest and demonstrate active participation in the control, operation, and management of the business' affairs. Individuals meeting the HUB definition are required to be residents of the State of Texas. Businesses that do not have their primary headquarters in the State of Texas are not eligible for HUB certification.
- 3.67. **Holiday.** Dallas County Commissioners Court designates 8-11 holidays each year in September for the next fiscal year. National holidays sometimes coincide with County holidays, but not always. Contractor will observe Dallas County holidays. The list of appropriate holiday dates will be made available to Contractor by Dallas County. Typically, County holidays observed are:

The first day of January, New Year's Day;
The third Monday in January, Martin Luther King, Jr.Day;
March 31st Farmworkers Day;

The last Monday of May, Memorial Day;
June 19th, Juneteenth;
July 4th, Independence Day;
The first Monday in September, Labor Day;
The fourth Thursday and Friday in November, Thanksgiving;
December 24th, may have another day attached dependent on the calendar; and
December 25th, may have another day attached dependent on the calendar

- 3.68. **In Writing.** Communication memorialized, including written or electronic documentation by email or letter only.
- 3.69. **Incentive and Disincentive Provisions.** An adjustment to the Contract price of a predetermined amount for each day the work is completed ahead of or behind the specified milestone, phase, or Contract completion dates. The amount of the incentive and disincentive is determined based on estimated costs for engineering, traffic control, delays to the motorists, and other items involved in the Contract.
- 3.70. **Independent Assurance Tests.** Tests used to evaluate the sampling and testing techniques and equipment used in the acceptance program. The tests are performed by the Owner and are not used for acceptance purposes.
- 3.71. **Inspector.** The person assigned by the Engineer to inspect for compliance with the Contract any or all parts of the work and the materials used.
- 3.72. **Intelligent Transportation System.** An integrated system that uses video and other electronic detection devices to monitor traffic flows.
- 3.73. **Intersection.** The general area where two or more highways, streets, or roads join or cross, including the roadway and roadside facilities for vehicular, pedestrian, and bicycle traffic movements within it.
- 3.74. **Island.** An area within a roadway from which vehicular traffic is intended to be excluded, together with any area at the approach occupied by protective deflecting or warning devices.
- 3.75. **Joint Venture.** Any combination of individuals, partnerships, limited liability companies, or corporations submitting a single bid bidi.
- 3.76. **Lane Rental.** A method to assess the Contractor daily or hourly rental fees for each lane, shoulder, or combination of lanes and shoulders taken out of service.
- 3.77. **Letting.** The receipt, opening, tabulation, and determination of the apparent low Bidder.
- 3.78. **Letting Official.** The employee empowered by the Owner to officially receive bids and close the receipt of bids at a letting.
- 3.79. **Licensed Professional Engineer.** A person who has been duly licensed by the Texas Board of Professional Engineers to engage in the practice of engineering in the State of Texas; also referred to as a Professional Engineer.
- 3.80. **Limits of Construction.** An area with established boundaries, identified within the highway right of way and easements, where the Contractor is permitted to perform the work.
- 3.81. **Local Street or Road.** A street or road primarily for access to residence, business, or other abutting property.
- 3.82. **Low-Pressure Water Blasting.** Water blasting with pressures between 3,000 and 5,000 psi.

- 3.83. **Maintenance Bond.** The security executed by the Contractor and the Surety, furnished to the Owner to guarantee the maintenance and good repair after the completion and acceptance of the work in accordance with the terms of the Contract for a specified period of time.
- 3.84. **Major Item.** An item of work included in the Contract that has a total cost equal to or greater than 5% of the original Contract or \$100,000 whichever is less. A major item at the time of bid will remain a major item. An item not originally a major item does not become one through the course of the Contract.
- 3.85. **Manual of Testing Procedures.** Department manual outlining test methods and procedures maintained by the Materials and Tests Division.
- 3.86. **Material Producer List.** TxDOT-maintained list of approved products, materials, laboratories, service providers, manufacturers, and producers.
- 3.87. **Materially Unbalanced Bid.** A bid that generates a reasonable doubt that award to the Bidder submitting a mathematically unbalanced bid will result in the lowest ultimate cost to the Owner.
- 3.88. **Materials Contract.** Not applicable to Locally Let projects.
- 3.89. **Materials Supplier's Questionnaire.** A prequalification form that reflects basic information, such as company contact, signature authority, and other requirements, but waives financial, equipment, and experience data.
- 3.90. **Mathematically Unbalanced Bid.** A bid containing bid prices that do not reflect reasonable actual costs plus a reasonable proportionate share of the Bidder's anticipated profit, overhead costs, and other indirect costs.
- 3.91. **Median.** The portion of a divided highway separating the traffic lanes in opposite directions.
- 3.92. **Milestone Date.** The date that a specific portion of the work is to be completed before the completion date for all work under the Contract.
- 3.93. **Monolithic Concrete Placement.** The placement of plastic concrete in such manner and sequence to prevent a construction joint.
- 3.94. **National Holidays.** January 1, the last Monday in May, July 4, the first Monday in September, the fourth Thursday in November, December 24, and December 25.
- 3.95. **Nonhazardous Recyclable Material.** A material recovered or diverted from the nonhazardous waste stream for the purposes of reuse or recycling in the manufacture of products that may otherwise be produced using raw or virgin materials.
- 3.96. **Nonresident Bidder.** A Bidder whose principal place of business is not in Texas. This includes a Bidder whose ultimate parent company or majority owner does not have its principal place of business in Texas.
- 3.97. **Nonresponsive Bid.** A bid that does not meet the criteria for acceptance contained in the bid form.
- 3.98. **Non-Site-Specific Contracts.** Contracts where a geographic region is specified for the work and work orders, with or without plans, detail the limits and work to be performed.
- 3.99. **Notice to Proceed.** Written notification to the Contractor authorizing work to begin
- 3.100. **Notification.** Either written or oral instruction to the Contractor. Voice mail is oral notification.
- 3.101. **Owner.** Political subdivision for whom the project is designed and constructed. Either a Municipality (City), a County or other entity organized under the authority of State of Texas statutes. May also be referred to as an Entity.

- 3.102. **Pavement.** That part of the roadway with a constructed surface for the use of vehicular traffic.
- 3.103. **Pavement Structure.** Combination of surface course and base course placed on a subgrade to support the traffic load and distribute it to the roadbed.
- 3.4.1. **Base Course.** One or more layers of specified material thickness placed on a subgrade to support a surface course.
- 3.4.2. **Subgrade.** The top surface of a roadbed upon which the pavement structure, shoulders, and curbs are constructed.
- 3.4.3. **Subgrade Treatment.** Modifying or stabilizing material in the subgrade.
- 3.4.4. **Surface Course.** Pavement structure layers designed to accommodate the traffic load. The top layer resists skidding, traffic abrasion, and the disintegrating effects of climate and is sometimes called the wearing course.
- 3.104. **Payment Bond.** The security executed by the Contractor and the Surety, furnished to the Owner to guarantee payment of all legal debts of the Contractor pertaining to the Contract.
- 3.105. **Performance Bond.** The security executed by the Contractor and the Surety, furnished to the Owner to guarantee the completion of the work in accordance with the terms of the Contract.
- 3.106. **Plans.** The drawings approved by the Engineer, including true reproductions of the drawings that may show the location, character, dimensions, and details of the work and are a part of the Contract. Documents may include drawings or digital files.
- 3.107. **Power of Attorney for Surety Bonds.** An instrument under corporate seal appointing an attorney-in-fact to act on behalf of a Surety in signing bonds.
- 3.108. **Qualification.** The process for determining a Contractor's eligibility to be awarded a construction contract
- 3.109. **Prequalification.** The process for determining a Contractor's eligibility to bid work.
- 3.110. **Prequalification Statement.** The forms on which required information is furnished concerning the Contractor's ability to perform and finance the work.
- 3.111. **Post Qualification.** The owner will determine if contractors are qualified to bid on the project after bids are open. The bid documents will identify the minimum requirements that contractor must meet to be qualified for the project. Unqualified contractors' bids will be considered non-responsive and not accepted
- 3.112. **Project Manager.** The person designated by the Dallas County Director of Public Works who has approval authority of all work covered in these specifications.
- 3.113. **Project-Specific Location.** A material source, plant, waste site, parking area, storage area, field office, staging area, haul road, or other similar location either outside the project limits or within the project limits but not specifically addressed in the Contract.
- 3.114. **Bid** The offer from the Bidder submitted on the prescribed form, including addenda issued, giving unit bid prices for performing the work described in the plans and specifications.
- 3.115. **Bid Form.** The form printed and sent to the Bidder by the Owner or printed by the Bidder from the Owner's bidding system.
- 3.116. **Bid Guaranty.** The security furnished by the Bidder as a guarantee that the Bidder will enter into a Contract if awarded the work.

- 3.117. **Quality Assurance (QA).** Sampling, testing, inspection, and other activities conducted by the Engineer to determine payment and make acceptance decisions.
- 3.118. **Quality Control (QC).** Sampling, testing, and other process control activities conducted by the Contractor to monitor production and placement operations.
- 3.119. **Ramp.** A section of highway for the primary purpose of making connections with other highways.
- 3.120. **Recurring Maintenance Work Contracts.** Contracts or work for which maintenance is needed at the same location on more than one occasion (e.g., mowing Contracts for which mowing cycles are requested on multiple occasions).
- 3.121. **Referee Tests.** Tests requested to resolve differences between Contractor and Engineer test results.
- 3.122. **Regular Item.** A bid item contained in a bid and not designated as an additive alternate or replacement alternate bid item.
- 3.123. **Rental Rate Blue Book for Construction Equipment.** Publication containing equipment rental rates.
- 3.124. **Repair.** Performed under Transportation Code §223, Subchapter A for Highway Improvement Contracts and includes restoration of a Highway, Street, or Road by replacing or putting together, in whole or in part, what is torn, broken, or otherwise damaged. Repair denotes the process of restoring all or part of a Highway, Street, or Road that has been subjected to decay, waste, injury, partial destruction, erosion, dilapidation, degradation, etc.
- 3.125. **Replacement Alternate.** A bid item identified the bid form that a Bidder may substitute for a specific regular item of work.
- 3.126. **Responsive Bid.** A bid that meets all requirements of the bid form for acceptance.
- 3.127. **Right of Way.** A general term denoting land or property devoted to transportation purposes.
- 3.128. **Roadbed.** The graded portion of a highway prepared as foundation for the pavement structure and shoulders. On divided highways, the depressed median type and the raised median type highways are considered to have two roadbeds. Highways with a flush median are considered to have one roadbed. Frontage roads are considered separate roadbeds.
- 3.129. **Road Master.** A railroad maintenance official in charge of a division of railway.
- 3.130. **Roadside.** The areas between the outside edges of the shoulders and the right of way boundaries. Unpaved median areas between inside shoulders of divided highways and areas within interchanges are included.
- 3.131. **Roadway.** The portion of the highway (including shoulders) used by the traveling public.
- 3.132. **Sandblasting, Dry.** Spraying blasts of pressurized air combined with sand.
- 3.133. **Sandblasting, Wet.** Spraying blasts of pressurized water combined with sand.
- 3.134. **Shot Blasting.** Spraying blasts of pressurized air combined with metal shot.
- 3.135. **Shoulder.** That portion of the roadway contiguous with the traffic lanes for accommodation of stopped vehicles for emergency use or for lateral support of base and surface courses.
- 3.136. **Sidewalk.** Portion of the right of way constructed exclusively for pedestrian use.
- 3.137. **Slurry Blasting.** Spraying blasts of pressurized air combined with a mixture of water and abrasive media.

- 3.138. **Small Business Enterprise.** A firm (including affiliates) whose annual gross receipts do not exceed the U.S. Small Business Administration's size standards for 4 consecutive yr.
- 3.139. **Special Provisions.** Additions or revisions to these standard specifications or special specifications.
- 3.140. **Special Specifications.** Supplemental specifications applicable to the Contract not covered by these standard specifications.
- 3.141. **Specifications.** Directives or requirements issued or made pertaining to the method and manner of performing the work or to quantities and qualities of materials to be furnished under the Contract. References to DMSs, ASTM or AASHTO specifications imply the latest standard or tentative standard in effect on the date of the bid. The Engineer will consider incorporation of subsequent changes to these documents in accordance with Item 4, "Scope of Work."
- 3.142. **State.** The State of Texas.
- 3.143. **State Holiday.** A holiday authorized by the State Legislature excluding optional State holidays and not listed in Article 1.3.92., "National Holidays." A list of State holidays can be found on the TxDOT's website.
- 3.144. **Station.** A unit of measurement consisting of 100 horizontal ft.
- 3.145. **Subcontract.** The agreement between the Contractor and subcontractor establishing the obligations of the parties for furnishing of materials and performance of the work prescribed in the Contract documents.
- 3.146. **Subcontractor.** An individual, partnership, limited liability company, corporation, or any combination thereof that the Contractor sublets, or proposes to sublet, any portion of a Contract, excluding a material supplier, a hauling firm hauling only from a commercial source to the project, a truck owner-operator, a wholly owned subsidiary, or specialty-type businesses such as security companies and rental companies.
- 3.147. **Subsidiary.** Materials, labor, or other elements that because of their nature or quantity have not been identified as a separate item and are included within the items on which they necessarily depend.
- 3.148. **Substantial Completion of Work.** The date (day) when all project work requiring lane or shoulder closures or obstructions is completed, and traffic is following the lane arrangement as shown on the plans for the finished roadway; all pavement construction and surfacing are complete; and traffic control devices and pavement markings are in their final position, unless otherwise shown on the plans. The Engineer may make an exception for permanent pavement markings provided the lack of markings does not cause a disruption to traffic flow or an unsafe condition for the traveling public, and work zone pavement markings are in place.
- 3.149. **Substructure.** The part of the structure below the bridge seats but not including bearings, drilled shafts, or piling. Parapets, back walls, wing walls of the abutments, and drainage structures are considered parts of the substructure.
- 3.150. **Superintendent.** The representative of the Contractor who is available at all times and able to receive instructions from the Engineer or authorized Owner representatives and to act for the Contractor.
- 3.151. **Superstructure.** The part of the structure above the bridge seats or above the springing lines of arches and including the bearings. Flatwork construction may be considered superstructure.
- 3.152. **Supplemental Agreement.** Written agreement entered into between the Contractor and the Owner and approved by the Surety, covering alterations and changes in the Contract. A supplemental agreement is used by the Owner whenever the modifications include assignment of the Contract from one entity to another or other cases as desired by the Owner.

- 3.153. **Surety.** The corporate body or bodies authorized to do business in Texas bound with and for the Contractor for the faithful performance of the work covered by the Contract and for the payment for all labor and material supplied in the prosecution of the work.
- 3.154. **Surplus Materials.** Any debris or material related to the Contract not incorporated into the work.
- 3.155. **Suspension.** Action taken by the Owner or federal government pursuant to regulation that prohibits a person or company from entering into a Contract, or from participating as a subcontractor, or supplier of materials or equipment used in a highway improvement Contract as defined in Transportation Code, Chapter 223, Subchapter A.
- 3.156. **Tex -XXX-X.** TxDOT material test methods found on TxDOT's website.
- 3.157. **Traffic Lane.** The strip of roadway intended to accommodate the forward movement of a single line of vehicles.
- 3.158. **Traveled Way.** The portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.
- 3.159. **Truck Owner-Operator.** An individual who owns and operates one truck for hire.
- 3.160. **UT-Bridge.** TxDOT-owned software for steel girder erection. Software is available on the TxDOT's website.
- 3.161. **UT-Lift.** TxDOT-owned software for steel girder erection. Software is available on the TxDOT's website.
- 3.162. **Utility.** Privately, publicly, or cooperatively owned lines, facilities, and systems for producing, transmitting, or distributing communications, power, heat, gas, oil, water, waste, or stormwater that are not connected with the highway drainage, signal systems, or other products that directly or indirectly serve the public; the utility company.
- 3.163. **Verification Tests.** Tests used to verify accuracy of QC and QA and mixture design testing.
- 3.164. **Water-Abrasive Blasting.** Spraying blasts of pressurized water combined with abrasive media.
- 3.165. **Water Blasting.** Spraying blasts of pressurized water of at least 3,000 psi.
- 3.166. **Water-Injected Abrasive Blasting.** Abrasive blasting with water injected into the abrasive and air stream at the nozzle.
- 3.167. **Wholly Owned Subsidiary.** A legal entity owned entirely by the Contractor or subcontractor.
- 3.168. **Work.** The furnishing of all labor, materials, equipment, and incidentals necessary for the successful completion of the Contract.
- 3.169. **Work Order.** Written notice to the Contractor to begin the work. The work order may include the date when work and time charges will begin, the allowable number of working days, and plan sheets providing details specific to a location or to an item of work for non-site-specific work. A work order is part of the Contract.
- 3.170. **Written Notice.** Written notice is considered to have been duly given if delivered in person to the individual or member to whom it is intended or if sent by regular, registered, or certified mail and delivered to the last known business address; sent by facsimile to the last known phone number; or sent by email to the last known address. The date of the letter will serve as the beginning day of notice. Unclaimed mail or failure to provide current contact information will not be considered a failure to provide written notice.

Item 2L

Instructions to Bidders

1. INTRODUCTION

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

2. ELIGIBILITY OF BIDDERS

Bid Documents may be obtained at <http://www.dallascounty.org/department/purchasing/currentbids.php>.

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

3. ISSUING BID FORMS

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

- the Bidder is suspended or debarred by the Commission or TxDOT,
 - the Bidder does not have the available bidding capacity,
 - the Bidder is prohibited from rebidding a specific bid form due to a bid error on the original bid form,
 - the Bidder failed to enter into a Contract on the original award,
 - the Bidder was defaulted or terminated on the original Contract, unless the Owner terminated in the best interest of the State or the public,
 - the Bidder or a subsidiary or affiliate of the Bidder has received compensation from the Owner to participate in the preparation of the plans or specifications on which the bid or Contract is based,
 - the Bidder is ineligible to bid on any proposed Contract in accordance with Article 7L.69., "Responsibility for Damage Claims,"
 - the Bidder failed to attend a mandatory pre-bid conference,
 - the Bidder or affiliate of the Bidder that was originally determined as the apparent low Bidder on a project but was deemed nonresponsive for failure to register or participate in the Department of Homeland Security (DHS) E-Verify system as specified in Article 2.15., "Department of Homeland Security (DHS) E-Verify System," is prohibited from rebidding that specific project.
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4. INTERPRETING ESTIMATED QUANTITIES

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

5. EXAMINING DOCUMENTS AND WORK LOCATIONS

Examine the bid form, plans, specifications, and specified work locations before submitting a bid for the work. Submitting a bid will be considered evidence that the Bidder has performed this examination. Borings, soil profiles, water elevations, and underground utilities shown on the plans were obtained for the Owner's use in the preparation of the plans. This information is provided for the Bidder's information only, and the Owner makes no representation as to the accuracy of the data. Be aware of the difficulty of accurately classifying all

material encountered in making foundation investigations, the possible erosion of stream channels and banks after survey data have been obtained, and the unreliability of water elevations other than for the date recorded.

Oral explanations, instructions, or consideration for Contractor-proposed changes on the bid form given during the bidding process are not binding. Only requirements included on the bid form, associated specifications, plans, and Owner-issued addenda are binding. Request explanations of documents in adequate time to allow the Owner to reply before the bid opening.

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

6. PREPARING THE BID

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

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

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

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

- a regular item or the additive alternate item is left blank,
- a regular item and the corresponding replacement alternate item are left blank,
- the bid form submitted had the incorrect number of items,
- the Bidder did not acknowledge all addenda, or
- additionally, for printed bids:
 - the blank spaces for each item as required on the bid form are not filled in by writing in words.
 - the bid was not signed in the complete and correct name of the bidder making the bid, and signed by the person or persons authorized to bind the bidder, or
 - unit prices were not stated in dollars and cents for each bid item listed on the bid form, except in the case of a regular bid item that has an alternate bid item.

7. NONRESPONSIVE BID

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

- the bid was not in the hands of the Letting Official at the time and location specified in the advertisement,
- a bid form was submitted for the same project by a Bidder or Bidders and one or more of its partners or affiliates, the Bidder was not authorized to receive a bid form under Article 2L.3., "Issuing Bid Forms,"
- the Bidder failed to acknowledge receipt of all addenda issued,
- the bid form was signed by a person who was not authorized to bind the Bidder or Bidders,
- the bid guaranty did not comply with the requirements contained in this Item,
- the bid was in a form other than the official bid form issued by the Owner,
- the Bidder modified the bid in a manner that altered the conditions or requirements for work as stated in the bid form,
- the Bidder bid more than the maximum or less than the minimum number of allowable working days shown on the plans when working days was an item,

- a typed bid form does not contain the information in the format shown on the "Example of Bid Prices Submitted by Computer Printout" on the bid form,
- the Bidder did not meet the requirements of the technical qualification,

8. ELECTRONIC BID

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

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

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

Bidders shall rely exclusively on their own estimates, investigations, tests and other data which are necessary for full and complete information upon which the Bid may be based. Any Bidder by the filing of his Bid represents and warrants that he/she has prepared his/her bid in accordance with the Specifications, with full knowledge and understanding of the terms and provisions thereof; that he/she has reviewed, studied and examined the bid prior to the signing and filing of same, and that he/she was cognizant of the terms of his bid, verified his calculations and found them to be correct and agrees to be bound thereby.

Bidders are hereby further advised to visit the site of Work and to carefully examine conditions, particularly with respect to utility installations, that may affect their scheduling, administering, progress and/or cost of doing the Work. Bidders are further advised that failure on the part of any utility (public or franchised), after issuance of a work order (Article 3L.23., "Beginning of Work") at a time mutually agreed to by the Engineer and Contractor, to adjust and/or relocate, in a timely manner, a utility installation (surface or sub surface) that is obstructing proposed construction under this Contract, shall not be considered sufficient basis for a claim for adjustment in the unit prices or Contract amount in any manner whatsoever,

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

For a JV, the bond must be in the name of all JV participants. Enter the bond authorization code into the Owner's bidding system.

It is the Bidder's responsibility to ensure the electronic bid bond is issued in the name or Owner vendor identification numbers of the Bidder or Bidders.

The bid guaranty is required by Dallas County as evidence of good faith and as a guaranty that if awarded the Contract, Bidder will execute the Contract, furnish the required Bonds within twenty (20) calendar days after the award of said Contract or pay the damages as set forth in Article 3L.20., "Failure To Enter Contract", hereof. Said Bidder's Bond shall not be withdrawn after the opening of the bids. Checks of unsuccessful bidders will be returned to them by the County Commissioners Court or the Director of Public Works as soon as possible after all Bids have been checked.

In event the successful Bidder fails or refuses to execute the Contract in accordance with his bid, he and the surety shall become liable to the County of Dallas for the amount of the Bidder's Bond and the defaulting Contractor, in addition thereto, shall be liable for further damages as set forth in Article 3L.20., "Failure To Enter Contract" hereof. In each Bidder's Bond submitted the surety thereon shall designate an agent resident in Dallas County, Texas, to whom requisite notices may be delivered and upon whom service of process may be had should it become necessary. Certified or Cashier's Checks shall receive the same consideration as Bidder's Bond under conditions as outlined above

8.3.

Submittal of Bid.

All questions regarding this solicitation are to be submitted in writing to **Darian Gavin**, Dallas County Purchasing Department via **BidNet** (<https://www.bidnetdirect.com/texas/dallas-county>), the County's procurement platform. If the bidder does not have access to the County's solicitation platform, the bidder may submit their questions in writing via email to Darian Gavin. Please reference the IFB Solicitation number in the subject of the email.

All questions, comments and requests for clarification must reference the IFB solicitation number on all correspondence to Dallas County. Any oral communications shall be considered unofficial and non-binding.

Only written responses to written communication shall be considered official and binding upon the County. The County reserves the right, at its sole discretion, to determine appropriate and adequate responses to the written comments, questions, and requests for clarification.

NOTE: All addenda and/or any other correspondence (general information, question and responses) to this IFB will be made available exclusively through the Dallas County website for retrieval. Bidders are solely responsible for frequently checking this website for updates to this IFB. Addenda can be located at the following web address: <http://www.dallascounty.org/department/purchasing/currentbids.php> (go to the appropriate IFB number, click on the appropriate hyperlink to view and/or download solicitation.)

<http://www.dallascounty.org/department/purchasing/currentbids.php>

(go to the appropriate BID#, click on the appropriate hyperlink for viewing and /or downloading).

8.4.

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

8.5.

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

If a bidder is unable to withdraw an electronic bid using the Owner's bidding system, a written request may be submitted. A written request must be signed and submitted to the Letting Official conducting the letting, with proof of identification. The request must be made by a person authorized to bind the Bidder or Bidders. In the case of a JV, the Owner will accept a request from any person authorized to bind a party to the JV. The Owner may require written delegation of authority to withdraw a bid when the individual sent to withdraw the bid is not authorized to bind the Bidder or Bidders.

9.

PRINTED BID

9.1.

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

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

9.2.

Bid Guaranty. Provide a bid guaranty in the amount indicated on the bid form. Use either a guaranty check or a printed bid bond. An electronic bid bond may be used as the guaranty. Ensure the electronic bid bond meets the requirements of Article 2L.8.2., "Bid Guaranty," and submit the electronic bid bond with the printed bid.

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

10. OPENING AND READING OF BIDS

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

11. TABULATING BIDS

- 11.1. **Official Total Bid Amount.** The Owner will sum the products of the quantities and the unit prices bid on the bid form to determine the official total bid amount, except as provided in Article 2L.11.5., "Consideration of Unit Prices." The official total bid amount is the basis for determining the apparent low Bidder. The total bid amounts will be compared and the results made public.
- 11.2. **Consideration of Bid Format.** When a Bidder submits both an electronic bid and a printed bid that are responsive, the unit bid prices in the electronic bid will be used to determine the total bid amount. If the electronic bid is incomplete or nonresponsive, the printed bid will be used in the tabulation of the total bid amount.

If a Bidder submits two or more printed bids, all responsive bids will be tabulated. The bid with the lowest tabulation will be used to determine the total bid amount.

- 11.3. **Rounding of Unit Prices.** The Owner will round off all unit bids involving fractional parts of a cent to the nearest one-tenth cent (\$0.001) in determining the amount of the bid as well as computing the amount due for payment of each item under the Contract. For rounding purposes, entries that contain five-hundredths of a cent (\$0.0005) or more will be rounded up to the next highest tenth of a cent, while entries that contain less than five-hundredths of a cent will be rounded down to the next lowest tenth of a cent and in accordance with Article 2L.11.5., "Consideration of Unit Prices." Bids less than one-tenth of a cent (\$0.001) will be rounded to one-tenth of a cent (\$0.001). When credit items are included (negative unit prices), rounding is performed on the absolute value.
- 11.4. **Interpretation of Unit Prices.** The Owner will make a documented determination of the unit bid price if a unit bid price is illegible or conflicting in the case of replacement alternate items. The Owner's determination will be final.
- 11.5. **Consideration of Unit Prices.** Unit bid price entries such as no dollars and no cents, zero dollars and zero cents, or numerical entries of less than \$0.001 will be tabulated as one-tenth of a cent (\$0.001). Bids in which unit bid prices have been left blank are incomplete and nonresponsive.
- 11.5.1. **Alternate Items.** If a bid has a regular and corresponding alternate item or group of items, the bid will be considered complete if:
- the regular item or group of regular items has unit prices entered,
 - the alternate item or group of alternate items has unit prices entered, or
 - both regular item or group of regular items and alternate item or group of alternate items have unit prices entered. The Owner will use the price bid for the regular or the alternate item, or group of items, that will result in the lowest cost to the State.
- The bid will be considered incomplete and nonresponsive if:
- a regular item or group of regular items is left blank, or
 - a corresponding alternate item or group of alternate items is left blank.
- 11.5.2. **Additive Alternate Items.** The Owner will sum the products of the quantities and the unit prices bid for the regular items on the bid form to determine the total bid amount for the base bid. The official total bid amount will be determined by the summation of the base bid plus a predetermined order of additive alternate items, not to exceed the Owner's budgeted amount for the Contract. An estimate of the budgeted amount may be shown on the plans.
- The Contract will identify the base bid work and additive alternate work to be performed. The Owner makes no guarantee that the additive alternate work will be required.
- 11.5.3. **A + B Bidding.** The official total bid amount will be determined by the summation of the Contract amount and the time element. The Owner will use the following formula to make the calculation:
- $$A + B1 + B2 + BX + \dots + BT$$
- The Contract amount, equal to A in the formula, is determined by the summation of the products of the approximate quantities shown in the bid and the unit bid prices bid, and the time element, equal to B1, B2, BX (when phases are included as bid components), and BT (substantial completion of the project when included as a bid component), of the bid is determined by multiplying the number of working days bid to substantially complete the project, or phases, by the daily road-user cost (RUC) shown on the plans. When partial days are bid, they will be rounded up to the nearest whole day.
- The formula above determines the low Bidder and establishes the Contract time or time for specific phases of the Contract.
- 11.5.4. **Rubber Additives.** For proposed Contracts without federal funds, if an alternate item for "Hot Asphalt-Rubber Surface Treatments" or "Hot-Mix Asphalt Concrete Pavement" that contains ground tire rubber is

shown on the bid form and the Bidder bids that alternate item, the amounts bid for "Hot Asphalt-Rubber" and "Aggregate" or "Hot-Mix Asphalt Concrete" will be reduced to 85% of the amounts actually bid. This reduction will only be used for the purposes of determining the lowest Bidder. To qualify, the ground tire rubber used must be produced from scrap tire ground in a facility in Texas. Payment for "Hot Asphalt-Rubber" and "Aggregate" or "Hot-Mix Asphalt Concrete" will be at the actual unit prices bid.

11.5.5. **Home State Bidding Preference.** For the purpose of determining the apparent low Bidder on proposed Contracts without federal funds, the Owner will select the option that results in the greatest bidding preference to the resident Bidder.

11.5.5.1. **Reverse Application of Non-Resident Bidder's Home State Bidding Preference.** The total bid amount will be based upon the reverse application of the non-resident Bidder's home state bidding preference, if any. This will also apply to another state's preference for a Bidder that offers materials grown, produced, processed, or manufactured in that state.

Any reverse application of the home state bidding preference will be the greater of the following:

- the amount by which a resident Bidder would be required to underbid the non-resident Bidder to obtain a comparable contract in the state in which the non-resident's principal place of business is located; or
- the amount by which a resident Bidder would be required to underbid the non-resident Bidder to obtain a comparable contract in the state in which a majority of the manufacturing relating to the Contract will be performed.

11.5.5.2. **Texas Home State Bidding Preference.** A Bidder will be considered the apparent low Bidder if the Bidder's home office is located in this state and their bid does not exceed an amount equal to 105% of the apparent low bid received from a Bidder whose home office is not located in this state. This will not apply to a Bidder from a bordering state whose state does not give a preference to a Bidder in a manner similar to this Section.

12. CONSIDERATION OF BID ERRORS

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

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

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

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

Acceptance of the bid error claim by the Owner will result in the rejection of all bids. The erring Contractor will not be allowed to bid the project when it is re-let. Rejection of bids due to the Contractor's bid error may result in the application of remedial actions by the Owner.

13. TIE BIDS

If the official total bid amount for two or more Bidders is equal and those bids are the lowest submitted, each tie Bidder will be given an opportunity to withdraw their bid. If two or more tie Bidders do not withdraw their bids, the low Bidder will be determined by a coin toss or a series of coin tosses when there are more than two Bidders. If all tie Bidders request to withdraw their bids, no withdrawals will be allowed and the low Bidder will be determined by a coin toss or a series of coin tosses when there are more than two Bidders. The Letting Official will preside over the proceedings.

14.

15. **DEPARTMENT OF HOMELAND SECURITY (DHS) E-VERIFY SYSTEM**

The Owner will not award a Contract to a Contractor that is not registered in the DHS E-Verify system. Remain active in E-Verify throughout the life of the Contract. In addition, in accordance with Article 8L.75., "Subcontracting," sixth paragraph, include this requirement in all subcontracts and require that subcontractors remain active in E-Verify until their work is completed.

If the apparent low Bidder does not appear in the DHS E-Verify system before award, the Contractor must submit documentation showing that they are compliant within 5 calendar days after bid opening. A Contractor that fails to comply or respond within the deadline will be declared nonresponsive. The Bidder forfeiting the bid guaranty will not be considered in future bids for the same work unless there has been a substantial change in the scope of the work.

The Owner may recommend to:

- reject all bids or
- award the Contract to the new apparent low Bidder, if the Owner is able to verify the Bidder's participation in the DHS E-Verify system.

If the Owner is unable to verify the new apparent low Bidder's participation in the DHS E-Verify system:

- the new apparent low Bidder will not be deemed nonresponsive,
- the new apparent low Bidder's guaranty will not be forfeited,
- the Owner will reject all bids,
- the new apparent low Bidder will remain eligible to receive future bids for the same project, and
- the bid guaranty of the original low bidder will become the property of the Owner, not as a penalty, but as liquidated damages.

Item 3L

Award and Execution of Contract

16. AWARD OF CONTRACT

The Owner or original award authority will award, reject, or defer the Contract within 120 days after the opening of the bid. The Owner reserves the right to reject any or all bids and to waive technicalities in the best interest of the Owner.

16.1. **Award.** The Owner or original award authority will award the Contract to the low Bidder as determined in accordance with Article 2L.11., "Tabulating Bids." The Owner may award a Contract to the second lowest Bidder when the following requirements have been met:

- the low Bidder withdraws their bid or fails to enter into Contract,
- the second lowest Bidder agrees to perform the work at the unit bid prices of the low Bidder,
- the Owner recommends in writing the award of the Contract to the second lowest Bidder, and
- the Owner's governing body agrees with the Owner recommendation for award to the second lowest Bidder.

16.2. **Rejection.** The Owner or original award authority will reject the Contract if:

- collusion may have existed among the Bidders. Collusion participants will not be allowed to bid future bids for the same Contract,
- the low bid is mathematically and materially unbalanced. The Bidder will not be allowed to bid future bids for the same Contract,
- the lowest bid is higher than the Owner's estimate, and re-advertising for bids may result in a lower bid,
- the low bid contains a bid error that satisfies the requirements and criteria in Article 2L.12., "Consideration of Bid Errors," or
- rejection of the Contract is in the best interest of the Owner.

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

17. RESCINDING OF AWARD

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

18. SMALL BUSINESS ENTERPRISE (SBE)

Submit SBE information in the timeframe specified when required by the bid.

19. EXECUTION OF CONTRACT

Provide the following within 20 days after written notification of award of the Contract.

19.1. **Contract.** Execute the Contract as prescribed by the Owner.

19.2. **Bonds.** Execute and date the performance and payment bond in the full amount of the Contract with the powers of attorney. Provide bonds in accordance with Table 1. Furnish the payment and performance bonds

Table 1

Bonding Requirements

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

as a guaranty for the protection of the claimants and the Owner for labor and materials and the faithful performance of the work.

Bonding Requirements

Performance Bond. A good and sufficient Bond in an amount equal to 100 percent of the approximate total amount of the Contract, as evidenced by the Bid tabulation, or otherwise guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with the Plans, Specifications and Contract Documents, including any extensions thereof, for the protection of Dallas County. This Bond is solely for the protection of Dallas County for the conditioned on the faithful performance of the work in accordance with the plans, specifications, and contract documents.

Payment Bond. A good and sufficient Bond in an amount to equal to 100 percent of the approximate total amount of the Contract, as evidenced by the Bid tabulation, or otherwise guaranteeing the full and proper protection of all claimants supplying labor and materials in the prosecution of the Work provided for in said Contract and for the use of each such claimant.

Warranty/Maintenance Bond. A good and sufficient Bond in an amount equal to 100 percent of the total amount of the Contract, as evidenced by the Bid tabulation, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with the Plans, Specifications and Contract Documents, including any extensions thereof, for the protection of Dallas County. This Bond shall provide for the repair, and for maintenance attendant thereto, of all defects due to faulty materials, workmanship, defects, and failures that may appear within a period of one year from the date of the court order authorizing final payment, completion and acceptance of the Work by the Commissioners Court, or such other period of time as may be designated by the "Special Provisions."

19.3. **Insurance.** For construction and building Contracts, submit a certificate of insurance showing coverages in accordance with the Contract requirements

Insurances must cover the work for the duration of the Contract and must remain in effect until final acceptance. Provide project-specific insurance, not listed in Table 2, until acceptance of the work covered by the project-specific insurance or as approved by the Engineer. Failure to obtain and maintain insurance for the contracted work may result in suspension of work or default of the Contract. If the insurance expires and coverage lapses for any reason, stop all work until the Owner receives an acceptable certificate of insurance.

Provide the Owner with a certificate of insurance verifying the types and amounts of coverage shown in Table 2. The certificate of insurance must be in a form approved by the Texas Department of Insurance. Certificates of insurance for commercial general liability, auto liability, and workers' compensation must include the Contractor's prequalified name in the "Insured" field. Any certificate of insurance provided must be available for public inspection.

Commercial General Liability Insurance policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage. The Contractor shall take out and maintain during the life of this Contract such Commercial General Liability and Property Damage Insurance as shall protect him and any sub-contractor performing Work covered by this Contract, for the following:

- Premises Operations;
- Independent contractors or consultants;
- Products/Completed Operations;
- Personal Injury;
- Contractual Liability;
- Explosion, Collapse and Underground;
- Broad Form Property Damage, to include fire legal liability.

Commercial Automobile Liability insurance shall cover all owned, hired and non-owned vehicles used in connection with the work performed under the Contract

Table 2

Insurance Requirements

Type of Insurance	Amount of Coverage
Commercial General Liability Insurance	Not Less Than: \$1,000,000 each occurrence \$2,000,000 Products/Completed Operations Aggregate \$2,000,000 General Aggregate Limit
Business Automobile Policy	Not Less Than: \$100,000 each person \$100,000 each occurrence \$300,000 each accident for bodily injury \$600,000 combined single limit
Workers' Compensation	Not Less Than: Statutory
All Risk Builder's Risk Insurance (For building-facilities Contracts only)	100% of Contract Price

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

The workers' compensation policy must include a waiver of subrogation endorsement in favor of the Owner.

For building-facilities contracts, provide all risk builder's risk insurance to protect the Owner against loss by storm, fire, or extended coverage perils on work and materials intended for use on the project, including the adjacent structure. Name the Owner under the Lost Payable clause.

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

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

The work performed under this Section will not be measured or paid for directly, but will be subsidiary to pertinent Items.

- 19.4. **Business Ownership Information.** Submit the names and Social Security numbers of all individuals owning 25% or more of the firm, or firms in the case of a joint venture, on the Owner's form.
- 19.5. **Railroad Documents.** Provide all required documents for satisfaction of railroad requirements for projects that have work involving railroad right of way. Comply with the requirements of Article 5L.40., "Cooperation with Railroads."

20. FAILURE TO ENTER CONTRACT

If the Contractor fails to comply with all the requirements in Article 3L19., "Execution of Contract," the bid guaranty will become the property of the Owner, not as a penalty, but as liquidated damages. The Contractor forfeiting the bid guaranty will not be considered in future bids for the same work unless there has been a substantial change in design of the work.

21. APPROVAL AND EXECUTION OF CONTRACT

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

22. RETURN OF BID GUARANTY

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

23. BEGINNING OF WORK

Do not begin work until authorized in writing by the Owner. The Engineer shall issue written orders to the Contractor within sixty (60) days after the Contract is fully executed to commence work, except that if utilities or rights of way are not sufficiently clear, the work order may be delayed by mutual consent of the parties of the contract.

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

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

For Contracts with callout work and work orders, the purchase of materials before a work order is issued or without prior written approval of the Engineer is at the Contractor's risk, and the Department is not obligated for the cost of the materials or work to acquire the materials.

As required by "Examining Documents and Work Locations", bidders are to have visited the site of Work and carefully examined conditions, particularly with respect to utility installations that may affect their scheduling, administering, progress and/or cost of doing the Work. Failure on the part of any utility (public or franchised), after issuance of a work order in accordance with this Section at a time mutually agreed to by the Engineer and Contractor, to adjust and/or relocate, in a timely manner, utility installation (surface or subsurface) that is obstructing proposed construction under this Contract, shall not be considered sufficient basis for a claim for adjustment in the unit prices or Contract amount in any manner whatsoever.

Time charges may be suspended, when in the opinion of the Engineer, such utility obstructions will delay the satisfactory execution and completion of the Work as anticipated by the approved schedule of Work submitted by the Contractor, except that such suspension shall not be authorized on calendar day contracts with early completion incentive payments.

24. ASSIGNMENT OF CONTRACT

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

25.

EXCLUDED PARTIES

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

Item 4L

Scope of Work

26. CONTRACT INTENT

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

27. PRECONSTRUCTION CONFERENCE

Before starting work, schedule and attend a preconstruction conference with the Engineer. Failure to schedule and attend a preconstruction conference is not grounds for delaying the beginning of working day charges. The preconstruction conference may be scheduled with the safety preconstruction meeting described in Article 7L 56.2., "Safety Preconstruction Meeting" and the railroad coordination meeting described in Article 5L.40., "Cooperation with Railroads." Work with the Engineer to resolve or escalate all issues. Execute the project pledge and establish an issue escalation ladder.

27.1. **Project Pledge.** Contractor representatives at the level of foreman and above will certify in writing they will approach the construction of this project in a manner consistent with delivering a high-quality project in a safe, cost-effective, and timely manner, and they will be committed to not allowing personality conflicts or personal interests to interfere with providing the public with a quality project. Failure to uphold this commitment may result in grounds for removal from the project.

27.2. **Issue Resolution Process.** An issue is any aspect of the Contract where parties of the Contract do not agree. The individuals identified at the lowest level of the issue escalation ladder will initiate the issue resolution process by escalating any issue that remains unresolved within the timeframe outlined in the issue escalation ladder.

Work with the Engineer to resolve all issues during the course of the Contract. Refer to Article 4L 32., "Dispute or Claims Procedure," for all unresolved issues.

28. PARTNERING – NOT APPLICABLE

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

The owner and the Contractor agree that no party is an agent, servant, or employee of the other party. No joint enterprise exists between the Owner and the Contractor.

Informal partnering does not make use of a facilitator and is led by the Engineer in charge of the work and the Contractor's counterpart, while formal partnering uses the services of a facilitator (internal or external).

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

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

28.2.1. **Internal Facilitators.** An Owner or Contractor staff member may be selected as the facilitator at no additional cost to either party.

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

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

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

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

Participate in additional partnering meetings as mutually agreed upon.

28.4. **Payment.** Expenses for labor, Contractor equipment, or overhead will not be allowed. Markups as prescribed in Article 9L 88., "Payment for Extra Work and Force Account Method," will not be allowed.

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

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

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

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

29. CHANGES IN THE WORK

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

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

Payment will not be made for anticipated profits on work that is eliminated.

Agree on the scope of work and the basis of payment for the change order before beginning the work. If there is no agreement, the Engineer may order the work to proceed under Article 9L 88., "Payment for Extra Work and Force Account Method," or by making an interim adjustment to the Contract. In the case of an adjustment, the Engineer will consider modifying the compensation after the work is performed.

A significant change in the character of the work occurs when:
the character of the work for any item as altered differs materially in kind or nature from that in the Contract,
or
a major item of work varies by more than 25% from the original Contract quantity,

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

When the quantity of work to be done under any major item of the Contract is less than 75% of the original quantity stated in the Contract, then either party to the Contract may request an adjustment to the unit price.

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

30. DIFFERING SITE CONDITIONS

During the progress of the work, differing subsurface or latent physical conditions may be encountered at the site. The two types of differing site conditions are defined as:
those that differ materially from those indicated in the Contract, and
unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract.

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

31. REQUESTS FOR ADDITIONAL COMPENSATION AND DAMAGES

Increased or Decreased Quantities of Work. If the differing site conditions cause an increase or decrease in the cost or number of working days specified for the performance of the Contract, the Engineer will make adjustments, excluding the loss of anticipated profits, in accordance with the Contract. Additional compensation will be made only if the required written notice has been provided. The County of Dallas reserves the right to make changes in the work including addition, reduction, or elimination of quantities and alterations needed to complete the Contract. Contractor shall perform the work as altered. These changes will not invalidate the Contract nor release the Surety.

If the changes in quantities or the alterations do not significantly change the character of the work under the Contract,

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

Agree upon the scope of work and the basis of payment for the change order before beginning the work. If there is no agreement, the County may order the work to proceed by making an interim adjustment to the Contract.

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

- the character of the work for any Item as altered differs materially in kind or nature from that in the Contract, or

a major item of work varies by more than 25% from the original Contract quantity

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

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

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

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

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

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

31.1 **Standby Equipment Costs.** Payment will be made in accordance with Article 9L 88.1.4.3., "Standby Equipment Costs."

31.2 **Project Overhead.** Project overhead is defined as the administrative and supervisory expenses incurred at the work locations. When delay to project completion occurs, reimbursement for project overhead for the Contractor will be made using the following options at the Contractor's discretion:

- reimbursed at 6% (computed as daily cost by dividing 6% of the original Contract amount by the number of original Contract work days), or
- actual documented costs for the impacted period.

Project overhead for delays impacting subcontractors will be determined from actual documented costs submitted by the Contractor.

Time extensions and suspensions alone will not be justification for reimbursement for project overhead.

31.3. **Home Office Overhead.** The Owner will not compensate the Contractor for home office overhead.

31.4 **Value engineering change proposals.**

Description. The Contractor may submit to the Engineer, in writing, a Value Engineering Change Proposal (VECP) for modifying the plans, specifications or other requirements of the contract for the purpose of reducing the total cost of construction. Each VECP shall result in a net savings to the contract cost without impairing essential functions and characteristics of all or any part of the project, including but not limited to service life, reliability, structural integrity, economy of operation, ease of maintenance, desired aesthetics and safety. For the purpose of calculating savings to the project, only the direct costs of materials, labor, direct labor mark-up and equipment will be considered. Indirect costs, such as project and home office overhead, will not be considered however, nothing herein shall be construed as requiring the County to approve a VECP submitted hereunder.

Submissions that propose changes in the basic design of a bridge, or changes in type of pavement will not be considered. Changes to items which are lump-sum or plan quantity pay items will not be considered unless the Contractor can provide cost data in sufficient detail to demonstrate the true cost savings to the satisfaction of the Engineer.

Changes initiated by the County will not be considered as VECP's. If accepted by the County, net savings resulting from the VECP will be equally shared by the County and the Contractor.

The terms and conditions listed under Item 4.7, "Value Engineering Change Proposals," apply to all VECP's developed and initiated by the Contractor and identified as such by the Contractor at the time of submission to the Engineer. The Contractor is cautioned not to base any bid prices on the anticipated approval of a VECP and to recognize the proposal may be rejected. In the event of rejection, the Contractor will be required to complete the Contract at the Contract bid prices.

Documentation and Detail Requirements. As a minimum, the following information shall be submitted with each VECP;

- a statement that the proposed change is to be considered as a VECP;
- a statement concerning the basis for the VECP and the expected benefits to the County together with a list of the contract items and requirements affected by the VECP;
- a detailed estimate of quantities of work items and associated costs under the existing contract and under the VECP;
- clearly defined limits of work areas to be affected by the VECP;
- proposed specifications and recommendations as to how such VECP changes are to be accomplished; and
- a statement as to the date by which a change order adopting the VECP must be issued in order to obtain the maximum cost benefit.

The cost information submitted at this point will only be used as a basis for evaluating and either accepting or rejecting the VECP. If the VECP includes changes in design details, the Contractor shall furnish the Engineer with:

- Preliminary Design Details outlining the VECP concept;
- all engineering calculations supporting the design change;
- complete quantity computations and summaries; and

After approval of preliminary design, fully developed, reproducible design details commensurate with the quality of the contract plans.

All plan sheets containing design details and/or engineering calculations shall be signed, sealed and dated by a registered Professional Engineer, licensed to practice in the State of Texas. Should the VECP be accepted by the County, this information will expedite the implementation of the VECP.

If the VECP is accepted by the County, payment to the Contractor will be based on the reduction of actual project cost. In order to verify the project savings, the Contractor shall offer proof of actual costs limited to direct costs of labor, equipment and materials.

Acceptance and Implementation. Once the Contractor submits a VECP, a team will be assembled to review the initiative and determine the acceptability of the VECP. This team shall consist of the Engineer and Contractor, and any other party deemed necessary by the Engineer and Contractor. In the event that the Engineer and Contractor disagree as to the acceptability of the VECP, the Engineer shall be the final judge of such acceptability. The County may accept in whole or in part any VECP by issuing a change order that will identify the VECP on which it is based.

If an executed change order has not been issued by the date upon which the Contractor's proposal specifies that a decision thereon should be made, or such other date as the Contractor may have specified in writing, the VECP shall be deemed rejected unless both parties agree to an extension of time for consideration. The County will consider all proposals in a timely manner.

The County will not be liable to the Contractor for failure to accept or act upon any VECP submitted pursuant to this provision, nor for any delays to the work attributable to any such proposal including, but not limited to, delays associated with testing of materials, or methods of work, or delays associated with approval of design changes. The Contractor shall remain obligated to the terms and conditions of the existing contract until the change order implementing a VECP is approved.

The Engineer may reject all or any portion of the work performed under an approved VECP if unsatisfactory results are being obtained. The Engineer may direct the removal of such rejected work and require the Contractor to proceed in accordance with the original contract requirements. Cost for work performed under the VECP or its removal will be divided equally between the County and the Contractor. Should work be removed, replacement of all rejected work shall be in accordance with the original contract requirements and payment will be made at the original bid prices. The rejection of work performed under an approved VECP shall not constitute the basis for any claim against the County for delay or other costs.

Proprietary Rights. The County expressly reserves the right to adopt a VECP for general use in other contracts administered by the County when and if it determines that said proposal is suitable for application on other contracts. VECP's identical or similar to previously submitted proposals on other contracts will be eligible for consideration and compensation under these provisions if such proposals were not previously adopted for general application to other contracts.

32.

DISPUTE OR CLAIMS PROCEDURE

DALLAS COUNTY PUBLIC WORKS PROCEDURES FOR CONTRACT DISPUTE AND CLAIM RESOLUTION

PREFACE

The Dallas County Public Works Department (hereinafter "Department") promotes partnership with Contractors in a spirit of trust, commitment, and shared vision. The Department strives to complete projects on-time, on-budget, and with high-quality as defined in the contract documents. To mitigate contract disputes, the Department utilizes pre-construction conference discussions, partnering workshops, weekly construction meetings, impromptu meetings, and written correspondence to resolve contract issues,

disagreements, or controversies proactively during the course of normal project advancement. The Department recognizes that such matters can be disruptive to project advancement, and endeavors to resolve each both amiably and expeditiously, recognizing that time is of the essence with all such contracts. The following bullet points illustrate the steps needed to follow when a claim is made by the Contractor:

REQUEST FOR FURTHER COMPENSATION FILING

- In the event that the prime contractor (hereinafter "Contractor" and "he") believes he is entitled to additional compensation (in terms of contract time, contract expense or both) for work not covered in the contract or for changed conditions, he shall notify the Dallas County Project Manager (hereinafter "Project Manager") in writing of his need to request additional compensation before beginning such work. For a concern resulting from the enforcement of a warranty, the Contractor shall file the request no later than one year after expiration of the warranty period. Such notification is to include all documentation necessary to substantiate and evaluate the appropriateness of the request relative to the incremental work required.
- By contrast, this procedure is not intended to address disputes regarding Contractor performance, declarations of Contractor default, or contract terminations either with or without cause.
- The Project Manager will review and analyze the information and schedule a meeting with the Department Assistant Director and contractor to discuss the request. All parties need to provide complete and accurate information that reflects the issues and facts.
- The Project Manager will notify the Contractor of the Assistant Director's determination regarding the dispute. Should the Contractor find this determination acceptable, he will notify the Project Manager in writing within 10 business days. If the Contractor finds this determination unacceptable, he will notify the Project Manager in writing within 10 business days. In the latter case, the Project Manager will in turn prepare a Dispute Recommendation Report and discuss it with the Assistant Director and Director of Public Works for final determination. This final determination will then be provided to the Contractor. If the Contractor fails to respond within 5 business days, he is assumed to accept the determination.
- If a dispute cannot be resolved at the department level, the Contractor needs to submit a formal claim to Dallas County through the Project Manager within 5 business days of receiving the final determination from the Director of Public Works.

CONTRACT CLAIM FILING

- The Contractor shall submit a formal claim through the Project Manager and copy to the Assistant Director. He will develop and provide a detailed report which provides the basis of the claim. The detailed report shall include relevant facts of the claim, cost or other data supporting the claim, a description of any additional damages requested, and documents supporting the claim.
- The Contractor shall certify the detailed report with the statement: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the contractor believes the department is liable; and that I am duly authorized to certify the claim on behalf of the Contractor".
- Once a formal claim is received, the Department will forward the claim to the Dallas County District Attorney's Office, Civil Division and the Purchasing Department for review and evaluation.
- A meeting will be scheduled with the Contractor to discuss the disputed matters and to provide the Contractor an opportunity to present relevant information and respond to information the District Attorney's Office and Purchasing Department received from the Department.
- Dallas County, through the Project Manager, will provide written notice of its decision on the claim and/or file counter claim to the Contractor before the claim is presented to the Commissioners Court. The Contractor shall have the opportunity to negotiate and submit a responsive report to the Project Manager and make recommendation concerning a counter claim filed by Dallas County.
- If the Contractor does not object to the County's decision, the Contractor shall file a written statement to stating that the Contractor does not object. Then, the Department will present the claim and recommendation to the Commissioners Court for approval.
- If the Contractor objects to the County's decision, the Contractor has the right to a contested case hearing in the civil court system of Dallas County, per the terms of the contract.

Item 5L

Control of the Work

33. AUTHORITY OF ENGINEER

The Engineer has the authority to observe, test, inspect, approve, and accept the work (either in writing or orally). The Engineer decides all questions about the quality and acceptability of materials, work performed, work progress, Contract interpretations, applicability of standard details, and acceptable Contract fulfillment. The Engineer has the authority to enforce and make effective these decisions.

- Unless noted elsewhere in the Contract or by the Engineer, payment for Contractor work is in accordance with the Contract requirements at that time. This payment does not eliminate the Contractor's responsibilities for the work as defined in Article 7L.71., "Contractor's Responsibility for Work," or Article 5L.44, "Final Acceptance."
- The Engineer acts as a referee in all questions arising under the terms of the Contract.
- The Engineer's decisions are final and binding.

The Engineer will pursue and document actions against the Contractor as warranted to address Contract performance issues. Contract remedies include, but are not limited to, the following:

- requiring the Contractor to remove and replace defective work, or reducing payment for defective work,
- removing an individual from the project,
- suspending the work without suspending working day charges,
- assessing standard liquidated damages to recover the Owner's administrative costs, including additional project-specific liquidated damages when specified in the Contract withholding estimates, and
- declaring the Contractor to be in default of the Contract

The Engineer will consider and document any events outside the Contractor's control that contributed to the failure to meet performance standards, including consideration of sufficient time.

34. PLANS AND WORKING DRAWINGS

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

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

Table 1
Signature and Approval Requirements for Working Drawings

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

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

Submit shop drawings electronically for the fabrication of structural items in accordance with the Owner's procedures and as directed for other items required by the Contract. References to 11 × 17-in. sheets in individual specifications for structural items imply electronic computer-aided design sheets.

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

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

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

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

36. COORDINATION OF PLANS, SPECIFICATIONS, AND SPECIAL PROVISIONS

The specifications, accompanying plans, special provisions, change orders, and supplemental agreements are intended to work together and be interpreted as a whole.

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

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

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

37. COOPERATION OF CONTRACTOR

Cooperate with the Engineer. Respond promptly to instructions from the Engineer. Provide all information necessary for the successful completion of the Contract.

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

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

Furnish suitable machinery, equipment, and construction forces for the proper prosecution of the work.

Provide adequate lighting to address quality requirements and inspection of nighttime work.

38. COOPERATING WITH UTILITIES

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

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

Immediately notify the appropriate utility of service interruptions resulting from damage due to construction activities. Cooperate with utilities until service is restored. Maintain access to fire hydrants when necessary.

39. COOPERATION BETWEEN CONTRACTORS

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

40. COOPERATION WITH RAILROADS

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

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

- 40.1. **Railroad Coordination Meeting.** When shown on the plans or directed by the Engineer, schedule and attend a railroad coordination meeting with the Engineer before beginning work or as agreed upon (may be a part of the preconstruction conference described in Article 4L.27., "Preconstruction Conference"). Prepare a list of attendees and invite personnel, including, but not limited to Owner, Contractor, subcontractor, and railroad representatives.

Provide the invitation to the railroad representatives at least 21 calendar days before the railroad coordination meeting.

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

- 40.3. **Right of Entry Agreement by the Owner.** When shown on the plans, the process for obtaining a fully executed ROE Agreement is as follows.

- The Owner will send the unexecuted ROE Agreement to the Contractor with the unexecuted Contract.
- Partially execute the ROE Agreement and return it to the Owner with the partially executed Contract and required insurance.
- The Owner will coordinate with the railroad company regarding the further execution of the ROE Agreement and associated fees. The Owner will pay any ROE Agreement fees directly to the railroad company.
- Once the Owner has received the fully executed ROE Agreement from the railroad company, the Owner will forward the fully executed ROE Agreement to the Contractor.

- 40.4. **Right of Entry Agreement by the Contractor.** When shown on the plans, contact the railroad company to obtain the ROE Agreement before beginning work on the Contract.

Provide the required insurance to the Owner before beginning work on the Contract.

Execute the ROE Agreement and pay any associated fees to the railroad company. Provide a copy of the fully executed ROE Agreement to the Owner.

41. CONSTRUCTION SURVEYING

Use Method C unless otherwise specified in the Contract. Upon request, the Engineer will allow the Contractor to copy available earthwork cross-sections, computer printouts or data files, and other information necessary to establish and control work. Preserve all control points, stakes, marks, and right of way markers. Assume cost and responsibility of replacing disturbed control points, stakes, marks, and right of way markers damaged by the Contractor's or its subcontractor's operations. If the Owner repairs disturbed control points, stakes, marks, or right of way markers, the cost of repair may be deducted from money due or to become due to the Contractor. Replace right of way markers under the direction of an RPLS. This work performed under this Article will not be measured or paid for directly, but will be subsidiary to pertinent Items.

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

- 41.1. **Method A.** The Engineer will set control points for establishing lines, slopes, grades, and centerlines and for providing both vertical and horizontal control.

At minimum, provide a controlling pair of monument points at both the beginning and end of construction project for projects less than 2 mi. in length. For projects greater than 2 mi. in length, monuments will be set in pairs at a minimum of 2 mi. based on the overall length of the project. Use these control points as reference to perform the work.

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

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

- 41.3. **Method C.** Set adequate control points, stakes, and marks to establish lines, slopes, grades, and centerlines. Place construction points, stakes, and marks at intervals sufficient to control work to established tolerances. Place construction stakes at intervals of no more than 100 ft., or as directed. Place stakes and marks so as not to interfere with normal maintenance operations.

42. INSPECTION

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

Provide safe access to all parts of the work and provide information and assistance to the Engineer to allow a complete and detailed inspection. Give the Engineer sufficient notice to inspect the work. Work performed without suitable inspection, as determined by the Engineer, may be ordered removed and replaced at Contractor's expense. Remove or uncover portions of finished work as directed. Once inspected, restore work to Contract requirements. If the uncovered work is acceptable, the costs to uncover, remove, and replace or make good the parts removed will be paid for in accordance with Article 4L.29., "Changes in the Work." If the work is unacceptable, assume all costs associated with repair or replacement, including the costs to uncover, remove, and replace or make good the parts removed.

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

43. FINAL CLEANUP

Upon completion of the work, remove construction project litter, debris, objectionable material, temporary structures, excess materials, and equipment from the work locations. Clean and restore property damaged

by the Contractor's operations during the prosecution of the work. Leave the work locations in a neat and presentable condition.

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

The work performed under this Article will not be paid for directly, but will be subsidiary to Items of the Contract.

44. FINAL ACCEPTANCE

44.1. **Routine Maintenance Contracts.** Not applicable to Locally Let projects.

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

44.2.1. **Work Completed.** Work completed must include work for vegetative establishment and maintenance, test and performance periods, and work to meet the requirements of Article 5L.43., "Final Cleanup."

44.2.2. **Final Inspection.** After all work is complete, the Engineer in charge of the work will request a final inspection by the Engineer authorized to accept the work.

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

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

44.2.3. **Final Measurement.** Final measurements and pay quantity adjustments may be made after final acceptance. Final acceptance will not be held for final measurements or pay quantity adjustments.

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

44.3. **Multiple Work Orders.** Not applicable to Locally Let projects.

Item 6L

Control of Materials

45. SOURCE CONTROL

Use only materials that meet Contract requirements. Unless otherwise specified or approved, use new materials for the Work. Secure the Engineer's approval of the proposed source of materials to be used before their delivery. Materials can be approved at a supply source or staging area but may be inspected in accordance with Article 6L.48., "Sampling, Testing, and Inspection."

- 45.1. **Buy America.** Comply with the latest provisions of Buy America pertaining to steel and iron in accordance with 23 CFR § 635.410. Use steel or iron materials manufactured in the United States except when waived in accordance with Article 6L 45.2., "Buy America Exceptions."

Submit a notarized original of the TxDOT FORM D-9-USA-1 (Department Form 1818 or equivalent) with the proper attachments for verification of compliance.

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

- 45.2. **Buy America Exceptions.** Use of iron and steel manufactured in the United States is required unless the material meets an exception below.

A waiver exists exempting the material from Buy America compliance.

The total value of foreign iron and steel products, including delivery, does not exceed 0.1% of the total Contract cost or \$2,500, whichever is greater. The Contractor must provide documentation showing under threshold in advance for the Engineer's consideration.

Foreign iron or steel may be allowed when the Contract contains an alternate item for a foreign source iron or steel product and the Contract is awarded based on the alternate item.

The materials are temporarily installed or are supplies, tools, and equipment not incorporated into the project. Temporarily installed means the materials and products must be removed at the end of the project or may be removed at the Contractor's convenience with the Engineer's approval.

- 45.3. **Buy Texas.** For construction or maintenance Contracts without federal funds, buy materials produced in Texas when the materials are available at a comparable price and in a comparable period of time. Provide documentation of purchases or a description of good-faith efforts on request.

46. MATERIAL QUALITY

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

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

If the Contractor does not comply with this Article, the Owner may remove and replace defective material. The cost of testing, removal, and replacement will be deducted from the payments due to the Contractor.

47. MANUFACTURER WARRANTIES

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

48. SAMPLING, TESTING, AND INSPECTION

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

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

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

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

49. PLANT INSPECTION AND TESTING

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

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

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

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

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

50. STORAGE OF MATERIALS

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

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

51. **OWNER-FURNISHED MATERIAL**

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

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

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

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

53. **RECYCLED MATERIALS**

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

54. **HAZARDOUS MATERIALS**

Comply with the requirements of Article 7L

"Responsibility for Hazardous Materials."

Notify the Engineer immediately when a visual observation or odor indicates that materials on sites owned or controlled by the Owner may contain hazardous materials. Except when the contract includes bid items for the Contractor to remove hazardous materials, the Owner is responsible for testing, removing, and disposing of hazardous materials not introduced by the Contractor. The Engineer may suspend work wholly or in part during the testing, removing, or disposing of hazardous materials, except in the case where hazardous materials are introduced by the Contractor.

Use materials that are free of hazardous materials. Notify the Engineer immediately if materials are suspected to contain hazardous materials. If materials delivered to the project by the Contractor are suspected to contain hazardous materials, have an approved commercial laboratory test the materials for the presence of hazardous materials as approved. Remove, remediate, and dispose of any of these materials found to contain hazardous materials. The work required to comply with this Section will be at the Contractor's expense if materials are found to contain hazardous materials. Working day charges will not be suspended and extensions of working days will not be granted for activities related to handling hazardous material introduced by the Contractor. If suspected materials are not found to contain hazardous materials, the Owner will reimburse the Contractor for hazardous materials testing and will adjust working day charges if the Contractor can show that this work impacted the critical path.

54.1. **Painted Steel Requirements.** Coatings on existing steel contain hazardous materials unless otherwise shown on the plans. Remove paint and dispose of steel coated with paint containing hazardous materials in accordance with the following.

Removing Paint from Steel. For contracts that are specifically for painting steel, include the cleaning and painting of steel under Item 446, "Field Cleaning and Painting Steel," as a pay item. Perform work in accordance with that Item.

For projects where paint must be removed to allow for the dismantling of steel or to perform other work, the Owner will provide for a separate contractor (third party) to remove paint containing hazardous materials before or during the Contract. Remove paint covering existing steel shown not to contain hazardous materials in accordance with Item 446.

- 54.1.1. **Removal and Disposal of Painted Steel.** For steel able to be dismantled by unbolting, paint removal will not be performed by the Owner. The Owner will remove paint, at locations shown on the plans or as agreed, for the Contractor's cutting and dismantling purposes. Use Owner-cleaned locations for dismantling when provided or provide own means of dismantling at other locations.

Painted steel to be retained by the Owner will be shown on the plans. For painted steel that contains hazardous materials, dispose of the painted steel at a steel recycling or smelting facility unless otherwise shown on the plans. Maintain and make available to the Engineer invoices and other records obtained from the facility showing the received weight of the steel and the facility name. Dispose of steel that does not contain hazardous material coatings in conformance with federal, state, and local regulations.

- 54.2. **Asbestos Requirements.** The plans will indicate locations or elements where asbestos-containing materials (ACMs) are known to be present. Where ACMs are known to exist or where previously unknown ACM has been found, the Owner will arrange for abatement by a separate contractor before or during the Contract. Notify the Engineer of proposed dates of demolition or removal of structural elements with ACM at least 60 days before beginning work to allow the Owner sufficient time for abatement.

The Texas Department of State Health Services (DSHS), Asbestos Programs Branch, is responsible for administering the requirements of the National Emissions Standards for Hazardous Air Pollutants, (NESHAP), in accordance with 40 CFR Part 61, Subpart M, and the Texas Asbestos Health Protection Rules (TAHPR). Based on EPA guidance and regulatory background information, bridges are considered to be a regulated "facility" under NESHAP; therefore, federal standards for demolition and renovation apply.

The Owner is required to notify DSHS at least 10 working days (by postmarked date) before initiating demolition or renovation of each structure shown on the plans. If the actual demolition, renovation, or removal date is changed or delayed, notify the Engineer in writing of the revised dates in sufficient time to allow for the Owner's notification to DSHS to be postmarked at least 10 days in advance of the actual work.

The Owner retains the right to determine the actual advance notice needed for the change in date to address post office business days and staff availability.

- 54.3. **Asbestos or Lead Abatement.** Provide traffic control as shown on the plans, and coordinate and cooperate with the third party and the Owner for managing or removing hazardous materials. Work for the traffic control shown on the plans and coordination work will not be paid for directly, but will be subsidiary to pertinent Items.

55. SURPLUS MATERIALS

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

Item 7L

Legal Relations and Responsibilities

56. SAFETY

56.1. **Safety Point of Contact.** Designate, in writing, a Contractor Safety Point of Contact (CSPOC). The Owner will assign an employee for their point of contact designated as Owner's Safety Point of Contact OSPOC. The Contract requires that the Contractor's and subcontractor's employees use the appropriate personal protective equipment (PPE) (e.g., hardhats, safety vests, and protective toe footwear) to meet regulations.

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

56.2. **Safety Preconstruction Meeting.** In cooperation with the Engineer, schedule and attend a safety preconstruction meeting (may be a part of the preconstruction conference in accordance with Article 4L.27., "Preconstruction Conference"). Attendees for this safety preconstruction meeting will be:

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

56.3. **Safety Contingency.** To improve the effectiveness of traffic handling and enhance safety during the course of this project, a safety contingency fund may have been included in the project budget for traffic control plan adjustments and other safety-related improvements.

Costs associated with the adjustments or improvements will be paid for in accordance with Article 9L.88., "Payment for Extra Work and Force Account Method." Article 9L.88., "Payment for Extra Work and Force Account Method," is not intended to be used in lieu of bid items established by the Contract.

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

If the construction of the project requires the closing of a roadway, as directed, coordinate the closure with the Engineer and work to ensure all lanes and ramps possible are available during peak traffic periods before, during, and after significant traffic generator events to avoid any adverse economic impact on the municipalities during:

- dates or events as shown on the plans, and
- other dates as directed.

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

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

- 56.5. **Use of Blue Warning Lights.** Texas Transportation Code § 547.105 authorizes the use of warning lights to promote safety and provides an effective means of gaining the traveling public's attention as they drive in areas where construction crews are present. To influence the public to move over when high-risk construction activities are taking place, minimize the use of blue warning lights. These lights must be used only while performing work on or near the travel lanes or shoulder where the traveling public encounters construction crews that are not protected by a standard work zone setup, such as a lane closure, a shoulder closure, or one-way traffic control. Refrain from leaving the warning lights engaged while traveling from one work location to another or while parked on the right of way away from the pavement or a work zone.
- 56.6. **Barricades, Signs, and Traffic Handling.** Comply with the requirements of Item 502 "Barricades, Signs, and Traffic Handling," and as directed. Provide traffic control devices as shown on the plans and in accordance with the TMUTCD. When authorized or directed, provide additional signs or traffic control devices not required by the plans.
- If an unexpected situation arises that causes the Contractor to believe that the traffic control should be changed, make all reasonable efforts to promptly contact the Engineer. Take prudent actions until the Engineer can be contacted.
- The Engineer will inspect the traffic control devices. Comply with the results of the inspection in the prescribed timeframe.
- The work performed and materials furnished in accordance with this Section and Item 502 have no bearing on the prosecution of Items 1L–9L, "General Requirements and Covenants," of the Contract. This includes, but is not limited to installing, relocating, and removing project limit advance warning signs.
- 56.6.1. **Contractor Responsible Person and Alternate.** Designate in writing a Contractor's Responsible Person (CRP) and an alternate to be the representative of the Contractor who is responsible for taking or directing corrective measures regarding the traffic control. The CRP or alternate must be accessible by telephone 24 hr. per day and able to respond when notified. The CRP and alternate must comply with the requirements of Article 7L.56.6.5., "Training."
- 56.6.2. **Flaggers.** Designate, in writing, a flagger instructor who will serve as a flagging supervisor and is responsible for training and assuring that all flaggers are qualified to perform flagging duties. Certify to the Engineer that all flaggers will be trained and make available upon request a list of flaggers trained to perform flagging duties.
- Provide flaggers as directed. Flaggers must be courteous and able to effectively communicate with the public. When directing traffic, flaggers must dress appropriately; wear high-visibility safety apparel; use flags, signs, stop-slow paddles, and other hand-signaling devices; and follow the flagging procedures in the TMUTCD. Comply with the requirements of Article 7L.56.6.5., "Training."
- 56.6.3. **Law Enforcement Personnel.** Provide uniformed law enforcement personnel with patrol vehicles as directed. Document the work zone traffic services provided in the manner prescribed by the Owner. Law enforcement personnel providing work zone traffic services must be trained for the service they perform. Comply with Article 7L.56.6.5., "Training."
- 56.6.4. **Other Work Zone Personnel.** Workers involved with traffic control, including the maintenance of the traffic control, must comply with the requirements of Article 7L.56.6.5., "Training."
- 56.6.5. **Training.** Train workers involved with the traffic control using Department-approved training as shown on the "Traffic Control Training" MPL.
- Coordinate enrollment, pay associated fees, and successfully complete Department-approved training or Contractor-developed training. Training is valid for the period prescribed by the provider. Except for law enforcement personnel training, refresher training is required every 4 yr. from the date of completion unless otherwise specified by the course provider. The Engineer may require training at a specified frequency

instead of the period prescribed based on the Owner's needs. Training and associated fees will not be measured or paid for directly, but will be subsidiary to pertinent Items.

Certify to the Engineer that workers involved in traffic control and other work zone personnel have been trained and make available upon request a copy of the certification of completion to the Engineer. The certification of completion includes:

- name of provider and course title,
- name of participant,
- date of completion, and
- date of expiration.

Where Contractor-developed training or a TxDOT-approved training course does not produce a certification, maintain a log of attendees. Make the log available upon request. Provide a log that is legible and includes:

- printed name and signature of participant,
- name and title of trainer, and
- date of training.

56.6.5.1. **Contractor-Developed Training.** Develop and deliver Contractor-developed training meeting the minimum requirements established by the Owner. The outline for this training must be submitted to the Engineer for approval at the preconstruction meeting. The CRP or designated alternate may deliver the training instead of the TxDOT-approved training. The work performed and materials furnished to develop and deliver the training will not be measured or paid for directly, but will be subsidiary to pertinent Items.

56.6.5.1.1. **Flagger Training Minimum Requirements.** A Contractor's certified flagging instructor is permitted to train other flaggers.

56.6.5.1.2. **Other Contractor-Developed Training for Other Work Zone Personnel.** For other work zone personnel, the Contractor may provide training meeting the curriculum described below instead of TxDOT-approved training.

Minimum curriculum for Contractor-provided training is as follows.

Contractor-developed training must provide information on the use of PPE, occupational hazards and health risks, and other pertinent topics related to traffic management. The type and amount of training will depend on the job duties and responsibilities. Develop training applicable to the work being performed. Develop training to include the following topics.

Adopt a company safety motto: "The Life You Save May Be Your Own," or similar.

Purpose of the training includes the following.

- "It's the Law."
- Make work zones safer for workers and motorists.
- Understand what is needed for traffic control.
- Save lives including your own.

Personal and co-worker safety includes the following.

- **High-Visibility Safety Apparel.** Discuss compliant requirements; inspect regularly for fading and reduced reflective properties; if night operations are required, discuss the additional and appropriate required apparel in addition to special night work risks; and if moving operations are underway, discuss appropriate safety measures specific to the situation and traffic control plan.
- **Blind Areas.** A blind area is the area around a vehicle or piece of construction equipment not visible to the operators, either by line of sight or indirectly by mirrors. Discuss the "Circle of Safety" around equipment and vehicles; use of spotters; maintaining eye contact with equipment operators; and use of hand signals.
- **Runovers and Backovers.** Remain alert at all times; keep a safe distance from traffic; avoid turning your back to traffic, and if you must, then use a spotter; and stay behind protective barriers,

whenever possible. It is not safe to sit on or lean against a concrete barrier; these barriers can deflect 4 ft. or more when struck by a vehicle.

- Look out for each other and warn co-workers.
- Be courteous to motorists.
- Do not run across active roadways.
- Workers must obey traffic laws and drive courteously while operating vehicles in the work zones.
- Workers must be made aware of company distracted driving policies.

Nighttime Operations. Focus on projects with a nighttime element.

Traffic Control Training. Basics of traffic control include the following.

- Identify work zone traffic control supervisor and other appropriate persons to report issues to when they arise.
- Emphasize that work zone traffic control devices must be in clean and undamaged condition. If devices have been hit but not damaged, return them to their correct place and report to the traffic control supervisor. If devices have been damaged, replace with new devices and report to the traffic control supervisor. If devices are dirty, faded, or have missing or damaged reflective tape, clean or replace them and report to the traffic control supervisor. Show examples of unacceptable device conditions. Discuss various types of traffic control devices to be used and where spacing requirements can be found.
- **Channelizing Devices and Barricades with Slanted Stripes.** Stripes must slant in the direction in which you want traffic to stay or move; demonstrate this with a device.
- **Traffic Queuing.** Workers must be made aware of traffic queuing and the dangers created by it. Workers must be instructed to immediately notify the traffic control supervisor and other supervisory personnel if traffic is queuing beyond advance warning sign and devices or construction limits.
- **Signs.** Signs must be straight and not leaning. Report problems to the traffic control supervisor or other as designated for immediate repair. Covered signs must be fully covered. If covers are damaged or out of place, report to the traffic control supervisor or other as designated.

57. **LAWS TO BE OBSERVED**

Comply with all federal, state, and local laws, ordinances, and regulations that affect the performance of the work. **INDEMNIFY AND SAVE HARMLESS THE OWNER, THE COUNTY OF DALLAS, DALLAS COUNTY COMMISSIONERS COURT, DALLAS COUNTY JUDGE, DALLAS COUNTY'S ELECTED OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS, AND ITS REPRESENTATIVES AGAINST ANY CLAIM ARISING FROM VIOLATION BY THE CONTRACTOR OF ANY LAW, ORDINANCE, OR REGULATION, WHETHER BY HIMSELF OR BY HIS EMPLOYEES.**

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

58. **PERMITS, LICENSES, AND TAXES**

Procure all permits and licenses; pay all charges, fees, and taxes; and give all notices necessary and incidental to the due and lawful prosecution of work, except for permits provided by the Owner and as specified in Article 7L.61., "Preservation of Cultural and Natural Resources and the Environment."

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

THE CONTRACTOR AND HIS SURETY SHALL INDEMNIFY AND SAVE HARMLESS THE COUNTY OF DALLAS, DALLAS COUNTY COMMISSIONERS COURT, DALLAS COUNTY JUDGE, DALLAS COUNTY'S

ELECTED OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS AND ITS REPRESENTATIVES FROM ANY AND ALL CLAIMS FOR INFRINGEMENT BY REASON OF THE USE OF ANY PATENTED DESIGN, DEVICE, MATERIALS, OR PROCESS, OR ANY TRADEMARK OR COPYRIGHT USED IN CONNECTION WITH THE WORK AND THEY SHALL INDEMNIFY THE COUNTY OF DALLAS AGAINST ANY COSTS, EXPENSES, OR DAMAGES WHICH IT MAY BE OBLIGED TO PAY, BY REASON OF SUCH INFRINGEMENT, AT ANY TIME DURING THE PROSECUTION OR AFTER THE COMPLETION OF THE WORK

60. PERSONAL LIABILITY OF PUBLIC OFFICIALS

OWNER'S COMMISSIONERS COURT, DALLAS COUNTY JUDGE, ELECTED OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS, AND ITS REPRESENTATIVES WILL INCUR NO LIABILITY, PERSONAL OR OTHERWISE, IN CARRYING OUT THE PROVISIONS OF THE CONTRACT OR IN EXERCISING ANY POWER OR AUTHORITY GRANTED UNDER THE CONTRACT.

61. PRESERVATION OF CULTURAL AND NATURAL RESOURCES AND THE ENVIRONMENT

Project-specific information pertinent to cultural and natural resources is included in the plan set in the General Notes and on the Environmental Permits, Issues, and Commitments (EPIC) sheet. Adhere to all guidance, Best Management Practices (BMPs), and permits shown on the plans. Signing the Contract certifies compliance with all applicable laws, rules, and regulations pertaining to the preservation of cultural resources, natural resources, and the environment as issued by the following or other agencies.

- OSHA
- TCEQ
- Texas Department of Transportation
- Texas Historical Commission
- Texas Parks and Wildlife Department
- Texas Railroad Commission
- U.S. Army Corps of Engineers (USACE)
- U.S. Department of Energy
- U.S. Department of Transportation
- EPA
- Federal Emergency Management Agency
- U.S. Fish and Wildlife Service

All subcontractors must also comply with applicable environmental laws, rules, regulations, and requirements in the Contract.

- 61.1. **Cultural Resources.** Cease all work immediately if a site, building, or location of historical, archeological, educational, or scientific interest is discovered within the right of way. The site, building, or location will be investigated and evaluated by the Owner.
- 61.2. **Protected and Imperiled Species and Wildlife.** Cease all work immediately and within 50 ft. if a protected or imperiled species, or any species assumed to be protected or imperiled, or wildlife is encountered onsite. Allow any animals to leave the area. Do not kill any wildlife. Contact Owner's environmental staff to investigate and evaluate any species or wildlife issues.
- 61.3. **Migratory Birds.** Bird and nest removal must not occur during vegetation clearing, construction, or maintenance activities on structures where birds or nests are present during the nesting season, as shown on the plans. If work will occur during the nesting season, measures to prevent nest establishment must be used before the start of nesting season or any activity. Contact Owner's environmental staff for assistance with birds and nests.

61.4. **Texas Pollutant Discharge Elimination System (TPDES) Permits and Stormwater Pollution Prevention Plans (SWP3s).**

61.4.1. Projects with Less than 1 Acre of Soil Disturbance Including Required Associated Project Specific Locations (PSLs) in Accordance with TPDES Construction General Permit (CGP) No. TXR150000. No construction site notice (CSN) posting will be required for soil disturbances within the right of way. Adhere to the requirements of the SWP3 and environmental layout as shown on the plans.

61.4.2. Projects with 1 Acre but Less than 5 Acres of Soil Disturbance Including Required Associated PSLs in Accordance with TPDES CGP No. TXR150000. The Owner and the Contractor will operate under a shared SWP3 for portions of the project in the right of way.

The Owner will be considered the primary operator with operational control over plans and specifications as defined in TPDES CGP No. TXR150000 for construction activity in the right of way. The Owner will post a small CSN and follow other requirements as defined in TPDES CGP No. TXR150000 as the entity having operational control over plans and specifications for work shown on the plans in the right of way.

The Contractor will be considered the primary operator with day-to-day operational control as defined in TPDES CGP No. TXR150000 for construction activity in the right of way. In addition to the Owner's actions, the Contractor will post a small CSN and follow other requirements as defined in TPDES CGP No. TXR150000 as the entity having day-to-day operational control of the work shown on the plans in the right of way. This is in addition to the Contractor being responsible for TPDES CGP No. TXR150000 requirements for on-right-of-way and off-right-of-way PSLs. The Contractor will adhere to all requirements of the SWP3 and environmental layout as shown on the plans. The Contractor will be responsible for implementing the SWP3 for the project site as shown on the plans, in conformance with specifications, in accordance with TPDES CGP No. TXR150000, and as directed. Notification to Municipal Separate Storm Sewer System (MS4) operators (when applicable) upon project initiation and completion must be provided in accordance with TPDES CGP No. TXR150000 requirements. A signed copy of the small CSN will be provided to MS4 operators (where applicable) at least 2 days before commencing construction.

With the Engineer's concurrence upon the completion of soil disturbing activities and achieving permanent stabilization of 70% native background vegetation cover, the CSN may be removed.

61.4.3. **Projects with 5 Acres or More of Soil Disturbance Including Required Associated PSLs in Accordance with TPDES CGP No. TXR150000.** The Owner and the Contractor will operate under a shared SWP3 for portions of the project in the right of way. The Owner will be considered the primary operator with operational control over plans and specifications as defined in TPDES CGP No. TXR150000 for construction activities in the right of way. The Owner will post a large CSN and file a Notice of Intent (NOI); Notice of Change (NOC), if applicable; and Notice of Termination (NOT), along with other requirements in accordance with TPDES CGP No. TXR150000, as the entity having operational control over plans and specifications for work shown on the plans in the right of way.

The Contractor will be considered the primary operator for day-to-day operational control as defined in TPDES CGP No. TXR150000 for construction activities in the right of way. In addition to the Owner's actions, the Contractor will file an NOI; NOC, if applicable; and NOT and post a large CSN along with other requirements as the entity having day-to-day operational control of the work shown on the plans in the right of way. This is in addition to the Contractor being responsible for TPDES CGP No. TXR150000 requirements for on-right-of-way and off-right-of way PSLs. Adhere to all requirements of the SWP3 and environmental layout as shown on the plans.

61.4.3.1. **Notice of Intent (NOI).** Contractor will submit an NOI to TCEQ in accordance with TPDES CGP No. TXR150000 requirements. NOI must be submitted at least 7 days before commencement of construction activities at the project site. Contractor must file NOI under the same Regulated Entity Number (RN) as the Owner. Provide a signed copy to the Engineer and any other MS4 operators (where applicable) at the time of submittal. The Owner will submit their NOI before Contractor submission and will provide a copy for Contractor's use in completing the Contractor's NOI form.

- 61.4.3.2. **Notice of Change (NOC).** Upon concurrence of the Engineer, submit an NOC to TCEQ within 14 days of discovery of a change or revision to the NOI as required by the CGP. Provide a signed copy of the NOC to the Engineer and any other MS4 operators (where applicable) at the time of submittal.
- 61.4.3.3. **Notice of Termination (NOT).** Upon concurrence of the Engineer, submit an NOT to TCEQ within 30 days of the Engineer's approval that 70% native background vegetative cover is met or equivalent permanent stabilization has been employed in accordance with TPDES CGP No. TXR150000. Provide a signed copy of the NOT to the Engineer and any other MS4 operators (where applicable) at the time of submittal.
- 61.4.4. **Training.** Not applicable to Locally Let Projects.
- 61.5. **Work in Waters of the United States.** For work in the right of way, the Owner will obtain any required Section 404 permits from U.S. Army Corps of Engineers USACE before work begins. Adhere to all agreements, mitigation plans, and standard BMPs required by the permit. When Contractor-initiated changes in the construction method change the impacts on Waters of the United States, obtain new or revised Section 404 permits.
- 61.6. **Work in Navigable Waters of the United States.** For work in the right of way, the Owner will obtain any required Section 9 permits from the U.S. Coast Guard before work begins. Adhere to the stipulations of the permits and associated BMPs. When Contractor-initiated changes in the construction method change the impacts on Navigable Waters of the United States, obtain new or revised Section 9 permits.
- 61.7. **Work over Recharge or Contributing Zone of Protected Aquifers.** Make every reasonable effort to minimize the degradation of water quality resulting from impacts relating to work over the recharge or contributing zones of protected aquifers, as defined and delineated by TCEQ. Use BMPs and perform work in accordance with the Contract requirements.
- 61.8. **Project Specific Locations.** For all PSLs on or off the right of way (e.g., material sources, waste sites, parking areas, storage areas, field offices, staging areas, and haul roads), comply with all applicable laws, rules, and regulations pertaining to the preservation of cultural resources, natural resources, and the environment in accordance with Article 7L 61.1., "Cultural Resources." All subcontractors must also comply with applicable environmental laws, rules, regulations, and requirements in the Contract. Maintain documentation of environmental compliance activities, including environmental consultant reports and correspondence with the resource agencies. Provide documentation upon request. Obtain written approval from the Engineer for all PSLs in the right of way not specifically addressed on the plans. Prepare an SWP3 for all Contractor facilities, such as asphalt or concrete plants located within right of way. Comply with all TCEQ permit requirements for portable facilities, such as concrete batch plants, rock crushers, and asphalt plants. Ensure compliance with all environmental issues, such as Section 404 permits, wetland delineation, endangered species consultation requirements, or archeological and historic site impacts. Obtain all permits and clearances in advance.
- 61.9. **Contractor Responsibility.** If the Contractor initiates changes to the Contract and the Owner approves the changes, the Contractor is responsible for obtaining clearances and coordinating with the appropriate regulatory agencies.

62. AGRICULTURAL IRRIGATION

Regulate the sequence of work and make provisions as necessary to provide for agricultural irrigation or drainage during the work. Meet with the service provider or landowner to determine the proper time and sequence when irrigation demands will permit shutting off water flows to perform work.

Unless otherwise shown on the plans, the work performed in accordance with this Article will not be measured or paid for directly, but will be subsidiary to pertinent Items.

63. SANITARY PROVISIONS

Provide and maintain adequate, neat, and sanitary toilet accommodations for employees, including State employees, in compliance with the requirements and regulations of the Texas Department of State Health Services or other authorities having jurisdiction.

64. ABATEMENT AND MITIGATION OF EXCESSIVE OR UNNECESSARY NOISE

Minimize noise throughout all phases of the Contract. Exercise particular and special efforts to avoid the creation of unnecessary noise impact on adjacent noise-sensitive receptors in the placement of non-mobile equipment, such as air compressors, generators, and pumps. Place mobile and stationary equipment to cause the least disruption to normal adjacent activities.

All equipment associated with the work must be equipped with components to suppress excessive noise, and these components must be maintained in their original operating condition considering normal depreciation. Noise attenuation devices installed by the manufacturer, such as mufflers, engine covers, and insulation, must not be removed or rendered ineffectual, or be permitted to remain off the equipment while the equipment is in use.

65. USING EXPLOSIVES

Do not endanger life or property. When required by the plans or requested, provide a written blasting plan. The Owner retains the right to reject the blasting plan. Store all explosives securely, and clearly mark all storage places with "DANGER—EXPLOSIVES." Store, handle, and use explosives and highly flammable material in compliance with federal, state, and local laws, ordinances, and regulations. Assume liability for property damage, injury, or death resulting from the use of explosives.

Give at least 48-hr. advance notice to the appropriate railroad representative before doing any blasting work involving the use of electric blasting caps within 200 ft. of any railroad track.

66. RESPONSIBILITY FOR HAZARDOUS MATERIALS

COMPLY WITH THE REQUIREMENTS OF ARTICLE 6L.54., "HAZARDOUS MATERIALS." INDEMNIFY AND SAVE HARMLESS THE OWNER THE COUNTY OF DALLAS, DALLAS COUNTY COMMISSIONERS COURT, DALLAS COUNTY JUDGE, DALLAS COUNTY'S ELECTED OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS, AND ITS REPRESENTATIVES FROM ALL SUITS, ACTIONS, OR CLAIMS AND FROM ALL LIABILITY AND DAMAGES FOR ANY INJURY OR DAMAGE TO ANY PERSON OR PROPERTY ARISING FROM THE GENERATION OR DISPOSITION OF HAZARDOUS MATERIALS INTRODUCED BY THE CONTRACTOR ON ANY WORK DONE BY THE CONTRACTOR ON OWNER-OWNED OR CONTROLLED SITES. INDEMNIFY AND SAVE HARMLESS THE OWNER THE COUNTY OF DALLAS, DALLAS COUNTY COMMISSIONERS COURT, DALLAS COUNTY JUDGE, DALLAS COUNTY'S ELECTED OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS, AND ITS REPRESENTATIVES FROM ANY LIABILITY OR RESPONSIBILITY ARISING OUT OF THE CONTRACTOR'S GENERATION OR DISPOSITION OF ANY HAZARDOUS MATERIALS OBTAINED, PROCESSED, STORED, SHIPPED, ETC., ON SITES NOT OWNED OR CONTROLLED BY THE OWNER. REIMBURSE THE OWNER FOR ALL PAYMENTS, FEES, OR RESTITUTION THE OWNER IS REQUIRED TO MAKE AS A RESULT OF THE CONTRACTOR'S ACTIONS.

67. RESTORING SURFACES OPENED BY PERMISSION

Do not authorize anyone to make an opening in the highway for utilities, drainage, or any other reason without written permission from the Engineer. Repair all openings as directed. Payment for repair of surfaces opened by permission will be made in conformance with pertinent Items or in accordance with Article 4L.29., "Changes in the Work." Costs associated with openings made with Contractor authorization but without Owner approval will not be paid.

68. PROTECTING ADJACENT PROPERTY

Protect adjacent property from damage. If any damage results from an act or omission on the part of or on behalf of the Contractor, take corrective action to restore the damaged property to a condition similar or equal to that existing before the damage was done.

69. RESPONSIBILITY FOR DAMAGE CLAIMS

INDEMNIFY AND SAVE HARMLESS THE OWNER THE COUNTY OF DALLAS, DALLAS COUNTY COMMISSIONERS COURT, DALLAS COUNTY JUDGE, DALLAS COUNTY'S ELECTED OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS, AND ITS REPRESENTATIVES FROM ALL SUITS, ACTIONS, OR CLAIMS AND FROM ALL LIABILITY AND DAMAGES FOR ANY INJURY OR DAMAGE TO ANY PERSON OR PROPERTY DUE TO THE CONTRACTOR'S NEGLIGENCE IN THE PERFORMANCE OF THE WORK AND FROM ANY CLAIMS ARISING OR AMOUNTS RECOVERED UNDER ANY LAWS, INCLUDING WORKERS' COMPENSATION AND THE TEXAS TORT CLAIMS ACT. INDEMNIFY AND SAVE HARMLESS THE OWNER, THE COUNTY OF DALLAS, DALLAS COUNTY COMMISSIONERS COURT, DALLAS COUNTY JUDGE, DALLAS COUNTY'S ELECTED OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS, AND ITS REPRESENTATIVES AND ASSUME RESPONSIBILITY FOR ALL DAMAGES AND INJURY TO PROPERTY OF ANY CHARACTER OCCURRING DURING THE PROSECUTION OF THE WORK RESULTING FROM ANY ACT, OMISSION, NEGLECT, OR MISCONDUCT ON THE CONTRACTOR'S PART IN THE MANNER OR METHOD OF EXECUTING THE WORK; FROM FAILURE TO PROPERLY EXECUTE THE WORK; OR FROM DEFECTIVE WORK OR MATERIAL.

PIPELINES AND OTHER UNDERGROUND INSTALLATIONS THAT MAY OR MAY NOT BE SHOWN ON THE PLANS MAY BE LOCATED WITHIN THE RIGHT OF WAY. INDEMNIFY AND SAVE HARMLESS THE OWNER THE COUNTY OF DALLAS, DALLAS COUNTY COMMISSIONERS COURT, DALLAS COUNTY JUDGE, DALLAS COUNTY'S ELECTED OFFICIALS, DIRECTORS, EMPLOYEES, AGENTS, AND ITS REPRESENTATIVES, FROM ANY SUITS OR CLAIMS RESULTING FROM DAMAGE BY THE CONTRACTOR'S OPERATIONS TO ANY PIPELINE OR UNDERGROUND INSTALLATION. MAKE AVAILABLE THE SCHEDULED SEQUENCE OF WORK TO THE RESPECTIVE UTILITY OWNERS SO THAT THEY MAY COORDINATE AND SCHEDULE ADJUSTMENTS OF THEIR UTILITIES THAT CONFLICT WITH THE PROPOSED WORK.

IF THE CONTRACTOR ASSERTS ANY CLAIM OR BRINGS ANY TYPE OF LEGAL ACTION (INCLUDING AN ORIGINAL ACTION, THIRD-PARTY ACTION, OR CROSS-CLAIM) AGAINST ANY INDEMNITIES FOR ANY CAUSE OF ACTION OR CLAIM FOR ALLEGED NEGLIGENCE ARISING FROM THE CONTRACT, THE CONTRACTOR WILL BE INELIGIBLE TO BID ON ANY PROPOSED CONTRACT WITH DALLAS COUNTY DURING THE PENDENCY OF THE CLAIM OR LEGAL ACTION.

70. HAULING AND LOADS ON ROADWAYS AND STRUCTURES

Comply with federal and state laws concerning legal gross and axle weights. Except for the designated Interstate system, vehicles with a valid yearly overweight tolerance permit may haul materials to the work locations at the permitted load. Provide copies of the yearly overweight tolerance permits to the Engineer upon request. Construction equipment is not exempt from oversize or overweight permitting requirements on roadways open to the traveling public.

Protect existing bridges and other structures that will remain in use by the traveling public during and after the completion of the Contract. Construction traffic on roadways, bridges, and culverts within the limits of the work, including any structures under construction that will remain in service during and after completion of the Contract, is subject to legal size and weight limitations.

Additional temporary fill may be required by the Engineer for hauling purposes for the protection of certain structures. This additional fill will not be paid for directly, but will be subsidiary to pertinent Items.

Replace or restore to original condition any structure damaged by the Contractor's operations.

The Engineer may allow equipment with oversize or non-divisible overweight loads to operate without a permit within the work locations on pavement structures not open to the traveling public. Submit Contractor-proposed changes to traffic control plans for approval, in accordance with Item 502. The following Sections further address overweight allowances. The Owner will make available to the Contractor any available plans and material reports for existing structures.

- 70.1. **Overweight Construction Traffic Crossing Structures.** The Engineer may allow crossing of a structure not open to the public within the work locations when divisible or non-divisible loads exceed legal weight limitations, including limits for load-posted bridges. Obtain written permission to make these crossings. Submit for approval a structural analysis by a licensed professional engineer indicating that the excessive loads should be allowed. Provide a manufacturer's certificate of equipment weight that includes the weight distribution on the various axles and any additional parts, such as counterweights, the configuration of the axles, or other information necessary for the analysis. Submit the structural analysis and supporting documentation sufficiently in advance of the move to allow for review by the Engineer. Permission may be granted if the Engineer finds that no damage or overstresses exceeding those normally allowed for occasional overweight loads will result to structures that will remain in use after Contract completion. Provide temporary matting or other protective measures as directed.

Schedule loads so that only one vehicle is on any span or continuous unit at any time. Use barricades, fences, or other positive methods to prevent other vehicular access to structures at any time the overweight load is on any span or continuous unit.

- 70.2. **Construction Equipment Operating on Structures.** Cranes and other construction equipment used to perform construction operations that exceed legal weight limits may be allowed on structures. Before any operation that may require placement of equipment on a structure, submit for approval a detailed structural analysis prepared by a licensed professional engineer.

Submit the structural analysis and supporting documentation sufficiently in advance of the use to allow for review by the Engineer. Include all axle loads and configurations, spacing of tracks or wheels, tire loads, outrigger placements, center of gravity, equipment weight, and predicted loads on tires and outriggers for all planned movements, swings, or boom reaches. The analysis must demonstrate that no overstresses exceeding those normally allowed for occasional overweight loads will occur.

- 70.3. **Loads on Structures.** Do not store or stockpile material on bridge structures without written permission. If required, submit a structural analysis and supporting documentation by a licensed professional engineer for review by the Engineer. Permission may be granted if the Engineer finds that no damage or overstresses exceeding those normally allowed for occasional overweight loads will result to structures that will remain in use after Contract completion. Provide temporary matting or other protective measures as directed.

- 70.4. **Hauling Divisible Overweight Loads on Pavement Within Work Locations.** The Engineer may allow divisible overweight loads on pavement structures within the work locations not open to the traveling public. Obtain written approval before hauling the overweight loads. Include calculations to demonstrate that there will be no damage or overstress to the pavement structure.

71. CONTRACTOR'S RESPONSIBILITY FOR WORK

Until final acceptance of the Contract, take every precaution against injury or damage to any part of the work by the action of the elements or by any other cause, whether arising from the execution or from the non-execution of the work. Protect all materials to be used in the work at all times, including periods of suspension.

When any roadway or portion of the roadway is in suitable condition for travel, it may be opened to traffic as directed. Opening of the roadway to traffic does not constitute final acceptance.

Repair damage to all work until final acceptance. Repair damage to existing facilities in accordance with the Contract or as directed by the Engineer. Repair damage to existing facilities or work caused by Contractor

operations at the Contractor's expense. Repair work for damage that was not due to the Contractor's operations will not be paid for except as provided below.

- 71.1. **Reimbursable Repair.** Except for damage to appurtenances listed in Article 7L.71.1., "Unreimbursed Repair," the Contractor will be reimbursed for repair of damage caused by:
- motor vehicle, watercraft, aircraft, or railroad-train incident;
 - vandalism; or
 - Acts of God, such as earthquake, tidal wave, tornado, hurricane, or other cataclysmic phenomena of nature.

71.2. **Appurtenances.**

- 71.2.1. **Unreimbursed Repair.** Except for destruction (not reusable) due to Acts of God, reimbursement will not be made for repair of damage to the following temporary appurtenances, regardless of cause:
signs,
barricades, and
other work zone traffic control devices.

Crash cushion attenuators and guardrail end treatments are reimbursed in accordance with Article 7L.71.2.2., "Reimbursed Repair." Truck-mounted attenuators, trailer attenuators, and portable changeable message signs are eligible for reimbursed repair in accordance with Article 7L.71.2.2., "Reimbursed Repair." Reimbursement will only be made when the Engineer directs the placement of the device in a location other than what is depicted in the Contract and the Contractor is unable to seek reimbursement from third-party insurance.

Where the Contractor retains replaced appurtenances after completion of the project, the Owner will limit the reimbursement to the cost that is above the salvage value at the end of the project.

- 71.2.2. **Reimbursed Repair.** Reimbursement will be made for repair of damage due to the causes listed in Article 7L.71.1, "Reimbursable Repair."

- 71.3. **Roadways and Structures.** Until final acceptance, the Contractor is responsible for all work constructed under the Contract. The Owner will not reimburse the Contractor for repair work to new construction, unless the failure or damage is due to one of the causes listed in Article 7L.71.1., "Reimbursable Repair."

The Owner will be responsible for the cost for repair of damage to existing roadways and structures not caused by the Contractor's operations.

- 71.4. **Detours.** The Contractor will be responsible for the cost of maintenance of detours constructed under the Contract, unless the failure or damage is due to one of the causes listed in Article 7L.71.1., "Reimbursable Repair." In addition, the Engineer will reimburse the Contractor for repairs to detours when failures occur for reasons beyond the Contractor's control. Reimbursement will be made for repairs to detours constructed unless the failure was due to materials and workmanship. The Owner will be responsible for the cost of maintenance of existing streets and roadways used for detours or handling traffic.

- 71.5. **Relief from Maintenance.** The Engineer may relieve the Contractor from responsibility of maintenance in accordance with this Section. This relief does not release the Contractor from responsibility for defective materials or work or constitute final acceptance. The Engineer will direct the Contractor to remove advance warning signs upon issuance of relief from maintenance.

- 71.5.1. **Isolated Work Locations.** For isolated work locations, when all work is completed, including work in accordance with Article 5L.43, "Final Cleanup," the Engineer may relieve the Contractor from responsibility for maintenance.

- 71.5.2. **Work Except for Vegetative Establishment and Test Periods.** When all work for all or isolated work locations has been completed, including work in accordance with Article 5L.43., "Final Cleanup," with the

exception of vegetative establishment and maintenance periods and test and performance periods, the Engineer may relieve the Contractor from responsibility for maintenance of completed portions of work.

71.5.3. **Work Suspension.** When all work is suspended for an extended period of time, the Engineer may relieve the Contractor from responsibility for maintenance of completed portions of work during the period of suspension.

71.5.4. **When Directed by the Engineer.** The Engineer may relieve the Contractor from the responsibility for maintenance when directed.

71.6. **Basis of Payment.** When reimbursement for repair work is allowed and performed, payment will be made in conformance with pertinent Items or in accordance with Article 4L.29., "Changes in the Work."

72. ELECTRICAL REQUIREMENTS

72.1. Definitions.

72.1.1. **Electrical Work.** Electrical work is work performed for:

- Item 610, "Roadway Illumination Assemblies,"
- Item 614, "High Mast Illumination Assemblies,"
- Item 616, "Performance Testing of Lighting Systems,"
- Item 617, "Temporary Roadway Illumination,"
- Item 618, "Conduit,"
- Item 620, "Electrical Conductors,"
- Item 621, "Tray Cable,"
- Item 622, "Duct Cable,"
- Item 628, "Electrical Services,"
- Item 680, "Highway Traffic Signals,"
- Item 681, "Temporary Traffic Signals,"
- Item 684, "Traffic Signal Cables,"
- Item 685, "Roadside Flashing Beacon Assemblies,"
- other Items that involve either the distribution of electrical power greater than 50 volts or the installation of conduit and duct banks,
- the installation of conduit and wiring associated with Item 624, "Ground Boxes" and Item 656, "Foundations for Traffic Control Devices," and
- the installation of the conduit system for communication and fiber optic cable.

Electrical work does not include the installation of communications or fiber optic cable, or the connections for low-voltage and inherently power-limited circuits, such as electronic or communications equipment. Assembly and placement of poles, structures, cabinets, enclosures, manholes, or other hardware will not be considered electrical work if no wiring, wiring connection, or conduit work is done at the time of assembly and placement.

72.1.2. **Specialized Electrical Work.** Specialized electrical work is work that includes the electrical service and feeders, sub-feeders, branch circuits, controls, raceways, and enclosures for the following:

- pump stations,
- moveable bridges,
- ferry slips,
- motor control centers,
- facilities required in accordance with Item 504, "Field Office and Laboratory,"
- rest area or other public buildings,
- weigh-in-motion stations,
- electrical services larger than 200 amps,

- electrical services with main or branch circuit breaker sizes not shown in the Contract, and
- any three-phase electrical power.

72.1.3. **Certified Person.** A certified person is a person who has passed the test from TxDOT's course TRF450, "TxDOT Roadway Illuminations and Electrical Installations," or other courses as approved by the Traffic Safety Division. Submit a current and valid TRF certification upon request. Texas A&M Engineering Extension Service (TEEX) certifications for "TxDOT Electrical Systems" course will not be accepted.

72.1.4. **Licensed Electrician.** A licensed electrician is a person with a current and valid unrestricted master electrical license, or unrestricted journeyman electrical license, who is supervised or directed by an unrestricted master electrician. An unrestricted master electrician need not be on the work locations at all times while electrical work is being done, but the unrestricted master electrician must approve work performed by the unrestricted journeyman. Licensed electrician requirements by city ordinances do not apply to on State system work.

The unrestricted journeyman and unrestricted master electrician licenses must be issued by the Texas Department of Licensing and Regulation or by a city in Texas with a population of 50,000 or greater that issues licenses based on passing a written test and demonstrating experience.

The Engineer may accept other states' electrical licenses. Submit documentation of the requirements for obtaining that license. Acceptance of the license will be based on sufficient evidence that the license was issued based on:

- passing a test based on the NEC like that used by Texas licensing officials, and
- sufficient electrical experience commensurate with general standards for an unrestricted master and unrestricted journeyman electrician in the State of Texas.

72.2. **Work Requirements.** The qualifications required to perform electrical work and specialized electrical work are shown in Table 1.

**Table 1
Work Requirements**

Type of Work	Qualifications to Perform Work
Electrical work with plans	Licensed electrician, certified person, or workers directly supervised by a licensed electrician or certified person
Electrical work without plans	Licensed electrician or workers directly supervised by a licensed electrician
Specialized electrical work	Licensed electrician or workers directly supervised by a licensed electrician
Replace lamps, starting aids, and changing fixtures	Licensed electrician, certified person, or workers directly supervised by a licensed electrician or certified person
Conduit in precast section with approved working drawings	Inspection by licensed electrician or certified person
Conduit in cast-in-place section	Inspection by licensed electrician or certified person
All other electrical work (e.g., troubleshooting, repairs, and component replacement)	Licensed electrician or workers directly supervised by a licensed electrician

"Directly supervised by a licensed electrician" means that a licensed electrician is physically present during all electrical work. "Directly supervised by a licensed electrician or certified person" means that a licensed electrician or certified person is physically present during all electrical work.

A non-certified person may install conduit in cast-in-place concrete sections if the work is verified by a certified person before concrete placement.

When IMSA certification is specified on the plans, the requirements shown in Table 1 will still apply to the installation of the conduit, ground boxes, electrical services, pole grounding, and electrical conductors installed in accordance with Item 620.

73. PAYROLLS

Pay employees and contract labor no less than the predetermined wage rates shown in the Contract. Require that subcontractors pay no less than the predetermined wage rates shown in the Contract.

Payroll records must contain the information required by law. As an option, Form WH-347, "Payroll," is provided by the U.S. Department of Labor.

Maintain payroll and related records during the course of the Contract and preserve these records for 3 yr. following the completion of the Contract or as required by law.

73.1. **Minimum Wage Requirements for Federally Funded Contracts.** Comply with the requirements of FHWA-1273, "Required Contract Provisions Federal-Aid Construction Contracts."

For construction contracts, submit payroll records to the Engineer using the manner prescribed by the Owner.

73.2. **Minimum Wage Requirements for State-Funded Contracts.** Comply with the requirements of 29 USC § 206 unless otherwise shown in the Contract.

For construction contracts, submit payroll records to the Engineer in the manner prescribed.

Item 8L

Prosecution and Progress

74. PROSECUTION OF WORK

Begin work within 30 calendar days after the authorization date to begin work. Prosecute the work continuously to completion within the working days specified. Unless otherwise shown on the plans, work may be prosecuted in concurrent phases if no changes are required to the traffic control plan or if a revised traffic control plan is approved. Notify the Engineer at least 24 hr. before beginning work or before beginning any new operation. Do not start new operations to the detriment of work already begun. Minimize interference to traffic.

75. SUBCONTRACTING

Do not sublet any portion of a construction Contract without the Engineer's written approval. A subcontract does not relieve any responsibility under the Contract and bonds. Ensure that all subcontracted work complies with all governing labor provisions.

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

For federally funded contracts, ensure the required federal documents are physically attached to each subcontract agreement, including all tiered subcontract agreements.

75.1. **Construction Contracts and Federally Funded Maintenance Contracts.** Perform work with own organization on at least 30% of the total original Contract cost (25% if the Contractor is an SBE on a wholly State- or local-funded Contract), excluding any specialty items as determined by the Engineer. Specialty items are those that require highly specialized knowledge, abilities, or equipment not usually available in the contracting firm expected to bid on the proposed Contract as a whole.

Specialty items will be shown on the plans or as determined by the Engineer. Bid cost of specialty items performed by subcontractors will be deducted from the total original Contract cost before computing the required amount of work to be performed by the Contractor's own organization.

The term "perform work with own organization" includes only:

- workers employed and paid directly by the Contractor or wholly owned subsidiary;
- equipment owned by the Contractor or wholly owned subsidiary;
- rented or leased equipment operated by the Contractor's employees or wholly owned subsidiary's employees;
- materials incorporated into the work if the majority of the value of the work involved in incorporating the material is performed by the Contractor's own organization, including a wholly owned subsidiary's organization; and
- labor provided by staff leasing firms licensed under Chapter 91 of the Texas Labor Code for nonsupervisory personnel if the Contractor or wholly owned subsidiary maintains direct control over the activities of the leased employees and includes them in the weekly payrolls.

Mobilization is not included in calculation of 30%.

When staff leasing firms provide materials or equipment, they are considered subcontractors. In these instances, submit staff leasing firms for approval as a subcontractor.

Copies of canceled checks and certified statements may be required to verify compliance with the requirements of this Section.

75.2. **State-Funded Maintenance Contracts.** Not applicable to locally let projects.

75.2.1. **Payment Records.** Make payment and related records, including but not limited to copies of canceled checks, available for inspection by the Owner. Retain payment records for a period of 3 yr. following the completion of the Contract.

Failure to submit this information to the Engineer by the 20th day of each month will result in the Owner taking actions, including, but not limited to, withholding payments and suspending the work. This work will not be measured or paid for directly but will be subsidiary to pertinent items.

75.3. **Payrolls.** Comply with Article 7L.73., "Payrolls."

76. COMPUTATION OF CONTRACT TIME FOR COMPLETION

The number of working days is established by the Contract. For Contracts with work orders, the number of working days is established in each work order. Working day charges will begin when work begins as prescribed in Article 8L.74., "Prosecution of Work." Working day charges will continue in accordance with the Contract.

The development of the conceptual time determination is intended to establish the number of working days on the Contract. Upon request, the Engineer will provide the conceptual time determination schedule to the Contractor for informational purposes only. The schedule assumes generic resources, production rates, sequences of construction and average weather conditions based on historic data. Schedule labor, equipment, procurement of materials, subcontractor work, and all other necessary means to prosecute the work within the number of working days specified by the Contract.

76.1. **Working Day Charges.** Working days will be charged in accordance with Article 8L.76.1.4., "Standard Workweek," unless otherwise shown on the plans. Working days will be computed and charged in accordance with one of the following:

76.1.1. **Five-Day Workweek.** Working days will be charged Monday–Friday, excluding national holidays, regardless of weather conditions or material availability. The Contractor has the option of working on Saturdays. Provide sufficient advance notice to the Engineer when scheduling work on Saturdays. Work on Sundays and national holidays will not be permitted without written permission of the Engineer. If work requiring an Inspector to be present or if critical path activities are performed on a Saturday, Sunday, or national holiday, and weather and other conditions permit the performance of work for 7 hr. between 7 A.M. and 6 P.M., a working day will be charged.

76.1.2. **Six-Day Workweek.** Working days will be charged Monday–Saturday, excluding national holidays, regardless of weather conditions or material availability. Work on Sundays and national holidays will not be permitted without written permission of the Engineer. If work requiring an Inspector to be present or if critical path activities are performed on a Sunday or a national holiday, and weather or other conditions permit the performance of work for 7 hr. between 7 A.M. and 6 P.M., a working day will be charged.

76.1.3. **Seven-Day Workweek.** Working days will be charged Monday–Sunday, excluding national holidays, regardless of weather conditions or material availability. Work on national holidays will not be permitted without written permission of the Engineer. If work or critical path activities requiring an Inspector to be present are performed on any of these holidays, and weather or other conditions permit the performance of work for 7 hr. between 7 A.M. and 6 P.M., a working day will be charged.

76.1.4. **Standard Workweek.** Working days will be charged Monday–Friday, excluding national or State holidays, if weather or other conditions permit the performance of the principal unit of work underway, as determined by the Engineer, for a continuous period of at least 7 hr. between 7:00 A.M. and 6:00 P.M., unless otherwise

shown in the Contract. The Contractor has the option of working on Saturdays or State holidays. Provide sufficient advance notice to the Engineer when scheduling work on Saturdays. Work on Sundays and national holidays will not be permitted without written permission of the Engineer. If work requiring an Inspector to be present or critical path activities are performed on a Saturday, Sunday, or holiday, and weather or other conditions permit the performance of work for 7 hr. between 7 A.M. and 6 P.M., a working day will be charged.

- 76.1.5. **Calendar Day.** Working days will be charged Sunday–Saturday, including all holidays, regardless of weather conditions, material availability, or other conditions not under the control of the Contractor.
- 76.1.6. **Other.** Working days will be charged as shown on the plans.
- 76.2. **Restricted Work Hours.** Restrictions on Contractor work hours and the related definition for working day charges are as prescribed in this Article unless otherwise shown on the plans.
- 76.3. **Nighttime Work.** Nighttime work is allowed only when shown on the plans or directed or allowed by the Engineer. Nighttime work is defined as work performed from 30 min. after sunset to 30 min. before sunrise.
- 76.3.1. **Five-, Six-, and Seven-Day Workweeks.** Nighttime work that extends past midnight will be assigned to the following day for the purposes of approval for allowing work on Sundays or national holidays.
- 76.3.2. **Standard Workweek.**
- 76.3.2.1. **Nighttime Work Only.** When nighttime work is allowed or required and daytime work is not allowed, working day charges will be made when weather and other conditions permit the performance of the principal unit of work underway, as determined by the Engineer, for a continuous period of at least 7 hr. for the nighttime period, as defined in Article 8L.76.3., “Nighttime Work,” unless otherwise shown in the Contract.
- 76.3.2.2. **Nighttime Work and Daytime Work Requiring Inspector.** When nighttime work is performed or required and daytime work is allowed, working day charges will be made when weather and other conditions permit the performance of the principal unit of work underway, as determined by the Engineer, for a continuous period of at least 7 hr. for the nighttime period, as defined in Article 8L.76.3., “Nighttime Work,” or for a continuous period of at least 7 hr. for the alternative daytime period unless otherwise shown in the Contract. Only one day will be charged for each 24hr. period. When the Engineer agrees to restrict work hours to the nighttime period only, working day charges will be in accordance with Article 8L.76.3.2.1., “Nighttime Work Only.”
- 76.4. **Time Statements.** The Engineer will furnish the Contractor a monthly time statement. Review the monthly time statement for correctness. Report protests in writing, no later than 30 calendar days after receipt of the time statement, providing a detailed explanation for each day protested. Not filing a protest within 30 calendar days will indicate acceptance of the working day charges, and future consideration of that statement will not be permitted.

77. TEMPORARY SUSPENSION OF WORK OR WORKING DAY CHARGES

The Engineer may suspend the work, wholly or in part, and will provide notice and reasons for the suspension in writing. Suspend and resume work only as directed in writing.

When part of the work is suspended, the Engineer may suspend working day charges only when conditions not under the control of the Contractor prohibit the performance of critical path activities. When all of the work is suspended for reasons not under the control of the Contractor, the Engineer will suspend working day charges.

78. PROJECT SCHEDULES

Prepare, maintain, and submit project schedules for the work to be performed under this Contract. Project schedules are used to convey the Contractor's intended work plan to the Owner. Prepare project schedules with a level of effort sufficient for the work being performed. Project schedules will not be used as a basis to establish the amount of work performed or for the preparation of the progress payments.

The work performed under this Article will not be measured or paid for directly, but will be subsidiary to pertinent Items.

- 78.1. **Project Scheduler.** Designate an individual who will develop and maintain the progress schedule. The project scheduler will be prepared to discuss, in detail, the proposed sequence of work and methods of operation, and how that information will be communicated through the progress schedule at the preconstruction meeting. This individual will also attend the project meetings and make site visits to prepare, develop, and maintain the progress schedules.
- 78.2. **Progress Schedule.** Before starting work, prepare and submit a progress schedule based on the sequence of work and traffic control plan shown in the Contract. Prepare the progress schedule as a bar chart or critical path method (CPM) as shown on the plans. Include all planned work activities and sequences and show Contract completion within the number of working days specified. Incorporate major material procurements, known utility relocations, and other activities that may affect the completion of the Contract in the progress schedule. Show a beginning date, ending date, and duration in whole working days for each activity. Do not use activities exceeding 20 working days, unless agreed upon with the Engineer. Show an estimated production rate per working day for each work activity, unless otherwise agreed upon with the Engineer.
- 78.3. **Schedule Format.** Format all project schedules in accordance with the following.
- Begin the project schedule on the date of the start of Contract time or start of activities affecting work on the project.
 - Show the sequence and interdependence of activities required for complete performance of the work. If using a CPM schedule, show a predecessor and a successor for each activity.
 - Ensure all work sequences are logical and show a coordinated plan of the work.
- CPM schedules must also:
- clearly and accurately identify the critical path as the longest continuous path;
 - provide a legend for all abbreviations, run date, data date, project start date, and project completion date in the title block of each schedule submittal; and
 - using calendars, incorporate seasonal weather conditions into the schedule for work (e.g., earthwork, concrete paving, structures, asphalt, and drainage) that may be influenced by temperature or precipitation. Also, incorporate non-work periods such as holidays, weekends, or other non-work days as identified in the Contract.
- 78.4. **Activity Format.** For each activity on the project schedule, provide:
- a concise description of the work represented by the activity,
 - an activity duration in whole working days, and
 - code activities so that organized plots of the schedule may be produced.
- CPM schedules must also include the quantity of work and estimated production rate for major items of work. Provide enough information for review of the work being performed.
- Total float is defined as the amount of time (in whole days) that an activity can be delayed before impacting the project's completion date. Total float is a shared commodity between the Owner and the Contractor.
- 78.5. **Schedule Types and Schedule Impacts.**

78.5.1. **Bar Chart.** Seven calendar days before the preconstruction meeting, prepare and submit a hard or electronic copy of the schedule using the bar chart method.

78.5.1.1. **Progress Schedule Reviews.** Update the project schedule and submit a hard or electronic copy when changes to the schedule occur or when requested.

78.5.2. **Critical Path Method.** Prepare and submit the schedule using the CPM. Submit an electronic copy to the Engineer within the timeframes specified. An electronic copy is defined as the scheduling software's native file, saved in a format acceptable to the Engineer. In all cases, an electronic format (.xer) of Primavera Project Planner and Enterprise Project Portfolio Management (P6) will be acceptable.

78.5.2.1. **Preliminary Schedule.** Unless otherwise agreed for a later submission, 7 calendar days before the preconstruction meeting, submit an electronic copy of the project schedule showing activities beginning with the authorization date to begin work and including activities to be performed within the first 90 calendar days from the work start date.

78.5.2.2. **Baseline Schedule.** The baseline schedule will be considered the Contractor's plan to successfully construct the project within the timeframe and construction sequencing indicated in the Contract. Submit electronic copies of the baseline schedule. When requested, submit two plots of the schedule: one organized with the activities logically grouped using the activity coding, and the other plot showing only the critical path determined by the longest path, not based on critical float.

Develop and submit the baseline schedule for review within the first 45 calendar days from the work start date unless the time for submission is extended by the Engineer.

78.5.2.2.1. **Review.** Within 15 calendar days of receipt of the schedule, the Engineer will evaluate and inform the Contractor if the schedule has been accepted. If the schedule is not accepted, the Engineer will provide comments to the Contractor for incorporation. Provide a revised schedule based on the Engineer's comments, or reasons for not doing so, within 10 calendar days. The Engineer's review and acceptance of the project schedule is for conformance to the requirements of the Contract documents only and does not relieve the Contractor of any responsibility for meeting the interim milestone dates (if specified) or the Contract completion date. Review and acceptance does not expressly or by implication warrant, acknowledge, or admit the reasonableness of the logic or durations of the project schedule. If the Contractor fails to define any element of work, activity, or logic and the Engineer's review does not detect this omission or error, the Contractor is responsible for correcting the error or omission.

Submit an acceptable baseline schedule before the 90th calendar day from the work start date unless the time for submission is extended by the Engineer.

78.5.2.3. **Progress Schedule.** Maintain and submit the progress schedule monthly for use by the Contractor and the Engineer. Submit an electronic copy as it will become an as-built record of the daily progress achieved on the project. If continuous progress of an activity is interrupted for any reason except non-work periods (e.g., holidays, weekend, or interference from temperature or precipitation), then the activity will show the actual finish date as that date of the start of the interruption and the activity will be broken into a subsequent activity (or activities, based on the number of interruptions) similarly numbered with successive alpha character as necessary. The original duration of the subsequent activity will be that of the remaining duration of the original activity. Relationships of the subsequent activity will match those of the original activity so that the integrity of the project schedule logic is maintained. Once established, the original durations and actual dates of all activities must remain unchanged. Revisions to the schedule may be made as necessary.

The project schedule must be revised when changes in construction phasing and sequencing occur or other changes that cause deviation from the original project schedule occur. Any revisions to the schedule must be listed in the monthly update narrative with the purpose of the revision and description of the impact on the project schedule's critical path and project completion date. Create the schedule revision using the latest update before the start of the revision.

Monthly updating of the project schedule will include updating of:

- the actual start dates for activities started,
- the actual finish dates for activities completed,
- the percentage of work completed and remaining duration for each activity started but not yet completed, and
- the calendars to show days actual work was performed on the various work activities.

The cutoff day for recording monthly progress will be the last day of each month. Submit the updated project schedule no later than the 20th calendar day of the following month. The Engineer will evaluate the updated schedule within 5 calendar days of receipt and inform the Contractor if it has or has not been accepted. If the schedule is not accepted, the Engineer will provide comments to the Contractor for incorporation. Provide a revised schedule based on the Engineer's comments, or reasons for not doing so, within 5 calendar days.

Provide a brief narrative in a bulleted statement format for major items that have impacted the schedule. Notify the Engineer if resource-leveling is being used.

78.5.2.3.1. **Project Schedule Summary Report (PSSR).** When shown on the plans, provide the PSSR instead of the narrative required in Article 8L.78.5.2.3., "Progress Schedule." The PSSR includes a listing of major items that have impacted the schedule and a summary of progress in days ahead or behind schedule. Include an explanation of the project progress for the period represented on the form provided by the Owner.

78.5.3. **Notice of Potential Time Impact.** Submit a notice of potential time impact when a Contract time extension or adjustment of milestone dates may be justified or when directed.

Failure to provide this notice in the timeframes specified above will compromise the Owner's ability to mitigate the impacts, and the Contractor forfeits the right to request a time extension or adjustment of milestone dates unless the circumstances are such that the Contractor could not reasonably have had knowledge of the impact at the time.

78.5.4. **Time Impact Analysis.** When directed, provide a time impact analysis. A time impact analysis is an evaluation of the effects of impacts on the project. A time impact analysis consists of the following steps.

- **Step 1.** Establish the status of the project immediately before the impact.
- **Step 2.** Predict the effect of the impact on the schedule update used in Step 1.
- **Step 3.** Track the effects of the impact on the schedule during its occurrence.
- **Step 4.** Establish the status of the project after the impact's effect has ended and provide details identifying any mitigating actions or circumstances used to keep the project ongoing during the impact period.

Determine the time impact by comparing the status of the work before the impact (Step 1) to the prediction of the effect of the impact (Step 2), if requested, and to actual effects of the impact once it is complete (Step 4). Unless otherwise approved by the Engineer, Steps 1, 3, and 4 must be completed before consideration of a Contract time extension or adjustment of a milestone date will be provided. Time extensions will be considered only when delays that affect milestone dates or the Contract completion date are beyond the Contractor's control. Submit Step 4 no later than 15 calendar days after the impact's effects have ended or when all the information on the effect has been realized.

Submit one electronic backup copy of the complete time impact analysis and a copy of the full project schedule incorporating the time impact analysis. If the project schedule is revised after the submittal of a time impact analysis, but before its approval, indicate in writing the need for any modification to the time impact analysis.

The Engineer will review the time impact analysis upon completion of Step 4. If this review detects revisions or changes to the schedule that had not been performed and identified in a narrative, the Engineer may reject the time impact analysis. If the Engineer is in agreement with the time impact analysis, a change order may be issued to grant additional working days, or to adjust interim milestones. Once a change order has been executed, incorporate the time impact analysis into the project schedule. The time impact analysis may

also be used to support the settlement of disputes and claims. Compensation related to the time impact analysis may be provided at the completion of the analysis or the completion of the project to determine the true role the impact played on the final completion.

79. FAILURE TO COMPLETE WORK ON TIME

The time established for the completion of the work is an essential element of the Contract. If the Contractor fails to complete the work within the number of working days specified, working days will continue to be charged. Failure to complete the Contract, callout work, or a work order within the number of working days specified, including any approved additional working days, will result in liquidated damages for each working day charged over the number of working days specified. The dollar amount specified in the Contract will be deducted from any money due or to become due the Contractor for each working day the Contract, callout work, or work order remains incomplete. This amount will be assessed not as a penalty but as liquidated damages. The amount assessed for non-site-specific Contracts will be based on the estimated amount for each work order unless otherwise shown in the Contract. The amount assessed for each callout will be as specified in the Contract.

80. DEFAULT OF CONTRACT

80.1. **Declaration of Default.** The Engineer may declare the Contractor to be in default of the Contract if the Contractor:

- fails to begin the work within the number of days specified;
- fails to prosecute the work to assure completion within the number of days specified;
- is uncooperative, disruptive, or threatening;
- fails to perform the work in accordance with the Contract requirements;
- neglects or refuses to remove and replace rejected materials or unacceptable work;
- discontinues the prosecution of the work without the Engineer's approval;
- makes an unauthorized assignment;
- fails to resume work that has been discontinued within a reasonable number of days after notice to do so;
- fails to conduct the work in an acceptable manner; or
- commits fraud or other unfixable conduct as determined by the Owner.

If any of these conditions occur, the Engineer will give notice in writing to the Contractor and the Surety of the intent to declare the Contractor in default. If the Contractor does not proceed as directed within 10 days after the notice, the Owner will provide written notice to the Contractor and the Surety to declare the Contractor to be in default of the Contract. If the Contractor provides the Owner written notice of voluntary default of the Contract, the Owner may waive the 10-day notice of intent to declare the Contractor in default and immediately provide written notice of default to the Contractor and the Surety. Calendar day charges will continue until completion of the Contract. The Owner may suspend work in accordance with Article 8L.77., "Temporary Suspension of Work or Working Day Charges," to investigate apparent fraud or other unfixable conduct before defaulting the Contractor. The Contractor may be subject to sanctions under the state and/or federal laws and regulations. A default may result in the application of remedial action by the Owner.

When the work is suspended for any of the causes itemized above, or for any other cause or causes, the Contractor shall discontinue the Work or such part thereof which the Engineer shall designate, or that portion thereof which the Engineer has ordered the Contractor to discontinue, and may perform the same or may, with written consent of the Commissioners Court, sublet the same provided, however that the sureties shall exercise their option, if at all, within two weeks after the written notice to discontinue the Work has been served upon the Contractor and upon the sureties or their authorized agents. The sureties in such event shall assume the Contractor's place in all respects and shall be paid by the County for all Work performed by them in accordance with the terms of the Contract. All monies remaining due to the Contractor at the time of his default shall thereupon become due and payable to the sureties as the Work progresses, subject to all the terms of the Contract. In case the sureties do not, within the hereinabove specified time, exercise their right and option to

assume the Contract or that portion thereof which the Engineer has ordered the Contractor to discontinue, then the Commissioners Court shall have the power to complete by contract or otherwise, as it may determine, the Work herein described or such part thereof as it may deem necessary, and the Contractor hereto agrees that the Engineer, acting under authority of the Commissioners Court, shall have the right to take possession of or use any or all of the materials, plant, tools, equipment, suppliers, and property of every kind provided by the Contractor for the purpose of his Work and to procure other tools, equipment, and materials for the same, and to charge the account of the Contractor the expense of said Contract of labor, materials, tools, equipment and expenses incident thereto. The expense so charged shall be deducted by the Commissioners Court out of such monies as may be due or may at any time thereafter become due the Contractor under and by virtue of the Contract or any part thereof. The Commissioners Court shall not be required to obtain the lowest bid for the Work of completing the Contract, but the expenses to be deducted shall be the actual cost of such Work. In case such expense is less than the sum which would have been payable under the Contract, if the same had been completed by the Contractor, then in such case the Commissioners Court will pay the Contractor the difference in the cost, provided that the Contractor shall be entitled to any claim for damages or for loss of anticipated profits. In case such expense shall exceed the amount which would have been payable under the Contract if the same had been completed by the Contractor, then the Contractor and his/her sureties shall pay the amount of the excess to the County of Dallas on notice of the Commissioners Court for excess due. When any particular part of the Work is being carried on by the Commissioners Court by Contract or otherwise under the provisions of this section, the Contractor shall continue the remainder of the Work in conformity with the terms of the Contract, and in such manner as not to hinder or interfere with the performance of work persons as above provided by the Commissioners Court.

The Owner will determine the method used for the completion of the remaining work as follows.

- For Contracts without performance bonds, the Owner will determine the most expeditious and efficient way to complete the work and recover damages from the Contractor.
- For Contracts with performance bonds, the Owner will require the Contractor's Surety to complete the remaining work in accordance with the terms of the original Contract. A completing Contractor will be considered a subcontractor of the Surety. The Owner reserves the right to approve or reject proposed subcontractors. Work may resume after the Owner receives and approves Certificates of Insurance as required in Article 3.19.3., "Insurance." Certificates of Insurance may be issued in the name of the completing Contractor. The Surety is responsible for making every effort to expedite the resumption of work and completion of the Contract. The Owner may complete the work using any or all materials at the work locations that it deems suitable and acceptable. Any costs incurred by the Owner for the completion of the work under the Contract will be the responsibility of the Surety.

From the time of notification of the default until work resumes (either by the Surety or the Owner), the Owner will maintain traffic control devices and will do any other work it deems necessary, unless otherwise agreed upon by the Owner and the Surety. All costs associated with this work will be deducted from money due to the Surety.

The Owner will hold all money earned but not disbursed by the date of default. Upon resumption of the work after the default, all payments will be made to the Surety. All costs and charges incurred by the Owner resulting from the default, including the cost of completing the work under the Contract, costs of maintaining traffic control devices, costs for other work deemed necessary, and any applicable liquidated damages or disincentives will be deducted from money due the Contractor for completed work. If these costs exceed the sum that would have been payable under the Contract, the Surety will be liable and pay the Owner the balance of these costs in excess of the Contract price. In case the costs incurred by the Owner are less than the amount that would have been payable under the Contract if the work had been completed by the Contractor, the Owner will be entitled to retain the difference.

Comply with Article 8L.75., "Subcontracting,". Article 8L.75.1., "Construction Contracts and Federally Funded Maintenance Contracts," is waived.

No markups as defined in Article 9L.88., "Payment for Extra Work and Force Account Method," will be allowed for the Surety.

- 80.2. **Wrongful Default.** If it is determined after the Contractor is declared in default, that the Contractor was not in default, the rights and obligations of all parties will be the same as if termination had been issued for the convenience of the public as provided in Article 8L.81., "Termination of Contract."

81. TERMINATION OF CONTRACT

The Owner may terminate the Contract in whole or in part whenever:

- the Contractor is prevented from proceeding with the work as a direct result of an executive order of the President of the United States or the Governor of the State;
- the Contractor is prevented from proceeding with the work due to a national emergency, or when the work to be performed under the Contract is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment, or labor as the result of an order or a proclamation of the President of the United States;
- the Contractor is prevented from proceeding with the work due to an order of any federal authority;
- the Contractor is prevented from proceeding with the work by reason of a preliminary, special, or permanent restraining court order where the issuance of the restraining order is primarily caused by acts or omissions of persons or agencies other than the Contractor; or
- the Owner determines that termination of the Contract is in the best interest of the State or the public. This includes, but is not limited to, the discovery of significant hazardous material problems, right of way acquisition problems, or utility conflicts that would cause substantial delays or expense to the Contract.

- 81.1. **Procedures and Submittals.** The Owner will provide written notice to the Contractor of termination specifying the extent of the termination and the effective date. Upon notice, immediately proceed in accordance with the following:

- stop work as specified in the notice,
- place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete a critical portion of the Contract, as approved by the Engineer,
- terminate all subcontracts to the extent they relate to the work terminated,
- complete performance of the work not terminated,
- settle all outstanding liabilities and termination settlement bids resulting from the termination of the Contract,
- create an inventory report, including all acceptable materials and products obtained for the Contract that have not been incorporated in the work that was terminated (include in the inventory report a description, quantity, location, source, cost, and payment status for each of the acceptable materials and products), and
- take any action necessary, or that the Engineer may direct, for the protection and preservation of the materials and products related to the Contract that are in the possession of the Contractor and in which the Owner has or may acquire an interest.

- 81.2. **Settlement Provisions.** Within 60 calendar days of the date of the notice of termination, submit a final termination settlement bid, unless otherwise approved. The Engineer will prepare a change order that reduces the affected quantities of work and adds acceptable costs for termination. No claim for loss of anticipated profits will be considered. The Owner will pay reasonable and verifiable termination costs, including:

- all work completed at the unit bid price and partial payment for incomplete work,
- the percentage of Item 500, "Mobilization," equivalent to the percentage of work complete or actual cost that can be supported by cost records, whichever is greater,
- expenses necessary for the preparation of termination settlement bids and support data;
- the termination and settlement of subcontracts,

- storage, transportation, restocking, and other costs incurred necessary for the preservation, protection, or disposition of the termination inventory, and
- other expenses acceptable to the Owner.

Item 9L

Measurement and Payment

82. MEASUREMENT OF QUANTITIES

The Engineer will measure all completed work using United States standard measures, unless otherwise specified.

82.1. **Linear Measurement.** Unless otherwise specified, all longitudinal measurements for surface areas will be made along the actual surface of the roadway and not horizontally. No deduction will be made for structures in the roadway with an area of 9 sq. ft. or less. For all transverse measurements for areas of base courses, surface courses, and pavements, the dimensions to be used in calculating the pay areas will be the neat dimensions and will not exceed those shown on the plans, unless otherwise directed.

82.2. **Volume Measurement.** Transport materials measured for payment by volume in approved hauling vehicles. Display a unique identification mark on each vehicle. Furnish information necessary to calculate the volume capacity of each vehicle. The Engineer may require verification of volume through weight measurement. Use body shapes that allow the capacity to be verified. Load and level the load to the equipment's approved capacity. Loads not hauled in approved vehicles may be rejected.

82.3. **Weight Measurement.** Transport materials measured for payment by weight or truck measure in approved hauling vehicles. Furnish certified measurements, tare weights, and legal gross weight calculations for all haul units. Affix a permanent, legible number on the truck and on the trailer to correspond with the certified information. Furnish certified weights of loaded haul units transporting material if requested.

The material will be measured at the point of delivery. The cost of supplying these volume and weight capacities is subsidiary to the pertinent Item. For measurement by the ton, in the field, provide measurements in accordance with Item 520, "Weighing and Measuring Equipment," except for Items where ton measurements are measured by standard tables.

The Engineer may reject loads and suspend hauling operations for overloading.

82.3.1. **Hauling on Routes Accessible to the Traveling Public.** For payment purposes on haul routes accessible to the traveling public:

- If the gross vehicle weight is less than the maximum allowed by state law, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the gross weight.
- If the gross vehicle weight is more than the maximum allowed by state law, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the maximum gross weight allowed.

82.3.2. **Hauling on Routes Not Accessible to the Traveling Public.** For payment purposes on haul routes that are not accessible to the traveling public where advance permission is obtained in writing from the Engineer:

- If the gross vehicle weight is less than the maximum allowed by the Engineer, including applicable yearly weight tolerance permit, the net weight of the load will be determined by deducting the tare weight of the vehicle from the gross weight.
- If the gross vehicle weight is more than the maximum allowed by the Engineer, the net weight of the load will be determined by deducting the tare weight of the vehicle from the maximum gross weight allowed.

83. PLANS QUANTITY MEASUREMENT

Plans quantities may or may not represent the exact quantity of work performed or material moved, handled, or placed during the execution of the Contract. The estimated bid quantities are designated as final payment quantities, unless revised by the governing specifications or this Article.

If the quantity measured as outlined under "Measurement" varies by more than 5% (or as stipulated under "Measurement" for specific Items) from the total estimated quantity for an individual Item originally shown in the Contract, an adjustment may be made to the quantity of authorized work done for payment purposes.

When quantities are revised by a change in design approved by the Owner, by change order, or to correct an error on the plans, the plans quantity will be increased or decreased by the amount involved in the change, and the 5% variance will apply to the new plans quantity.

If the total Contract quantity multiplied by the unit bid price for an individual Item is less than \$250 and the Item is not originally a plans quantity Item, then the Item may be paid as a plans quantity Item if the Engineer and Contractor agree in writing to fix the final quantity as a plans quantity.

For Contracts with callout work and work orders, plans quantity measurement requirements are not applicable.

84. ADJUSTMENT OF QUANTITIES

The party to the Contract requesting the adjustment will provide field measurements and calculations showing the revised quantity. When approved, this revised quantity will constitute the final quantity for which payment will be made. Payment for revised quantity will be made at the unit price bid for that Item, except as provided for in Article 4L.29., "Changes in the Work."

85. SCOPE OF PAYMENT

Payment of the Contract unit price is full compensation for all materials, equipment, labor, tools, and supplies necessary to complete the Item of work under the Contract. Until final acceptance in accordance with Article 5L.44., "Final Acceptance," assume liability for completing the work according to the plans and specifications and any loss or damage arising from the performance of the work or from the action of the elements, infringement of patent, trademark, or copyright, except as provided elsewhere in the Contract.

The Owner will only pay for material incorporated into the work in accordance with the Contract. Payment of progress estimates will in no way affect the Contractor's obligation under the Contract to repair or replace any defective parts in the construction or to replace any defective materials used in the construction and to be responsible for all damages due to defects if the defects and damages are discovered on or before final inspection and acceptance of the work.

86. PROGRESS PAYMENTS

The Engineer will prepare a monthly estimate of the amount of work performed, including materials in place. Incomplete items of work may be paid at an agreed upon percentage approved by the Engineer. Payment of the monthly estimate is determined at the Contract item prices less any withholdings or deductions in accordance with the Contract. Progress payments may be withheld for failure to comply with the Contract.

It is the Owner's intent to pay a Contractor for work through the last working day of the month; however, the use of early cut-off dates for monthly estimates and MOH is a project management practice to manage workload at the local level. Approval for using early cut-off dates is at the Owner's discretion. The earliest cut-off date for pay applications is the 25th of the month.

87.

PAYMENT FOR MATERIAL ON HAND (MOH)

If payment for MOH is desired, request compensation for the invoice cost of acceptable nonperishable materials that have not been used in the work before the request, and that have been delivered to the work location or are in acceptable storage places. Nonperishable materials are those that do not have a shelf life or whose characteristics do not materially change when exposed to the elements. Include only materials that have been sampled, tested, approved, or certified, and are ready for incorporation into the work. Only materials that are completely constructed or fabricated on the Contractor's order for a specific Contract and are so marked and on which an approved test report has been issued are eligible. Payment for MOH may include the following types of items: concrete traffic barrier, precast concrete box culverts, concrete piling, reinforced concrete pipe, and illumination poles. Any repairs required after fabricated materials have been approved for storage will require the Engineer's approval before being made and will be made at the Contractor's expense. Include only those materials and products, when cumulated under an individual item or similar bid items, that have an invoice cost of at least \$1,000 in the request for MOH payment. (E.g., for MOH eligibility, various sizes of conductor are considered similar bid items and may be cumulated to meet the threshold; for small roadside signs, the sign supports, mounting bolts, and the sign face are considered one bid item or similar bid items for more than one pay item for sign supports.) Requests for MOH are to be submitted at least 2 days before but not later than the estimate cut-off date unless otherwise agreed. If there is a need to request MOH after the established cut-off date, the Owner can make accommodation as the need arises. This needed accommodation is to be the exception, though, and not the rule.

For Contracts with callout work and work orders, payment for MOH will only be made for materials authorized for purchase by the work order or by written approval of the Engineer.

If the request is acceptable, the Engineer will include payment for MOH in a progress payment. Payment for MOH does not constitute acceptance of the materials. Payment will not exceed the actual cost of the material as established by invoice, or the total cost for the associated item less reasonable placement costs, whichever is less. Materials for which the Contractor does not have a paid invoice within 60 days will not be eligible for payment and will be removed from the estimate. Payment may be limited to a portion of the invoice cost or unit price if shown elsewhere in the Contract. Payment for precast products fabricated or constructed by the Contractor for which invoices or freight bills are not available may be made based on statements of actual cost.

Submit the request on forms provided by the Owner. These forms may be electronically reproduced, provided they are in the same format and contain all the required information and certifications. Continue to submit monthly MOH forms until the total value of MOH is \$0.

By submitting a request for MOH payment, the Contractor expressly authorizes the Owner to audit MOH records and to perform process reviews of the record-keeping system. If the Owner determines noncompliance with any of the requirements of this provision, the Owner may exclude payment for any or all MOH for the duration of the Contract.

Maintain all records relating to MOH payment until final acceptance. Provide these records to the Engineer upon request.

88.

PAYMENT FOR EXTRA WORK AND FORCE ACCOUNT METHOD

Payment for extra work directed, performed, and accepted will be made in accordance with Article 4L.29., "Changes in the Work." Payment for extra work may be established by agreed unit prices or by Force Account Method.

Agreed unit prices are unit prices that include markups and are comparable to recent bid prices for the same character of work. These unit prices may be established without additional breakdown justification.

When using Force Account Method, determine an estimated cost for the proposed work and establish labor and equipment rates and material costs. Maintain daily records of extra work and provide copies of these

records daily, signed by the Contractor's representative, for the Owner's verification. Request payment for the extra work no later than the 10th day of the month following the month in which the work was performed. Include copies of all applicable invoices. If the extra work to be performed has an estimated cost of less than \$10,000, submit for approval and payment an invoice of actual cost for materials, equipment, labor, tools, and incidentals necessary to complete the extra work. When added work requires mobilization that is exclusive to the added work, mobilization may be added to the force account invoice for payment.

- 88.1. **Markups.** Payment for extra work may include markups as compensation for the use of small tools, overhead expense, and profit.
- 88.1.1. **Labor.** Compensation will be made for payroll rates for each hour that the labor and foremen or others approved by the Engineer are actually engaged in the work. In no case will the rate of wages be less than the minimum shown in the Contract for a particular category. An additional 25% of this sum will be paid as compensation for overhead, superintendence, profit, and small tools.
- 88.1.2. **Insurance and Taxes.** An additional 55% of the labor cost, excluding the 25% compensation provided in Article 9L.88.1.1., "Labor," will be paid as compensation for labor insurance and labor taxes including the cost of premiums on non-project-specific liability (excluding vehicular) insurance, workers compensation insurance, Social Security, unemployment insurance taxes, and fringe benefits.
- 88.1.3. **Materials.** Compensation will be made for materials associated with the work based on actual delivered invoice costs, less any discount. An additional 25% of this sum will be paid as compensation for overhead and profit.
- 88.1.4. **Equipment.** Payment will be made for the established equipment hourly rates for each hour that the equipment is involved in the work. An additional 15% of this sum will be paid as compensation for overhead and profit not included in the rates.

Transportation cost for mobilizing equipment will be included if the equipment is mobilized from an offsite location.

- 88.1.4.1. **Contractor-Owned Equipment.** For Contractor-owned machinery, trucks, power tools, or other equipment, use the FHWA rental rates found in Equipment Watch multiplied by the regional adjustment factor and the rate adjustment factor to establish hourly rates. Use the rates in effect for each Article of Equipment Watch at the time of use.

If a rate has not been established for a particular piece of equipment in Equipment Watch, the Engineer will allow a reasonable hourly rate. This price will include operating costs.

Payment for equipment will be made for the actual hours used in the work. The Owner reserves the right to withhold payment for low production or lack of progress. Payment will not be made for time lost for equipment breakdowns, time spent to repair equipment, or time after equipment is no longer needed.

If equipment is used intermittently while dedicated solely to the work, payment will be made for the duration the equipment is assigned to the work but no more than 8 hr. will be paid during a 24-hr. day, nor more than 40 hr. per week, nor more than 176 hr. per month, except when time is computed using a 6-day or 7-day workweek. When using a 6-day workweek, no more than 8 hr. will be paid during a 24-hr. day, nor more than 48 hr. per week, nor more than 211 hr. per month. When using a 7-day workweek, no more than 8 hr. will be paid during a 24-hr. day, nor more than 56 hr. per week, nor more than 246 hr. per month.

- 88.1.4.2. **Equipment Not Owned by the Contractor.** For equipment rented from a third party not owned by the Contractor, payment will be made at the invoice daily rental rate for each day the equipment is needed for the work. The Owner reserves the right to limit the daily rate to comparable FHWA rental rates found in Equipment Watch multiplied by the regional adjustment factor and the rate adjustment factor. When the invoice specifies that the rental rate does not include fuel, lubricants, repairs, and servicing, the Equipment Watch hourly operating cost for each hour the equipment is operated will be added.

When the invoice specifies equipment operators as a component of the equipment rental, payment will be made at the invoice rate for each operator for each day the equipment is needed for the work.

88.1.4.3. **Standby Equipment Costs.** Payment for standby equipment will be made in accordance with Article 9L.88.1.4., "Equipment." The 15% markup will be paid when standby is associated with extra work but will not be paid when standby is associated with damages.

88.1.4.3.1. **Contractor-Owned Equipment.** For Contractor-owned equipment:

- Standby will be paid at 50% of the monthly Equipment Watch rate after the regional and age adjustment factors have been applied. Operating costs will not be allowed. Calculate the standby rate as follows.

$$\text{Standby rate} = (\text{FHWA hourly rate} - \text{operating costs}) \times 50\%$$

- If an hourly rate is needed, divide the monthly Equipment Watch rate by 176.
- No more than 8 hr. of standby will be paid during a 24-hr. day period, nor more than 40 hr. per week.
- Standby costs will not be allowed during periods when the equipment would have otherwise been idle.

88.1.4.3.2. **Equipment Not Owned by the Contractor.** For equipment rented from a third party not owned by the Contractor:

- Standby will be paid at the invoice daily rental rate, excluding operating cost, which includes fuel, lubricants, repairs, and servicing. The Owner reserves the right to limit the daily standby rate to comparable FHWA rental rates found in Equipment Watch multiplied by the regional adjustment factor and the rate adjustment factor.
- Standby will be paid for equipment operators when included on the invoice and equipment operators are actually on standby.
- Standby costs will not be allowed during periods when the equipment would have otherwise been idle.

88.1.5. **Subcontracting.** An additional 5% of the actual invoice cost will be paid to the Contractor as compensation for administrative cost and profit.

88.1.6. **Law Enforcement Personnel.** An additional 5% of the actual invoice cost will be paid as compensation for administrative costs and profit.

88.1.7. **Railroad Flagger.** An additional 5% of the actual invoice cost will be paid as compensation for administrative cost and profit.

88.1.8. **Bond Cost.** An additional 1% of the total compensation provided in Article 9.88., "Payment for Extra Work and Force Account Method," will be paid for the increase in bond.

89. RETAINAGE

The Owner will withhold five (5) percent retainage on the Contractor. The Contractor may withhold retainage on subcontractors in accordance with state and federal regulations.

90. PAYMENT PROVISIONS FOR SUBCONTRACTORS

For the purposes of this Article only, the term subcontractor includes suppliers, and the term work includes materials provided by suppliers at a location approved by the Engineer.

These requirements apply to all tiers of subcontractors. Incorporate the provisions of this Article into all subcontract or material purchase agreements.

Pay subcontractors for work performed within 10 days after receiving payment from the Owner.

Pay any retainage on a subcontractor's work within 10 days after satisfactory completion of all the subcontractor's work. Completed subcontractor work includes vegetative establishment, test, maintenance, performance, and other similar periods that are the responsibility of the subcontractor.

For the purpose of this Section, satisfactory completion is accomplished when:

- the subcontractor has fulfilled the Contract requirements of both the Owner and the subcontract for the subcontracted work, including the submittal of all information required by the Contract and the Owner, and
- the work done by the subcontractor has been inspected, approved, and paid by the Owner.

Provide a certification of prompt payment to certify that all subcontractors and suppliers were paid from the previous month's payments and retainage was released for those whose work is complete. Submit the certification in the manner prescribed by the Owner each month and the month following the month when final acceptance occurred.

The inspection and approval of a subcontractor's work does not eliminate the Contractor's responsibilities for the work as defined in Article 7L.71., "Contractor's Responsibility for Work."

91. FINAL PAYMENT

When the Contract has been completed, all work has been approved, final acceptance has been made in accordance with Article 5L.44., "Final Acceptance," and Contractor submittals have been received, the Engineer will prepare a final estimate for payment showing the total quantity of work completed and the money owed the Contractor. The final payment will reflect the entire sum due, less any sums previously paid.

SECTION P
ENGINEER'S CERTIFICATION

ENGINEER'S CERTIFICATION

CONTROL: CSJ 0918-47-148

PROJECT: CM 2Bxx (xxx)

HIGHWAY: VA

COUNTY: DALLAS

“The enclosed Texas Department of Transportation Specifications, Special Specifications, Special Provisions,
and Specification Data in this document have been selected by me or under my responsible supervision
as being applicable to this project.”

xxxxxx, PE
PE# xxxxxx

Date

SECTION Q
INDEX OF GOVERNING
STANDARD SPECIFICATIONS,
SPECIAL PROVISIONS, &
SPECIAL SPECIFICATIONS

**DEPARTMENT OF PUBLIC WORKS
DALLAS COUNTY, TEXAS
INDEX OF GOVERNING STANDARD SPECIFICATIONS**

FOR THE CONSTRUCTION OF

**SIMONDS ROAD BRIDGE at HICKORY CREEK
BRIDGE REHABILITATION IMPROVEMENTS RB 3 0002N**

All Construction work for this project shall be performed in accordance with the Texas Department of Transportation's (TxDOT) 2024 Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges, hereafter referred to as the TxDOT Specifications; County of Dallas Special Provisions to the Standard Specifications; and Special Specifications.

STANDARD SPECIFICATIONS:

Texas Department of Transportation 2024 Standard Specifications applicable to this project are identified, but not limited to, the following:

<u>Item No.</u>	<u>Description</u>
Item 100	Preparing Right of Way [104,105,496,752]
Item 110	Excavation [132]
Item 164	Seeding for Erosion Control [162,166,168]
Item 420	Concrete Structures
Item 446	Field Cleaning and Painting Steel
Item 500	Mobilization
Item 502	Barricades, Signs, and Traffic Handling
Item 506	Temporary Erosion, Sedimentation, and Environmental Controls

() Not a pay item. Work which would be classifiable under these specifications subsidiary to other work for which pay items are provided. Whether or not listed, any of the TxDOT Specifications which are pertinent to work performed on this project are applicable and shall be observed.

SPECIAL PROVISIONS:

The following **Texas Department of Transportation Special Provisions** shall govern and **take precedence** over the Specifications listed above, whenever in conflict therewith:

FWHA-1273
Wage Rates
Contractor Certifications
Child Support Statement
Required Contract Provisions

Prohibition on Certain Telecommunications Equipment or Services

Special Provision Item 000 (000-001L) (000-002L) (000-007L) (000-018L)
Special Provision Item 6L (006-009L)
Special Provision Item (506-001L)

DALLAS COUNTY:

The following **Dallas County Special Provisions** shall govern and take precedence over the Specifications listed above, whenever in conflict therewith:

- Special Provision - Important Notice to Contractors - Equal Employment Opportunity
- Special Provision - Important Notice to Contractors - Texas State Sales Tax
- Special Provision - Important Notice to Contractors – Gifts
- Special Provision - Important Notice to Contractors – Employment of Former County Employees
- Special Provision - Important Notice to Contractors - Construction Payments
- Special Provision - Important Notice to Contractors - Mobilization
- Special Provision - Important Notice to Contractors - Uncontrolled Random Cracking
- Special Provision - Important Notice to Contractors - Utility Adjustments
- Special Provision - Important Notice to Contractors - Workers Compensation Regulations
- Special Provision - Important Notice to Contractors - Submitting Bid Proposal by Computer Printout
- Special Provision - Important Notice to Contractors – Substantial Completion
- Special Provision - Item 100 - Preparing Right of Way
- Special Provision - Item 110 - Excavation
- Special Provision - Item 164 - Seeding
- Special Provision - Item 400 – Excavation and Backfill for Structures
- Special Provision - Item 420 - Concrete Structures
- Special Provision - Item 500 - Mobilization
- Special Provision - Item 502 - Barricades, Signs and Traffic Handling
- Special Provision - Item 506 - Temporary Erosion, Sedimentation, and Environmental Controls

The following **Special Provisions to the Dallas County General Provisions and Regulations** shall govern and **take precedence** over those provided in these contract documents:

- Special Provision -County General Provisions & Regulations – Article 5.5
- Special Provision -County General Provisions & Regulations – Article 6.2
- Special Provision -County General Provisions & Regulations – Article 6.4
- Special Provision -County General Provisions & Regulations – Article 7.29
- Special Provision -County General Provisions & Regulations – Article 9.7
- Special Provision -County General Provisions & Regulations – Article 9.8

SPECIAL SPECIFICATIONS:

The following **Dallas County Public Works Department Special Specifications** are applicable to this project:

- Special Specification, Item 599 – Partnering Workshop
- Special Specification, Item 5900-Stormwater Pollution Prevention Plan
- Special Specification, Item 6340 – Project Signs
- Special Specification, Item 7000-Contractor Performance Evaluations
- Special Specification, Item 8000-Cement Use on Public Projects – Sustainable Air Quality

Besides the above, the following are part of this Contract:

FEDERAL REQUIREMENTS:

The Following Sections From Federal Codes and Regulations Are Incorporated Into The Contract.

- | | |
|---|---|
| 23 CFR 635.410 | Buy America |
| 23 CFR 635.120 | Change Orders |
| 23 CFR 635.124 | Claims |
| 23 CFR 635.109, 23 USC 112(e) | Differing Site Conditions |
| 49 CFR 26 | Disadvantaged Business Enterprise in Federal Aid Construction |
| 49 CFR 21, CFR 200 | Title VI and Nondiscrimination Programs |
| 48 CFR 31.205-36 | Equipment Rental Rates |
| 23 CFR 630.1008(d) | FHWA Final Rule on Temporary Traffic Control Devices |
| 23 CFR 630, Subpart K | Temporary Traffic Control Devices |
| 49 CFR 20 | Lobbying Certification |
| 23 CFR 635.117 | Local Hiring Preference |
| 23 CFR 635.112(f) | Non-Collusion Provision |
| 49 CFR 27.7 | Non-Discrimination Against Persons with Disabilities |
| 23 CFR 635.110(b), 23 CFR 635.110(f)(1) | Non-Resident Bidder and Taxes Preference |
| 23 CFR 633, Subpart A | Non-Segregated Facilities |
| 23 CFR 635.411 | Patented/Proprietary Products |
| 23 CFR 635.110 | Prequalification |
| 23 CFR 635.417 | Prison Produced Materials |
| 23 CFR 635.106 | Publicly-Owned Equipment |
| OSHA: 23 CFR 635.108 | Safety: Accident Prevention |
| 23 CFR 635.409 | State or Local Preference |
| 23 CFR 635.116 | Subcontracting |
| 23 CFR 635.125 | Termination of Contract |
| 23 CFR 635.121 | Time Extensions |

HSC 756.022, 756.023
23 CFR 635.413

Trench Safety
Contractors' Assurance
Warranties and Warranty Clauses

Technical Specifications

Texas Department of Transportation, 2024 Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges

The General Specifications (Standard Specifications for Public Works Construction – North Central Texas Council of Governments – Fifth Edition - 2017) - A copy of the Standard Specifications for Public Works Construction may be obtained from the North Central Texas Council of Governments, 616 Six Flags Drive, Arlington, Texas, Telephone (817) 640-3300.

GENERAL:

The Above-Listed Specification Items Are Those Under Which Payment Is To Be Made. These, Together With Such Other Pertinent Items, If Any, As May Be Referred To In The Above-Listed Specification Items, And Including The Special Provisions Listed Above, Constitute The Complete Specifications For This Project.

SPECIAL PROVISIONS

SPECIAL PROVISIONS

TEXAS DEPARTMENT OF TRANSPORTATION

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.

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

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of 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. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. 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 classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must 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. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must 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 be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) 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 will be sent by the contracting officer by email to DBAconformance@dol.gov. 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.

(4) 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 will, by email to DBAconformance@dol.gov, 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.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must 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.

d. *Fringe benefits not expressed as an hourly rate.* 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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* 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, in accordance with the criteria set forth in § 5.28, 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.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and 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.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements (1) Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must 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.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements (1) Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working 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](#); and

(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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

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

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* 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. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must 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, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. 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 journeyworkers 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 must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 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. a. By entering into this contract, the contractor certifies that neither it 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 [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

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 watchpersons 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 and interest from the date of the underpayment. 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 watchpersons 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.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) 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

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, 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 that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

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 long-standing 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 200.327.

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 200.327.

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 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).

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.

* * * * *

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

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) 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;

(2) 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

(3) 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)

b. 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.

Wages by Classification for Proposal

The wage rates listed herein are those predetermined by the Secretary of Labor and State Statute and listed in the United States Department of Labor's (USDOL) General Decisions dated 01-02-2026 and are the minimum wages to be paid accordingly for each specified classification. To determine the applicable wage rate zone, a list entitled "TEXAS COUNTIES IDENTIFIED BY WAGE RATE ZONES" is provided in the contract. Any wage rate that is not listed in the USDOL's general decision, must be requested by the contractor through the completion of an Additional Classification and Wage Rate Request and be submitted for approval. A blank cell indicates that the classification and wage rate are not listed on the USDOL's general decision and therefore must be requested by the contractor through the completion of an Additional Classification and Wage Rate Request. IMPORTANT NOTICE FOR STATE PROJECTS: only the controlling wage rate zone applies to the contract. Effective 01-02-2026.

Table 1 - Wage Rates.

CLASS. #	CLASSIFICATION DESCRIPTION	ZONE TX46 *(TX20250046)	ZONE TX51 *(TX20250051)	ZONE TX55 *(TX20250055)	ZONE TX291 *(TX20250291)	ZONE TX292 *(TX20250292)	ZONE TX293 *(TX20250293)	ZONE TX294 *(TX20250294)	ZONE TX295 *(TX20250295)	ZONE TX296 *(TX20250296)	ZONE TX297 *(TX20250297)	ZONE TX298 *(TX20250298)	ZONE TX299 *(TX20250299)	ZONE TX300 *(TX20250300)
1106	Asphalt Raker	\$18.97	\$15.02	\$18.76	\$19.40	\$18.20	\$16.28	\$19.87	\$19.53	\$17.40	\$15.22	\$19.58	\$20.41	\$19.02
1124	Concrete Finisher, Paving and Structures	\$20.92	\$19.13	\$21.11	\$20.61	\$18.72	\$17.99	\$22.48	\$20.66	\$21.16	\$18.15	\$20.77	\$20.79	\$20.04
1139	Electrician	\$23.70			\$30.54			\$25.73	\$36.10	\$32.38			\$31.46	
1143	Telecommunication Technician							\$23.14						
1145	Traffic Signal/Light Pole Worker	\$25.43			\$21.99									
1150	Flagger	\$13.50	\$14.56	\$15.30	\$15.52	\$15.00		\$14.80	\$13.99	\$14.59	\$15.81	\$14.82	\$16.63	\$15.16
1151	Form Builder/Setter, Structures	\$21.78	\$18.59	\$19.31	\$20.63	\$20.18	\$19.37	\$22.50	\$20.05	\$19.82	\$18.26	\$22.09	\$19.93	\$19.89
1160	Form Setter, Paving & Curb	\$20.39	\$17.31	\$18.50	\$19.18			\$20.89	\$18.25	\$18.16	\$17.56	\$19.44	\$19.32	\$20.25
1172	Laborer, Common	\$17.76	\$14.88	\$16.80	\$17.52	\$17.12	\$15.16	\$18.01	\$16.72	\$16.63	\$15.22	\$18.10	\$17.12	\$16.69
1175	Laborer, Utility	\$18.51	\$16.79	\$17.91	\$19.05	\$17.46	\$16.73	\$19.32	\$18.80	\$18.42	\$16.75	\$18.10	\$19.11	\$18.40
1187	Mechanic	\$27.08	\$23.80	\$25.11	\$26.15	\$28.00	\$23.84	\$27.44	\$24.13	\$25.51	\$22.98	\$25.47	\$23.38	\$23.35
1194	Servicer	\$21.29	\$20.03		\$23.75	\$21.51	\$17.87	\$24.86	\$20.94		\$19.11	\$21.31	\$20.33	\$20.75
1196	Painter, Structures				\$23.76					\$27.93			\$26.40	
1202	Piledriver												\$21.48	
1205	Pipelayer	\$17.76	\$15.48		\$19.23		\$17.11	\$22.46	\$19.97	\$19.40	\$15.22	\$18.10	\$20.03	\$17.56
1300	Asphalt Distributor Operator	\$22.68	\$19.62	\$23.09	\$24.07	\$23.76	\$21.93	\$24.40	\$22.69	\$23.20	\$24.54	\$23.46	\$23.26	\$23.99
1303	Asphalt Paving Machine Operator	\$20.34	\$15.99	\$20.95	\$22.12	\$22.45	\$19.02	\$22.52	\$21.26	\$19.14	\$17.58	\$21.32	\$22.67	\$20.70
1305	Broom or Sweeper Operator	\$17.76	\$15.22	\$17.75	\$18.09	\$17.12		\$18.01	\$17.58	\$16.63	\$16.92	\$18.10	\$17.63	\$17.30
1306	Crawler Tractor Operator	\$20.95	\$20.27	\$20.00	\$20.92				\$19.82	\$23.23		\$22.51	\$20.33	\$20.83
1315	Concrete Paving, Curing, Float, Texturing Machine Operator									\$23.12			\$22.62	
1318	Concrete Pavement Finishing Machine Operator	\$20.00		\$24.85	\$22.81			\$24.07	\$23.11				\$22.18	
1329	Joint Sealer						\$15.16							
1333	Concrete Saw Operator	\$25.25		\$20.69	\$25.97			\$20.34	\$25.50				\$21.57	\$22.93
1341	Small Slipform Machine Operator							\$25.09						
1342	Crane Operator, Lattice Boom 80 Tons or Less	\$24.25	\$29.80	\$25.57	\$26.47			\$29.90	\$24.33			\$24.40	\$25.74	\$26.15
1343	Crane Operator, Lattice Boom Over 80 Tons				\$28.87			\$33.55	\$23.75	\$34.20			\$23.85	\$31.28
1344	Crane Operator, Hydraulic 80 Tons or less				\$29.24		\$23.37	\$31.32	\$27.22	\$27.88	\$28.75	\$27.09	\$24.75	\$23.89
1345	Crane Operator, Hydraulic Over 80 Tons									\$30.25				\$31.44
1346	Loader/Backhoe Operator	\$20.99	\$16.37	\$20.20	\$20.32	\$18.00	\$17.92	\$23.22	\$20.42	\$19.01	\$16.93	\$21.03	\$21.37	\$19.94
1347	Excavator Operator, 50,000 pounds or less	\$25.59	\$18.99		\$22.93	\$22.91	\$19.70	\$25.08	\$21.05	\$19.69	\$21.86	\$24.67	\$21.53	\$22.25
1348	Excavator Operator, Over 50,000 pounds		\$19.29	\$20.36	\$22.90			\$25.34	\$22.80	\$22.05	\$25.35		\$22.24	\$22.47
1360	Foundation Drill Operator, Crawler Mounted							\$29.25					\$22.25	
1363	Foundation Drill Operator, Truck Mounted				\$24.28			\$29.86	\$25.95		\$27.81	\$32.17	\$26.04	\$24.05
1369	Front End Loader Operator, 3 CY or Less	\$19.42	\$15.59	\$18.40	\$20.33	\$18.28	\$17.42	\$20.93	\$18.58	\$18.80	\$17.47	\$19.06	\$19.72	\$19.34
1372	Front End Loader Operator, Over 3 CY	\$19.52	\$16.41	\$17.25	\$20.20	\$19.83	\$18.26	\$22.56	\$19.55	\$18.71	\$18.12	\$20.11	\$20.34	\$20.00
1380	Milling Machine Operator	\$20.98	\$18.47	\$19.48	\$21.73	\$18.49	\$23.02	\$20.94	\$19.99	\$22.53	\$19.21	\$20.37	\$21.65	\$19.88
1384	Reclaimer/Pulverizer Operator	\$21.17			\$19.05	\$23.25		\$22.17	\$18.15	\$18.83				\$19.67
1390	Motor Grader Operator, Fine Grade	\$27.00	\$21.55	\$23.01	\$26.56	\$26.38	\$20.04	\$27.09	\$24.43	\$26.88	\$22.98	\$26.74	\$23.91	\$24.96
1393	Motor Grader Operator, Rough	\$23.50	\$18.78	\$19.00	\$22.95	\$23.69		\$24.90	\$21.43	\$23.06	\$19.60	\$23.08	\$21.20	\$21.04
1396	Pavement Marking Machine Operator	\$20.62		\$16.80	\$22.00	\$18.99		\$22.35	\$22.96		\$19.26	\$23.48	\$17.12	\$17.50
1402	Roller Operator, Asphalt	\$17.76	\$14.88	\$18.35	\$20.24	\$17.12		\$20.35	\$18.34	\$17.27	\$16.83	\$18.76	\$19.79	\$18.13
1405	Roller Operator, Other	\$17.76	\$14.88	\$16.80	\$17.52	\$17.12		\$18.60	\$17.09	\$16.90	\$15.38	\$18.10	\$18.93	\$16.94
1411	Scraper Operator	\$20.00	\$14.88		\$17.52		\$18.33	\$21.54	\$17.71		\$15.33	\$19.49		\$17.21
1413	Off Road Hauler				\$17.52			\$23.70	\$16.90			\$18.10	\$17.12	
1428	Agricultural Tractor Operator				\$19.14				\$19.97			\$23.21		
1445	Directional Drilling Operator				\$25.19									
1446	Directional Drilling Locator				\$21.39		\$16.50							
1500	Reinforcing Steel Worker	\$22.94	\$19.62	\$24.99	\$22.46		\$20.57	\$23.50	\$22.24	\$22.76	\$20.91	\$25.70	\$22.34	\$23.47
1509	Structural Steel Worker												\$22.64	
1513	Sign Erector				\$17.52			\$18.01						

CLASS. #	CLASSIFICATION DESCRIPTION	ZONE TX46 *(TX20250046)	ZONE TX51 *(TX20250051)	ZONE TX55 *(TX20250055)	ZONE TX291 *(TX20250291)	ZONE TX292 *(TX20250292)	ZONE TX293 *(TX20250293)	ZONE TX294 *(TX20250294)	ZONE TX295 *(TX20250295)	ZONE TX296 *(TX20250296)	ZONE TX297 *(TX20250297)	ZONE TX298 *(TX20250298)	ZONE TX299 *(TX20250299)	ZONE TX300 *(TX20250300)
1515	Spreader Box Operator	\$18.50		\$19.28	\$19.31			\$23.59	\$18.52	\$20.63	\$23.00	\$18.31	\$17.84	\$19.96
1520	Work Zone Barricade Servicer	\$17.76	\$15.81	\$16.80	\$17.75	\$17.12		\$18.01	\$16.89	\$17.52	\$16.49	\$18.10	\$17.37	\$17.66
1600	Truck Driver, Single Axle	\$21.59	\$17.93	\$19.19	\$19.70	\$18.24	\$15.16	\$20.60	\$19.22	\$17.99	\$19.02	\$22.02	\$21.93	\$19.20
1606	Truck Driver, Single or Tandem Axle Dump Truck	\$20.87	\$18.50	\$21.94	\$20.91	\$21.14	\$16.58	\$22.64	\$20.30	\$20.30	\$18.63	\$21.04	\$18.60	\$19.19
1607	Truck Driver, Tandem Axle Tractor with Semi-Trailer	\$21.52	\$19.81	\$20.66	\$21.71	\$21.97		\$23.22	\$20.32	\$22.08	\$23.00	\$21.91	\$20.17	\$19.52
1609	Truck Driver Lowboy-Float	\$23.01	\$27.10	\$23.18	\$25.96			\$25.57	\$23.97	\$22.90	\$25.75	\$23.22	\$25.94	\$22.60
1612	Truck Driver Transit-Mix		\$18.00					\$21.97						
1615	Boom Truck Operator				\$27.82									
1706	Welder		\$21.35		\$23.38		\$17.34	\$23.72				\$22.00	\$20.97	

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

For reference, the titles and descriptions for the classifications listed here are detailed further in the Associated General Contractors (AGC) of Texas' Standard Job Classifications and Descriptions for Highway, Heavy, Utilities, and Industrial Construction in Texas posted on the AGC's Web site for any contractor.

**Texas Counties Identified By
Wage Rate Zones: 46, 51, 55, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300**

Table 2 - Counties by Zone.

County Name	Zone	County Name	Zone	County Name	Zone	County Name	Zone
Anderson	295	Donley	298	Karnes	300	Reagan	298
Andrews	298	Duval	297	Kaufman	294	Real	298
Angelina	295	Eastland	298	Kendall	291	Red River	295
Aransas	296	Ector	46	Kenedy	297	Reeves	292
Archer	46	Edwards	292	Kent	298	Refugio	300
Armstrong	46	El Paso	293	Kerr	300	Roberts	298
Atascosa	291	Ellis	294	Kimble	298	Robertson	291
Austin	299	Erath	295	King	298	Rockwall	294
Bailey	298	Falls	295	Kinney	292	Runnels	298
Bandera	291	Fannin	295	Kleberg	300	Rusk	55
Bastrop	291	Fayette	300	Knox	298	Sabine	295
Baylor	298	Fisher	298	Lamar	295	San Augustine	295
Bee	300	Floyd	298	Lamb	298	San Jacinto	299
Bell	291	Foard	298	Lampasas	291	San Patricio	296
Bexar	291	Fort Bend	299	LaSalle	297	San Saba	298
Blanco	300	Franklin	295	Lavaca	300	Schleicher	298
Borden	298	Freestone	295	Lee	300	Scurry	298
Bosque	295	Frio	297	Leon	295	Shackelford	298
Bowie	55	Gaines	298	Liberty	299	Shelby	295
Brazoria	299	Galveston	299	Limestone	295	Sherman	298
Brazos	291	Garza	298	Lipscomb	298	Smith	55
Brewster	292	Gillespie	300	Live Oak	300	Somervell	295
Briscoe	298	Glasscock	298	Llano	300	Starr	297
Brooks	297	Goliad	296	Loving	298	Stephens	298
Brown	298	Gonzales	300	Lubbock	46	Sterling	298
Burleson	291	Gray	298	Lynn	298	Stonewall	298
Burnet	300	Grayson	294	Madison	295	Sutton	292
Caldwell	291	Gregg	55	Marion	295	Swisher	298
Calhoun	296	Grimes	295	Martin	298	Tarrant	294
Callahan	46	Guadalupe	291	Mason	300	Taylor	46
Cameron	51	Hale	298	Matagorda	300	Terrell	292
Camp	295	Hall	298	Maverick	297	Terry	298
Carson	46	Hamilton	295	McCulloch	298	Throckmorton	298
Cass	295	Hansford	298	McLennan	291	Titus	295
Castro	298	Hardeman	298	McMullen	297	Tom Green	46
Chambers	299	Hardin	299	Medina	291	Travis	291
Cherokee	295	Harris	299	Menard	298	Trinity	295
Childress	298	Harrison	55	Midland	46	Tyler	295
Clay	46	Hartley	298	Milam	295	Upshur	55
Cochran	298	Haskell	298	Mills	298	Upton	298
Coke	298	Hays	291	Mitchell	298	Uvalde	297
Coleman	298	Hemphill	298	Montague	298	Val Verde	292
Collin	294	Henderson	295	Montgomery	299	Van Zandt	295
Collingsworth	298	Hidalgo	51	Moore	298	Victoria	296
Colorado	300	Hill	295	Morris	295	Walker	295
Comal	291	Hockley	298	Motley	298	Waller	299
Comanche	298	Hood	295	Nacogdoches	295	Ward	298
Concho	298	Hopkins	295	Navarro	295	Washington	295
Cooke	298	Houston	295	Newton	295	Webb	51
Coryell	291	Howard	298	Nolan	298	Wharton	300
Cottle	298	Hudspeth	292	Nueces	296	Wheeler	298
Crane	298	Hunt	294	Ochiltree	298	Wichita	46
Crockett	292	Hutchinson	298	Oldham	298	Wilbarger	298
Crosby	46	Irion	46	Orange	299	Willacy	297
Culberson	292	Jack	295	Palo Pinto	295	Williamson	291
Dallam	298	Jackson	300	Panola	295	Wilson	291
Dallas	294	Jasper	295	Parker	294	Winkler	298
Dawson	298	Jeff Davis	292	Parmer	298	Wise	294
Deaf Smith	298	Jefferson	299	Pecos	292	Wood	295
Delta	294	Jim Hogg	297	Polk	295	Yoakum	298
Denton	294	Jim Wells	300	Potter	46	Young	298
DeWitt	300	Johnson	294	Presidio	292	Zapata	297
Dickens	298	Jones	46	Rains	295	Zavala	297
Dimmit	297			Randall	46		

CONTRACTOR'S ASSURANCE (Subcontracts-Federal Aid Projects)

By signing this proposal, the contractor is giving assurances that all subcontract agreements will incorporate the Standard Specification and Special Provisions to Section 9.9., Payment Provisions for Subcontractors, all subcontract agreements exceeding \$2,000 will incorporate the applicable Wage Determination Decision, and all subcontract agreements will incorporate the following:

Special Provision	Certification of Nondiscrimination in Employment
Special Provision	Standard Federal Equal Employment Opportunity
Form FHWA 1273	Required Contract Provisions Federal-aid Construction Contracts (Form FHWA 1273 must also be physically attached to subcontracts and all lower-tier subcontracts)
Special Provision	Nondiscrimination (Include provisions of Sections 3.1 – 3.6 in all subcontracts and agreements for materials)
Special Provision	Cargo Preference Act Requirements in Federal-Aid Contracts
Special Provision	Disadvantaged Business Enterprise in Federal-Aid Contracts

CERTIFICATION TO NOT BOYCOTT ENERGY COMPANIES

Pursuant to Texas Government Code §809.051, the Department must include a provision requiring a written verification affirming that the Contractor does not boycott energy companies, as defined in Government Code §809.001, and will not boycott energy companies during the term of the contract. This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not boycott energy companies and will not boycott energy companies during the term of this contract. "Boycott" means taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (1) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (2) does business with a company described by (1).

Violation of this certification may result in action by the Department.

CERTIFICATION TO NOT BOYCOTT ISRAEL

Pursuant to Texas Government Code §2271.002, the Department must include a provision requiring a written verification affirming that the Contractor does not boycott Israel, as defined in Government Code §808.001, and will not boycott Israel during the term of the contract. This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not boycott Israel and will not boycott Israel during the term of this contract. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Violation of this certification may result in action by the Department.

CERTIFICATION REGARDING DISCLOSURE OF PUBLIC INFORMATION

Pursuant to Subchapter J, Chapter 552, Texas Government Code, contractors executing a contract with a governmental body that results in the expenditure of at least \$1 million in public funds must:

- 1) preserve all contracting information* as provided by the records retention requirements applicable to Texas Department of Transportation (TxDOT) for the duration of the contract,
- 2) on request of TxDOT, promptly provide any contracting information related to the contract that is in the custody or possession of the entity, and
- 3) on completion of the contract, either:
 - a. provide, at no cost to TxDOT, all contracting information related to the contract that is in the custody or possession of the entity, or
 - b. preserve the contracting information related to the contract as provided by the records retention requirements applicable to TxDOT

The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

By entering into Contract, the Contractor agrees to:

- provide, or make available, to TxDOT and any authorized governmental investigating or auditing agency all records, including electronic and payment records related to the contract, for the same period provided by the records retention schedule applicable to TxDOT, and
- ensure that all subcontracts include a clause requiring the same.

* As defined in Government Code §552.003, "Contracting information" means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- 1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
- 2) solicitation or bid documents relating to a contract with a governmental body;
- 3) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- 4) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- 5) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

CERTIFICATION TO NOT DISCRIMINATE AGAINST FIREARM ENTITIES OR FIREARM TRADE ASSOCIATIONS

Pursuant to Texas Government Code §2274.002, the Department must include a provision requiring a written verification affirming that the Contractor:

- 1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Government Code §2274.001, and
- 2) will not discriminate against a firearm entity or firearm trade association during the term of the contract.

This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not discriminate against a firearm entity or firearm trade association as described and will not do so during the term of this contract. "Discriminate against a firearm entity or firearm trade association" means, with respect to the entity or association, to: (1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association. "Discriminate against a firearm entity or firearm trade association" does not include: (1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; (2) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Violation of this certification may result in action by the Department.

CHILD SUPPORT STATEMENT

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

Prohibition on Certain Telecommunications Equipment or Services

The Federal Register Notice issued the Final Rule and states that the amendment to 2 CFR 200.216 is effective on August 13, 2020. The new 2 CFR 200.471 regulation provides clarity that the telecommunications and video surveillance costs associated with 2 CFR 200.216 are unallowable for services and equipment from these specific providers. [OMB's Federal Register Notice](#) includes the new 2 CFR 200.216 and 2 CFR 200.471 regulations.

Per the Federal Law referenced above, use of services, systems, or services or systems that contain components produced by any of the following manufacturers is strictly prohibited for use on this project. Therefore, for any telecommunications, CCTV, or video surveillance equipment, services or systems cannot be manufactured by, or have components manufactured by:

- Huawei Technologies Company,
- ZTE Corporation (any subsidiary and affiliate of such entities),
- Hyatera Communications Corporation,
- Hangzhou Hikvision Digital Technology Company,
- Dahua Technology Company (any subsidiary and affiliate of such entities).

Violation of this requirement will require replacement of the equipment at the contractor's expense.

Special Provision to Item 000

Nondiscrimination



1. DESCRIPTION

All recipients of federal financial assistance are required to comply with various nondiscrimination laws, including Title VI of the Civil Rights Act of 1964, as amended (Title VI). Title VI forbids discrimination against anyone in the United States on the grounds of race, color, or national origin by any agency receiving federal funds.

The Owner, as a recipient of federal financial assistance, and under Title VI and related statutes, ensures that no person will on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment in accordance with 42 USC 2000d-3), color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any of Owner's programs or activities.

2. DEFINITION OF TERMS

Where the term "Contractor" appears in the following six nondiscrimination clauses, the term "Contractor" is understood to include all parties to Contracts or agreements with the Owner.

3. NONDISCRIMINATION PROVISIONS

During the performance of this Contract, the Contractor agrees as follows.

- 3.1. **Compliance with Regulations.** The Contractor must comply with the Regulations pertinent to nondiscrimination in federally assisted programs of the United States Department of Transportation 49 CFR 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- 3.2. **Nondiscrimination.** The Contractor, regarding the work performed during the Contract, must 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 must not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- 3.3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, the Contractor must notify each potential subcontractor or supplier of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- 3.4. **Information and Reports.** The Contractor must provide all information and reports required by the Regulations or directives issued pursuant thereto, and must permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the Recipient or the Owner to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor must so certify to the Owner, or the Texas Department of Transportation as appropriate, and must set forth what efforts it has made to obtain the information.
- 3.5. **Sanctions for Noncompliance.** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Owner must impose such Contract sanctions as it or the Owner may

determine to be appropriate, including, but not limited to actions defined in Article 5.1., "Authority of Engineer."

- 3.6. **Incorporation of Provisions.** The Contractor must include the provisions of Sections 3.1–3.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor must take such action with respect to any subcontract or procurement as the Owner may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the Owner to enter into such litigation to protect the interests of the Owner, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Special Provision to Item 000

Certification of Nondiscrimination in Employment



1. GENERAL

By signing this proposal, the Bidder certifies that it has participated in a previous Contract or subcontract subject to the equal opportunity clause, as required by Executive Order (EO) 10925, 11114, or 11246, or if it has not participated in a previous Contract of this type, or if it has had previous Contracts or subcontracts and has not filed, it will file with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity (EEO), all reports due under the applicable filing requirements.

Note—The above certification is required by the EEO Regulations of the Secretary of Labor [41 CFR 60-1.7(b)(1)], and must be submitted by Bidders and proposed subcontractors only in connection with Contracts and subcontracts that are subject to the equal opportunity clause. Contracts and subcontracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only Contracts or subcontracts of \$10,000 or less are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the EOs or their implementing regulations.

Proposed prime Contractors and subcontractors that have participated in a previous Contract or subcontract subject to the EO and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of Contracts and subcontracts unless such Contractor submits a report covering the delinquent period or such other period specified by FHWA or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Special Provision 000

Cargo Preference Act Requirements in Federal Aid Contracts



1. DESCRIPTION

All recipients of federal financial assistance are required to comply with the U.S. Department of Transportation's Cargo Preference Act requirements, 46 CFR 381, "Use of United States-Flag Vessels."

This requirement applies to material or equipment that is acquired specifically for a federal-aid highway project. It is not applicable to goods or materials that come into inventories independent of an FHWA-funded Contract.

When oceanic shipments are necessary for materials or equipment acquired for a specific federal-aid construction project, the Contractor agrees to:

- use privately owned United States-flag commercial vessels to ship at least 50% 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;
- furnish a legible copy of a rated, onboard commercial ocean bill of lading in English for each shipment of cargo described in Paragraph (b)(1) of 46 CFR 381, Section 7, "Federal Grant, Guaranty, Loan and Advance of Funds Agreements," 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, to both the Engineer (through the prime Contractor in the case of subcontractor bills of lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and
- insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Contract.

Special Provision to Item 000

Schedule of Liquidated Damages



The dollar amount of daily contract administration Liquidated Damages per Working Day is \$

Liquidated Damages Schedule	
Contract Amount	Amount of Liquidated Damages
Less than \$25,000.00	\$65.00/day
\$25,000.01 to \$50,000.00	\$105.00/day
\$50,000.01 to \$100,000.00	\$155.00/day
\$100,000.01 to \$500,000.00	\$210.00/day
\$500,000.01 to \$1,000,000.00	\$350.00/day
\$1,000,000.01 to \$2,000,000.00	\$500.00/day
\$2,000,000.01 to \$5,000,000.00	\$850.00/day
\$5,000,000.01 to \$7,500,000.00	\$1,050.00/day
\$7,500,000.01 to \$10,000,000.00	\$1,750.00/day
Great than \$10,000,000.00	\$2,500.00/day

Special Provision to Item 000

Disadvantaged Business Enterprise in Federal-Aid Contracts



1. DESCRIPTION

The purpose of this Special Provision is to carry out the U.S. Department of Transportation's (DOT) policy of ensuring nondiscrimination in the award and administration of DOT-assisted Contracts and creating a level playing field on which firms owned and controlled by individuals who are determined to be socially and economically disadvantaged can compete fairly for DOT-assisted Contracts.

2. DISADVANTAGED BUSINESS ENTERPRISE IN FEDERAL-AID CONTRACTS

2.1. **Policy.** It is the policy of the DOT and the Texas Department of Transportation (Department) that DBEs, as defined in 49 CFR Part 26, Subpart A, and the Department's DBE Program, will have the opportunity to participate in the performance of Contracts financed in whole or in part with federal funds. The DBE requirements of 49 CFR Part 26, and the Department's DBE Program, apply to this Contract as follows.

The Contractor must solicit DBEs through reasonable and available means, as defined in 49 CFR Part 26, Appendix A, and the Department's DBE Program, or show a good faith effort to meet the DBE goal for this Contract.

The Contractor, subrecipient, or subcontractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted Contracts. Failure to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Owner deems appropriate.

The requirements of this Special Provision must be physically included in any subcontract.

By signing the Contract proposal, the Bidder is certifying that the DBE goal as stated in the proposal will be met by obtaining commitments from eligible DBEs or that the Bidder will provide acceptable evidence of good faith effort to meet the commitment.

2.2. Definitions.

2.2.1. **Administrative Reconsideration.** A process by which the low bidder may request reconsideration when the Department determines the good faith effort (GFE) requirements have not been met.

2.2.2. **Commercially Useful Function (CUF).** A CUF occurs when a DBE has the responsibility for the execution of the work and carrying out such responsibilities by actually performing, managing, and supervising the work.

2.2.3. **Disadvantaged Business Enterprise (DBE).** A for-profit small business certified through the Texas Unified Certification Program in accordance with 49 CFR Part 26, that is at least 51% owned by one or more socially and economically disadvantaged individuals, or in the case of a publicly owned business, in which is at least 51% of the stock is owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the individuals who own it.

- 2.2.4. **DBE Joint Venture.** An association of a DBE firm and one or more other firms to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills, and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the Contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.
- 2.2.5. **DOT.** The U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).
- 2.2.6. **Federal-Aid Contract.** Any Contract between the Owner and a Contractor that is paid for in whole or in part with DOT financial assistance.
- 2.2.7. **Good Faith Effort.** All necessary and reasonable steps to achieve the contract goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain enough DBE participation, even if not fully successful. Good faith efforts are evaluated before award and throughout performance of the Contract. For guidance on good faith efforts, see 49 CFR Part 26, Appendix A.
- 2.2.8. **North American Industry Classification System (NAICS).** A designation that best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau website: <https://www.census.gov/naics/>.
- 2.2.9. **Race-Conscious.** A measure or program that is focused specifically on assisting only DBEs, including women-owned businesses.
- 2.2.10. **Race-Neutral DBE Participation.** Any participation by a DBE through customary competitive procurement procedures.
- 2.2.11. **Texas Unified Certification Program (TUCP) Directory.** An online directory listing all DBEs currently certified by the TUCP. The Directory identifies DBE firms whose participation on a Contract may be counted toward achievement of the assigned DBE Contract goal.
- 2.3. **Contractor's Responsibilities.**
- 2.3.1. **DBE Liaison Officer.** Designate a DBE liaison officer who will administer the Contractor's DBE program and who will be responsible for maintenance of records of efforts and contacts made to subcontract with DBEs.
- 2.3.2. **Compliance Tracking System (CTS).** This Contract is subject to Contract compliance tracking. Contractors and DBEs are required to provide any noted and requested Contract compliance-related data to the Owner. This includes, but is not limited to, commitments, payments, substitutions, and good faith efforts. Contractors and DBEs are responsible for responding by any noted response date or due date to any instructions or request for information by the Owner, and to check the system on a regular basis. A Contractor is responsible for ensuring all DBEs have completed all requested items and that their contact information is accurate and up-to-date. The Owner may require additional information related to the Contract to be provided at any time before, during, or after contract award.
- In its sole discretion, the Owner may require that contract compliance tracking data be submitted by Contractors and DBEs in an alternative format prescribed by the Owner.
- 2.3.3. **Apparent Low Bidder.** The apparent low bidder must submit DBE commitments to satisfy the DBE goal or submit good faith effort Form 2603 and supporting documentation demonstrating why the goal could not be achieved, in whole or part, no later than 5 calendar days after bid opening. The means of transmittal and the risk of timely receipt of the information will be the bidder's responsibility and no extension of the 5-calendar-day timeframe will be allowed for any reason.

2.3.4. **DBE Contractor.** A DBE Contractor may receive credit toward the DBE goal for work performed by its own forces and work subcontracted to DBEs. If a DBE subcontracts to a non-DBE, that information must be reported monthly.

2.3.5. **DBE Committal.** Only those DBEs certified by the TUCP are eligible to be used for goal attainment. The Department maintains the TUCP DBE Directory. The Directory can be accessed at the following Internet address: <https://txdot.txdotcms.com/>.

A DBE must be certified on the day the commitment is considered and at time of subcontract execution. It is the Contractor's responsibility to ensure firms identified for participation are approved certified DBE firms.

The Bidder is responsible to ensure that all submittals are checked for accuracy. Any and all omissions, deletions, and/or errors that may affect the end result of the commitment package are the sole liabilities of the bidder.

Commitments in excess of the goal are considered race-neutral commitments.

2.3.6. **Good Faith Effort Requirements.** A Contractor who cannot meet the Contract goal, in whole or in part, must make adequate good faith efforts to obtain DBE participation as so stated and defined in 49 CFR Part 26, Appendix A.

2.3.6.1. **Administrative Reconsideration.** If the Owner determines that the apparent low bidder has failed to satisfy the good faith efforts requirement, the Owner will notify the Bidder of the failure and will give the Bidder an opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

The Bidder must request an administrative reconsideration of that determination within 3 days of the date of receipt of the notice. The request must be submitted directly to the Owner.

If a request for administrative reconsideration is not filed within the period specified the determination made is final and further administrative appeal is barred.

If a reconsideration request is timely received, the reconsideration decision will be made by the Department's DBE liaison officer or, if the DBE liaison officer took part in the original determination, the Department's executive director will appoint a department employee to perform the administrative reconsideration. The employee will hold a senior leadership position and will report directly to the executive director.

The meeting or written documentation must be provided or held within 7 days of the date the request was submitted.

The Department will provide to the Owner a written decision, which will then be provided to the Bidder if the Bidder did or did not make adequate good faith efforts to meet the Contract goal. The reconsideration decision is final and is not administratively appealed to DOT.

2.3.7. **Determination of DBE Participation.** The work performed by the DBE must be reasonably construed to be included in the work area and NAICS work code identified by the Contractor in the approved commitment.

Participation by a DBE on a Contract will not be counted toward DBE goals until the amount of the participation has been paid to the DBE.

Payments made to a DBE that was not on the original commitment may be counted toward the Contract goal if that DBE was certified as a DBE before the execution of the subcontract and has performed a Commercially Useful Function.

The total amount paid to the DBE for work performed with its own forces is counted toward the DBE goal. When a DBE subcontracts part of the work of its Contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the subcontractor is itself a DBE.

DBE Goal credit for the DBE subcontractors leasing of equipment or purchasing of supplies from the Contractor or its affiliates is not allowed. Project materials or supplies acquired from an affiliate of the Contractor cannot directly or indirectly (second or lower tier subcontractor) be used for DBE goal credit.

If a DBE firm is declared ineligible due to DBE decertification after the execution of the DBE's subcontract, the DBE firm may complete the work and the DBE firm's participation will be counted toward the Contract goal. If the DBE firm is decertified before the DBE firm has signed a subcontract, the Contractor is obligated to replace the ineligible DBE firm or demonstrate that it has made good faith efforts to do so.

The Contractor may count 100% of its expenditure to a DBE manufacturer. According to 49 CFR 26.55(e)(1)(i), a DBE manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

The Contractor may count only 60% of its expenditure to a DBE regular dealer. According to 49 CFR 26.55(e)(2)(i), a DBE regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. A firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the firm both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment must be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis. A long-term lease with a third-party transportation company is not eligible for 60% goal credit.

With respect to materials or supplies purchased from a DBE that is neither a manufacturer nor a regular dealer, the Contractor may count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a jobsite.

A Contractor may count toward its DBE goal a portion of the total value of the Contract amount paid to a DBE joint venture equal to the distinct, clearly defined portion of the work of the Contract performed by the DBE.

2.3.8. **Commercially Useful Function.** It is the Contractor's obligation to ensure that each DBE used on federal-assisted contracts performs a commercially useful function on the Contract.

The Owner will monitor performance during the Contract to ensure each DBE is performing a CUF.

Under the terms established in 49 CFR 26.55, a DBE performs a CUF when it is responsible for execution of the work of the Contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved.

With respect to material and supplies used on the Contract, a DBE must be responsible for negotiating price, determining quality and quantity, ordering the material, installing the material, if applicable, and paying for the material itself.

With respect to trucking, the DBE trucking firm must own and operate at least one fully licensed, insured, and operational truck used on the Contract. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped

with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the Contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.

A DBE does not perform a CUF when its role is limited to that of an extra participant in a transaction, Contract, or project through which funds are passed to obtain the appearance of DBE participation. The Owner will evaluate similar transactions involving non-DBEs to determine whether a DBE is an extra participant.

If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its Contract with its own work force, or the DBE subcontracts a greater portion of the work than would be expected on the basis of normal industry practice for the type of work involved, the Owner will presume that the DBE is not performing a CUF.

If the Owner determines that a DBE is not performing a CUF, no work performed by such DBE will count as eligible participation. The denial period of time may occur before or after a determination has been made by the Owner.

In case of the denial of credit for non-performance of a CUF, the Contractor will be required to provide a substitute DBE to meet the Contract goal or provide an adequate good faith effort when applicable.

- 2.3.8.1. **Rebuttal of a Finding of No Commercially Useful Function.** Consistent with the provisions of 49 CFR 26.55(c)(4)&(5), before the Owner makes a final finding that no CUF has been performed by a DBE, the Owner will notify the DBE and provide the DBE the opportunity to provide rebuttal information.

CUF determinations are not subject to administrative appeal to DOT.

- 2.3.9. **Joint Check.** The use of joint checks between a Contractor and a DBE is allowed with Owner approval. To obtain approval, the Contractor must submit a completed Form 2178, "DBE Joint Check Approval," to the Owner.

The Owner will closely monitor the use of joint checks to ensure that such a practice does not erode the independence of the DBE nor inhibit the DBE's ability to perform a CUF. When joint checks are used, DBE credit toward the Contract goal will be allowed only when the subcontractor is performing a CUF in accordance with 49 CFR 26.55(c)(1).

Long-term or open-ended joint checking arrangements may be a basis for further scrutiny and may result in the lack of participation towards the Contract goal requirement if DBE independence cannot be established.

Joint checks will not be allowed simply for the convenience of the Contractor.

If the proper procedures are not followed or the Owner determines that the arrangements result in a lack of independence for the DBE involved, no credit for the DBE's participation as it relates to the material cost will be used toward the Contract goal requirement, and the Contractor will need to make up the difference elsewhere on the project.

- 2.3.10. **DBE Termination and Substitution.** No DBE named in the commitment submitted under Section 2.3.5. will be terminated for convenience, in whole or part, without the Owner's approval. This includes, but is not limited to, instances in which a Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

Unless consent is provided, the Contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Contractor, before submitting its request to terminate, must first give written notice to the DBE of its intent to terminate and the reason for the termination. The Contractor will copy the Owner on the Notice of Intent to terminate.

The DBE has 5 calendar days to respond to the Contractor's notice and will advise the Contractor and the Owner of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Owner should not approve the prime Contractor's request for termination.

The Owner may provide a shorter response time if required in a particular case as a matter of public necessity.

The Owner will consider both the Contractor's request and DBE's stated position before approving the request. The Owner may provide a written approval only if it agrees, for reasons stated in its concurrence document, that the Contractor has good cause to terminate the DBE. If the Owner does not approve the request, the Contractor must continue to use the committed DBE firm in accordance with the Contract. For guidance on what good cause includes, see 49 CFR 26.53.

Good cause does not exist if the Contractor seeks to terminate, reduce, or substitute a DBE it relied upon to obtain the Contract so that the Contractor can self-perform the work for which the DBE firm was engaged.

When a DBE subcontractor is terminated, make good faith efforts to find, as a substitute for the original DBE, another DBE to perform, at least to the extent needed to meet the established Contract goal, the work that the original DBE was to have performed under the Contract.

Submit the completed Form 2228, "DBE Termination Substitution Request," within seven (7) days, which may be extended for an additional 7 days if necessary at the request of the Contractor. The Owner will provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated. If the Owner determines that good faith efforts were not demonstrated, the Contractor will have the opportunity to appeal the determination to the Department.

- 2.3.11. **Reports and Records.** By the 15th of each month and after work begins, report payments to meet the DBE goal and for DBE race-neutral participation on projects with or without goals. These payment reports will be required until all DBE subcontracting or material supply activity is completed. Negative payment reports are required when no activity has occurred in a monthly period.

Notify the Owner if payment to any DBE subcontractor is withheld or reduced.

Before receiving final payment from the Owner, the Contractor must indicate a final payment on the compliance tracking system. The final payment is a summary of all payments made to the DBEs on the project.

All records must be retained for a period of 3 years following completion of the Contract work, and must be available at reasonable times and places for inspection by authorized representatives of the Owner, the Department, or the DOT. Provide copies of subcontracts or agreements and other documentation upon request.

- 2.3.12. **Failure to Comply.** If the Owner determines the Contractor has failed to demonstrate good faith efforts to meet the assigned goal, the Contractor will be given an opportunity for reconsideration by the Department.

A Contractor's failure to comply with the requirements of this Special Provision will constitute a material breach of this Contract. In such a case, the Owner reserves the right to terminate the Contract; to deduct the

Special Provision to Item 6L

Control of Materials



Item 6L, "Control of Materials" of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Section 1.1. "Buy America," and Section 1.2., "Buy America Exceptions," are voided and replaced by the following.

- 1.1. **Buy America.** Comply with the latest provisions of Build America, Buy America Act (BABA Act) and applicable CFR, which restrict funds being made available from Federal financial assistance programs unless all the iron products, steel products, manufactured products, and construction materials used in the project are manufactured in the United States. Use iron or steel products, manufactured products, or construction materials manufactured in the United States for all permanently installed materials and products except when defined in Section 1.1.5., "Buy America Exceptions."

A material is solely classified based on its status at the time it is brought to the work site as either an iron or steel product, construction material, manufactured product, or excluded material. Refer to the Buy America Material Classification Sheet found at <https://www.txdot.gov/business/resources/materials/buy-america/buy-america-material-classification-sheet.html> for additional clarification on material classification.

Texas Department of Transportation's MPLs include Gold Star listings for certain manufacturers, construction materials, or products. Gold Star items are manufacturers, materials, or products that have submitted a Buy America certification (as listed on an MPL) to be in compliance with the Buy America requirements. For items identified as a Gold Star manufacturer, material, or product; the only Material Sourcing documentation as stated in Table 1 BABA Submissions is required.

**Table1
BABA Submission Requirements**

Classification	Form 1818^{2 & 3} (notarized original Form D-9 USA-1)	Material Sourcing Documentation⁴	Form 2806^{5 & 6}	De Minimis Tracking Log⁷
<i>Iron or Steel Products</i>	✓	✓		✓
<i>Construction Material</i>		✓	✓	✓
<i>Manufactured Product¹</i>		✓	✓	✓
<ol style="list-style-type: none"> 1. For ITS enclosures and precast concrete products as stated under Manufactured Products, submission requirements for Iron and Steel Products and Manufactured Products apply. Reinforcing Steel or items covered by TxDOT's Gold Star Program do not require a Form 1818 submission. 2. For miscellaneous steel exceptions may be allowed to submit a notarized certification letter in lieu of submitting Form 1818, as approved by the Owner. There are no exceptions for iron or steel products required to be furnished in accordance with item 441, "Steel Structures", or requested otherwise. Items covered by TxDOT's Gold Star Program do not require a Form 1818. 3. Item 450 aluminum metal railing and Item 610 aluminum roadway illumination poles, will require Form 1818 to be submitted when requested by the Owner. 4. For materials that are BABA compliant and are on TxDOT's Material Producer List (MPL). Material Sourcing Documentation is documentation, along with any necessary attachments, that connects the Material's source to project. Provide additional documentation at the request of the Owner. 5. Form 2806 is required to be submitted for products and materials to certify BABA compliance when an MPL does not exist for the corresponding material. 6. Form 2806 is required for materials that are not listed as BABA compliant on the associated MPL. 7. De Minimis Tracking Log is required for materials that are not BABA compliant and must be submitted in advance when de minimis waiver is being pursued. De Minimis Tracking Log must track non-compliant iron or steel products separately from non-compliant construction materials and manufactured products. Contact the Owner when either thresholds in 6.1.1.5, "Buy America Exceptions" is reached. Non-compliant items above the de minimis threshold will require removal and replacement with BABA compliant item, or not paid for as determined by the Engineer. 				

1.1.1. **Materials Excluded from Buy America.** Excluded Materials mean cement and cementitious material; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. Excluded Materials do not require domestic sourcing or Buy America certification.

Materials combined as an unsettled mixture delivered to a work site without final form, for incorporation into a project, such as hot mix asphalt, or wet concrete mixtures, are not a manufactured product and are considered excluded from Buy America.

1.1.2. **Iron or Steel Product.** Iron or steel products means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both.

Predominantly of iron or steel or a combination of both means the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

For iron or steel products, manufacturing includes any process that modifies the chemical content, physical shape or size, or final finish of a product. The manufacturing process begins with initial melting and mixing and continues through fabrication (e.g., cutting, drilling, welding, bending.) and coating (e.g., paint, galvanizing, epoxy).

1.1.3. **Construction Materials.** Construction materials are classified as articles, materials, or supplies that consist of only one of the items listed in bullets below. Minor additions of articles, materials, supplies, or binding agents (as determined by the plans or the Engineer) to any of the items listed does not change the classification of a construction material.

- non-ferrous metals,
- plastic and polymer-based products (including polyvinyl chloride, composite building materials, and polymers used in fiber optic cables),
- glass (including optic glass),
- fiber optic cable (including drop cable),
- optical fiber,
- lumber,
- engineered wood, or
- drywall.

Each construction material has specific certification requirements stated below which constitute Buy America Compliance. Provide additional documentation as requested.

For non-ferrous metals, certification requires all manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

For plastic and polymer-based products (including polyvinyl chloride, composite building materials, and polymers used in fiber optic cables), certification requires all manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

For glass (including optic glass), certification requires all manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

For fiber optic cable (including drop cable), certification requires all manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

For optical fiber, certification requires all manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

For lumber, certification requires all manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

For engineered wood, certification requires all manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

For drywall, certification requires all manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

- 1.1.4. **Manufactured Product** means articles, materials, or supplies that have been processed into a specific form and shape, or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. Manufactured products may include components that are iron or steel products, excluded materials, or construction materials. Any product classified as an iron or steel product, excluded material, or construction material is not a manufactured product. In addition, mixtures of excluded materials, such as asphalt or concrete mixtures, delivered to a work site without final form for incorporation into a project are not a manufactured product and are considered excluded.

Manufactured products are required to be Manufactured in the United States. For manufactured products, submit per submission table above.

Manufactured in the United States (for Manufactured Products) means the final assembly occurred in the United States of America.

Precast Concrete products classified as a manufactured product (not predominantly of iron and steel) are to be Manufactured in the United States and require iron or steel components to comply with manufacturing requirements for Iron or Steel Products stated in Section 6.1.1.2.

Intelligent Transportation Systems and other electronic hardware systems classified as a manufactured product are to be Manufactured in the United States and must require iron or steel cabinets or other enclosures of such systems to comply with manufacturing requirements for Iron or Steel Products stated in Section 6.1.1.2

Component means an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into a manufactured product or where applicable, an iron or steel product.

1.1.5. **Buy America Exceptions.** Use of iron or steel products, construction materials, and manufactured products manufactured in the United States is required unless the material meets an exception below.

- A waiver exists exempting the material from Buy America compliance.
- The total value of the non-compliant products (other than iron or steel products) is no more than the lesser of \$1,000,000 or 5% of Total Applicable Costs for the project. Total Applicable Cost means the actual cost of all materials requiring Buy America compliance including iron, steel, or other materials that are within the scope of existing waivers. Contractor must provide documentation showing under threshold in advance for Engineer's consideration.
- The total value of foreign iron or steel products, including delivery, does not exceed 0.1% of the total Contract cost or \$2,500, whichever is greater. The Contractor must provide documentation showing under threshold in advance for the Engineer's consideration.
- Foreign iron or steel products may be allowed when the Contract contains an alternate item for a foreign source iron or steel product and the Contract is awarded based on the alternate item.
- The materials are temporarily installed or are supplies, tools, and equipment not incorporated into the project. Temporarily installed means the materials and products must be removed at the end of the project or may be removed at the Contractor's convenience with the Engineer's approval.

Special Provision to Item 506

Temporary Erosion, Sedimentation, and Environmental Controls



For this project, item 506, "Temporary Erosion, Sedimentation, and Environmental Controls," of the standard specifications, is hereby voided and replaced with the following.

1. DESCRIPTION

Install, maintain, and remove erosion, sedimentation, and environmental control measures to prevent or reduce the discharge of pollutants in accordance with the Storm Water Pollution Prevention Plan (SWP3) in the plans and the Texas Pollutant Discharge Elimination System (TPDES) General Permit TXR150000.

2. MATERIALS

Furnish materials in accordance with the following:

- Item 161, "Compost"
- Item 432, "Riprap"
- Item 556, "Pipe Underdrains"

2.1. Rock Filter Dams.

2.1.1. **Aggregate.** Furnish aggregate with hardness, durability, cleanliness, and resistance to crumbling, flaking, and eroding acceptable to the Owner. Provide the following:

- Types 1, 2, and 4 Rock Filter Dams. Use 3 to 6 in. aggregate.
- Type 3 Rock Filter Dams. Use 4 to 8 in. aggregate.

2.1.2. **Wire.** Provide minimum 20 gauge galvanized wire for the steel wire mesh and tie wires for Types 2 and 3 rock filter dams. Type 4 dams require:

- a double-twisted, hexagonal weave with a nominal mesh opening of 2-1/2 in. × 3-1/4 in.;
- minimum 0.0866 in. steel wire for netting;
- minimum 0.1063 in. steel wire for selvages and corners; and
- minimum 0.0866 in. for binding or tie wire.

2.1.3. **Sandbag Material.** Furnish sandbags meeting Section 506.2.8., "Sandbags," except that any gradation of aggregate may be used to fill the sandbags.

2.2. **Temporary Pipe Slope Drains.** Provide corrugated metal pipe, polyvinyl chloride (PVC) pipe, flexible tubing, watertight connection bands, grommet materials, prefabricated fittings, and flared entrance sections that conform to the plans. Recycled and other materials meeting these requirements are allowed if approved.

Furnish concrete in accordance with Item 432, "Riprap."

2.3. **Temporary Paved Flumes.** Furnish asphalt concrete, hydraulic cement concrete, or other comparable non-erodible material that conforms to the plans. Provide rock or rubble with a minimum diameter of 6 in. and a maximum volume of 1/2 cu. ft. for the construction of energy dissipaters.

- 2.4. **Construction Exits.** Provide materials that meet the details shown on the plans and this Section.
- 2.4.1. **Rock Construction Exit.** Provide crushed aggregate for long- and short-term construction exits. Furnish aggregates that are clean, hard, durable, and free from adherent coatings such as salt, alkali, dirt, clay, loam, shale, soft or flaky materials, and organic and injurious matter. Use 4- to 8-in. aggregate for Type 1. Use 2- to 4-in. aggregate for Type 3.
- 2.4.2. **Timber Construction Exit.** Furnish No. 2 quality or better railroad ties and timbers for long-term construction exits, free of large and loose knots and treated to control rot. Fasten timbers with nuts and bolts or lag bolts, of at least 1/2 in. diameter, unless otherwise shown on the plans or allowed. Provide plywood or pressed wafer board at least 1/2 in. thick for short-term exits.
- 2.4.3. **Foundation Course.** Provide a foundation course consisting of flexible base, bituminous concrete, hydraulic cement concrete, or other materials as shown on the plans or directed.
- 2.5. **Embankment for Erosion Control.** Provide rock, loam, clay, topsoil, or other earth materials that will form a stable embankment to meet the intended use.
- 2.6. **Pipe.** Provide pipe outlet material in accordance with Item 556, "Pipe Underdrains," and details shown on the plans.
- 2.7. **Construction Perimeter Fence.**
- 2.7.1. **Posts.** Provide essentially straight wood or steel posts that are at least 60 in. long. Furnish soft wood posts with a minimum diameter of 3 in., or use nominal 2 × 4 in. boards. Furnish hardwood posts with a minimum cross-section of 1-1/2 × 1-1/5 in. Furnish T- or L-shaped steel posts with a minimum weight of 0.5 lb. per foot.
- 2.7.2. **Fence.** Provide orange construction fencing as approved.
- 2.7.3. **Fence Wire.** Provide 11 gauge or larger galvanized smooth or twisted wire. Provide 16 gauge or larger tie wire.
- 2.7.4. **Flagging.** Provide brightly-colored flagging that is fade-resistant and at least 3/4 in. wide to provide maximum visibility both day and night.
- 2.7.5. **Staples.** Provide staples with a crown at least 1/2 in. wide and legs at least 1/2 in. long.
- 2.7.6. **Used Materials.** Previously used materials meeting the applicable requirements may be used if approved.
- 2.8. **Sandbags.** Provide sandbag material of polypropylene, polyethylene, or polyamide woven fabric with a minimum unit weight of 4 oz. per square yard, a Mullen burst-strength exceeding 300 psi, and an ultraviolet stability exceeding 70%.

Use natural coarse sand or manufactured sand meeting the gradation given in Table 1 to fill sandbags. Filled sandbags must be 24 to 30 in. long, 16 to 18 in. wide, and 6 to 8 in. thick.

Table 1
Sand Gradation

Sieve #	Retained (% by Weight)
4	Maximum 3%
100	Minimum 80%
200	Minimum 95%

Aggregate may be used instead of sand for situations where sandbags are not adjacent to traffic. The aggregate size shall not exceed 3/8 in.

- 2.9. **Temporary Sediment Control Fence.** Provide a net-reinforced fence using woven geo-textile fabric. Logos visible to the traveling public will not be allowed.
- 2.9.1. **Fabric.** Provide fabric materials in accordance with DMS-6230, "Temporary Sediment Control Fence Fabric."
- 2.9.2. **Posts.** Provide essentially straight wood or steel posts with a minimum length of 48 in., unless otherwise shown on the plans. Furnish soft wood posts at least 3 in. in diameter, or use nominal 2 × 4 in. boards. Furnish hardwood posts with a minimum cross-section of 1-1/2 × 1-1/2 in. Furnish T- or L-shaped steel posts with a minimum weight of 1.3 lb. per foot.
- 2.9.3. **Net Reinforcement.** Provide net reinforcement of at least 12-1/2 gauge galvanized welded wire mesh, with a maximum opening size of 2 × 4 in., at least 24 in. wide, unless otherwise shown on the plans.
- 2.9.4. **Staples.** Provide staples with a crown at least 3/4 in. wide and legs 1/2 in. long.
- 2.9.5. **Used Materials.** Use recycled material meeting the applicable requirements if approved.
- 2.10. **Biodegradable Erosion Control Logs.**
- 2.10.1. **Core Material.** Furnish core material that is biodegradable or recyclable. Use compost, mulch, aspen excelsior wood fibers, chipped site vegetation, agricultural rice or wheat straw, coconut fiber, 100% recyclable fibers, or any other acceptable material unless specifically called out on the plans. Permit no more than 5% of the material to escape from the containment mesh. Furnish compost meeting the requirements of Item 161, "Compost."
- 2.10.2. **Containment Mesh.** Furnish containment mesh that is 100% biodegradable, photodegradable, or recyclable such as burlap, twine, UV photodegradable plastic, polyester, or any other acceptable material.
- Furnish biodegradable or photodegradable containment mesh when log will remain in place as part of a vegetative system.
- Furnish recyclable containment mesh for temporary installations.
- 2.10.3. **Size.** Furnish biodegradable erosion control logs with diameters shown on the plans or as directed. Stuff containment mesh densely so logs do not deform.

3. CONSTRUCTION

- 3.1. **Contractor Responsibilities.** Implement the Owner's Storm Water Pollution Prevention Plan (SWP3) for the project in accordance with the plans and specifications, TPDES General Permit TXR150000, and as directed by the Owner. Develop and implement an SWP3 for project-specific material supply plants within and outside of the Owner's right of way in accordance with the specific or general storm water permit requirements. Prevent water pollution from storm water associated with construction activity from entering any surface water or private property on or adjacent to the project site.
- 3.2. **General.**
- 3.2.1. **Phasing.** Implement control measures in the area to be disturbed before beginning construction, or as directed. Limit the disturbance to the area shown on the plans or as directed. If, in the opinion of the Owner, the Contractor cannot control soil erosion and sedimentation resulting from construction operations, the Owner will limit the disturbed area to that which the Contractor is able to control. Minimize disturbance to vegetation.
- 3.2.2. **Maintenance.** Immediately correct ineffective control measures. Implement additional controls as directed. Remove excavated material within the time requirements specified in the applicable storm water permit.

- 3.2.3. **Stabilization.** Stabilize disturbed areas where construction activities will be temporarily stopped in accordance with the applicable storm water permit. Establish a uniform vegetative cover. The project will not be accepted until a 70% density of existing adjacent undisturbed areas is obtained, unless otherwise shown on the plans. When shown on the plans, the Owner may accept the project when adequate controls are in place that will control erosion, sedimentation, and water pollution until sufficient vegetative cover can be established.
- 3.2.4. **Finished Work.** Upon acceptance of vegetative cover, remove and dispose of all temporary control measures, temporary embankments, bridges, matting, falsework, piling, debris, or other obstructions placed during construction that are not a part of the finished work, or as directed.
- 3.2.5. **Restricted Activities and Required Precautions.** Do not discharge onto the ground or surface waters any pollutants such as chemicals, raw sewage, fuels, lubricants, coolants, hydraulic fluids, bitumens, or any other petroleum product. Operate and maintain equipment on-site to prevent actual or potential water pollution. Manage, control, and dispose of litter on-site such that no adverse impacts to water quality occur. Prevent dust from creating a potential or actual unsafe condition, public nuisance, or condition endangering the value, utility, or appearance of any property. Wash out concrete trucks only as described in the TPDES General Permit TXR150000. Utilize appropriate controls to minimize the offsite transport of suspended sediments and other pollutants if it is necessary to pump or channel standing water (i.e. dewatering). Prevent discharges that would contribute to a violation of Edwards Aquifer Rules, water quality standards, the impairment of a listed water body, or other state or federal law.
- 3.3. **Installation, Maintenance, and Removal Work.** Perform work in accordance with the SWP3, according to manufacturers' guidelines, and in accordance with the TPDES General Permit TXR150000. Install and maintain the integrity of temporary erosion and sedimentation control devices to accumulate silt and debris until soil disturbing activities are completed and permanent erosion control features are in place or the disturbed area has been adequately stabilized as determined by the Owner. . If a device ceases to function as intended, repair or replace the device or portions thereof as necessary. Remove sediment, debris, and litter. When approved, sediments may be disposed of within embankments, or in the right of way in areas where the material will not contribute to further siltation. Dispose of removed material in accordance with federal, state, and local regulations.
- Remove devices upon approval or as directed. Finish-grade and dress the area upon removal. Stabilize disturbed areas in accordance with the permit, and as shown on the plans or directed. Materials removed are considered consumed by the project. Retain ownership of stockpiled material and remove it from the project when new installations or replacements are no longer required.
- 3.3.1. **Rock Filter Dams for Erosion Control.** Remove trees, brush, stumps, and other objectionable material that may interfere with the construction of rock filter dams. Place sandbags as a foundation when required or at the Contractor's option.
- Place the aggregate to the lines, height, and slopes specified, without undue voids for Types 1, 2, 3, and 5. Place the aggregate on the mesh and then fold the mesh at the upstream side over the aggregate and secure it to itself on the downstream side with wire ties, or hog rings for Types 2 and 3, or as directed. Place rock filter dams perpendicular to the flow of the stream or channel unless otherwise directed. Construct filter dams according to the following criteria unless otherwise shown on the plans:
- 3.3.1.1. **Type 1 (Non-reinforced).**
- 3.3.1.1.1. **Height.** At least 18 in. measured vertically from existing ground to top of filter dam.
- 3.3.1.1.2. **Top Width.** At least 2 ft.
- 3.3.1.1.3. **Slopes.** No steeper than 2:1.
- 3.3.1.2. **Type 2 (Reinforced).**

- 3.3.1.2.1. **Height.** At least 18 in. measured vertically from existing ground to top of filter dam.
- 3.3.1.2.2. **Top Width.** At least 2 ft.
- 3.3.1.2.3. **Slopes.** No steeper than 2:1.
- 3.3.1.3. **Type 3 (Reinforced).**
- 3.3.1.3.1. **Height.** At least 36 in. measured vertically from existing ground to top of filter dam.
- 3.3.1.3.2. **Top Width.** At least 2 ft.
- 3.3.1.3.3. **Slopes.** No steeper than 2:1.
- 3.3.1.4. **Type 4 (Sack Gabions).** Unfold sack gabions and smooth out kinks and bends. Connect the sides by lacing in a single loop–double loop pattern on 4- to 5-in. spacing for vertical filling. Pull the end lacing rod at one end until tight, wrap around the end, and twist 4 times. Fill with stone at the filling end, pull the rod tight, cut the wire with approximately 6 in. remaining, and twist wires 4 times.
- Place the sack flat in a filling trough, fill with stone, connect sides, and secure ends as described above for horizontal filling.
- Lift and place without damaging the gabion. Shape sack gabions to existing contours.
- 3.3.1.5. **Type 5.** Provide rock filter dams as shown on the plans.
- 3.3.2. **Temporary Pipe Slope Drains.** Install pipe with a slope as shown on the plans or as directed. Construct embankment for the drainage system in 8-in. lifts to the required elevations. Hand-tamp the soil around and under the entrance section to the top of the embankment as shown on the plans or as directed. Form the top of the embankment or earth dike over the pipe slope drain at least 1 ft. higher than the top of the inlet pipe at all points. Secure the pipe with hold-downs or hold-down grommets spaced a maximum of 10 ft. on center. Construct the energy dissipaters or sediment traps as shown on the plans or as directed. Construct the sediment trap using concrete or rubble riprap in accordance with Item 432, "Riprap," when designated on the plans.
- 3.3.3. **Temporary Paved Flumes.** Construct paved flumes as shown on the plans or as directed. Provide excavation and embankment (including compaction of the subgrade) of material to the dimensions shown on the plans unless otherwise indicated. Install a rock or rubble riprap energy dissipater, constructed from the materials specified above, to a minimum depth of 9 in. at the flume outlet to the limits shown on the plans or as directed.
- 3.3.4. **Construction Exits.** Prevent traffic from crossing or exiting the construction site or moving directly onto a public roadway, alley, sidewalk, parking area, or other right of way areas other than at the location of construction exits when tracking conditions exist. Construct exits for either long- or short-term use.
- 3.3.4.1. **Long-Term.** Place the exit over a foundation course as required. Grade the foundation course or compacted subgrade to direct runoff from the construction exits to a sediment trap as shown on the plans or as directed. Construct exits with a width of at least 14 ft. for one-way and 20 ft. for two-way traffic for the full width of the exit, or as directed.
- 3.3.4.1.1. **Type 1.** Construct to a depth of at least 8 in. using crushed aggregate as shown on the plans or as directed.
- 3.3.4.1.2. **Type 2.** Construct using railroad ties and timbers as shown on the plans or as directed.
- 3.3.4.2. **Short-Term.**

- 3.3.4.2.1. **Type 3.** Construct using crushed aggregate, plywood, or wafer board. This type of exit may be used for daily operations where long-term exits are not practical.
- 3.3.4.2.2. **Type 4.** Construct as shown on the plans or as directed.
- 3.3.5. **Earthwork for Erosion Control.** Perform excavation and embankment operations to minimize erosion and to remove collected sediments from other erosion control devices.
- 3.3.5.1. **Excavation and Embankment for Erosion Control Features.** Place earth dikes, swales, or combinations of both along the low crown of daily lift placement, or as directed, to prevent runoff spillover. Place swales and dikes at other locations as shown on the plans or as directed to prevent runoff spillover or to divert runoff. Construct cuts with the low end blocked with undisturbed earth to prevent erosion of hillsides. Construct sediment traps at drainage structures in conjunction with other erosion control measures as shown on the plans or as directed.
- Create a sediment basin, where required, providing 3,600 cu. ft. of storage per acre drained, or equivalent control measures for drainage locations that serve an area with 10 or more disturbed acres at one time, not including offsite areas.
- 3.3.5.2. **Excavation of Sediment and Debris.** Remove sediment and debris when accumulation affects the performance of the devices, after a rain, and when directed.
- 3.3.6. **Construction Perimeter Fence.** Construct, align, and locate fencing as shown on the plans or as directed.
- 3.3.6.1. **Installation of Posts.** Embed posts 18 in. deep or adequately anchor in rock, with a spacing of 8 to 10 ft.
- 3.3.6.2. **Wire Attachment.** Attach the top wire to the posts at least 3 ft. from the ground. Attach the lower wire midway between the ground and the top wire.
- 3.3.6.3. **Flag Attachment.** Attach flagging to both wire strands midway between each post. Use flagging at least 18 in. long. Tie flagging to the wire using a square knot.
- 3.3.7. **Sandbags for Erosion Control.** Construct a berm or dam of sandbags that will intercept sediment-laden storm water runoff from disturbed areas, create a retention pond, detain sediment, and release water in sheet flow. Fill each bag with sand so that at least the top 6 in. of the bag is unfilled to allow for proper tying of the open end. Place the sandbags with their tied ends in the same direction. Offset subsequent rows of sandbags 1/2 the length of the preceding row. Place a single layer of sandbags downstream as a secondary debris trap. Place additional sandbags as necessary or as directed for supplementary support to berms or dams of sandbags or earth.
- 3.3.8. **Temporary Sediment-Control Fence.** Provide temporary sediment-control fence near the downstream perimeter of a disturbed area to intercept sediment from sheet flow. Incorporate the fence into erosion-control measures used to control sediment in areas of higher flow. Install the fence as shown on the plans, as specified in this Section, or as directed.
- 3.3.8.1. **Installation of Posts.** Embed posts at least 18 in. deep, or adequately anchor, if in rock, with a spacing of 6 to 8 ft. and install on a slight angle toward the runoff source.
- 3.3.8.2. **Fabric Anchoring.** Dig trenches along the uphill side of the fence to anchor 6 to 8 in. of fabric. Provide a minimum trench cross-section of 6 × 6 in. Place the fabric against the side of the trench and align approximately 2 in. of fabric along the bottom in the upstream direction. Backfill the trench, then hand-tamp.
- 3.3.8.3. **Fabric and Net Reinforcement Attachment.** Attach the reinforcement to wooden posts with staples, or to steel posts with T-clips, in at least 4 places equally spaced unless otherwise shown on the plans. Sewn vertical pockets may be used to attach reinforcement to end posts. Fasten the fabric to the top strand of reinforcement by hog rings or cord every 15 in. or less.

- 3.3.8.4. **Fabric and Net Splices.** Locate splices at a fence post with a minimum lap of 6 in. attached in at least 6 places equally spaced unless otherwise shown on the plans. Do not locate splices in concentrated flow areas.

Requirements for installation of used temporary sediment-control fence include the following:

- fabric with minimal or no visible signs of biodegradation (weak fibers),
- fabric without excessive patching (more than 1 patch every 15 to 20 ft.),
- posts without bends, and
- backing without holes.

- 3.3.9. **Biodegradable Erosion Control Logs.** Install biodegradable erosion control logs near the downstream perimeter of a disturbed area to intercept sediment from sheet flow. Incorporate the biodegradable erosion control logs into the erosion measures used to control sediment in areas of higher flow. Install, align, and locate the biodegradable erosion control logs as specified below, as shown in plans or as directed.

Secure biodegradable erosion control logs in a method adequate to prevent displacement as a result of normal rain events, prevent damage to the logs, and to the satisfaction of the Owner such that flow is not allowed under the logs. Temporarily removing and replacing biodegradable erosion logs as to facilitate daily work is allowed at the Contractor's expense.

- 3.3.10. **Vertical Tracking.** Perform vertical tracking on slopes to temporarily stabilize soil. Provide equipment with a track undercarriage capable of producing a linear soil impression measuring a minimum of 12 in. long × 2 to 4 in. wide × 1/2 to 2 in. deep. Do not exceed 12 in. between track impressions. Install continuous linear track impressions where the 12 in. length impressions are perpendicular to the slope. Vertical tracking is required on projects where soil disturbing activities have occurred unless otherwise approved.

4. MEASUREMENT

- 4.1. **Rock Filter Dams.** Installation or removal of rock filter dams will be measured by the foot or by the cubic yard. The measured volume will include sandbags, when used.
- 4.1.1. **Linear Measurement.** When rock filter dams are measured by the foot, measurement will be along the centerline of the top of the dam.
- 4.1.2. **Volume Measurement.** When rock filter dams are measured by the cubic yard, measurement will be based on the volume of rock computed by the method of average end areas.
- 4.1.2.1. **Installation.** Measurement will be made in final position.
- 4.1.2.2. **Removal.** Measurement will be made at the point of removal.
- 4.2. **Temporary Pipe Slope Drains.** Temporary pipe slope drains will be measured by the foot.
- 4.3. **Temporary Paved Flumes.** Temporary paved flumes will be measured by the square yard of surface area. The measured area will include the energy dissipater at the flume outlet.
- 4.4. **Construction Exits.** Construction exits will be measured by the square yard of surface area.
- 4.5. **Earthwork for Erosion and Sediment Control.**
- 4.5.1. **Equipment and Labor Measurement.** Equipment and labor used will be measured by the actual number of hours the equipment is operated and the labor is engaged in the work.
- 4.5.2. **Volume Measurement.**

- 4.5.2.1. **In Place.**
- 4.5.2.1.1. **Excavation.** Excavation will be measured by the cubic yard in its original position and the volume computed by the method of average end areas.
- 4.5.2.1.2. **Embankment.** Embankment will be measured by the cubic yard in its final position by the method of average end areas. The volume of embankment will be determined between:
- the original ground surfaces or the surface upon that the embankment is to be constructed for the feature and
 - the lines, grades and slopes of the accepted embankment for the feature.
- 4.5.2.2. **In Vehicles.** Excavation and embankment quantities will be combined and paid for under "Earthwork (Erosion and Sediment Control, In Vehicle)." Excavation will be measured by the cubic yard in vehicles at the point of removal. Embankment will be measured by the cubic yard in vehicles measured at the point of delivery. Shrinkage or swelling factors will not be considered in determining the calculated quantities.
- 4.6. **Construction Perimeter Fence.** Construction perimeter fence will be measured by the foot.
- 4.7. **Sandbags for Erosion Control.** Sandbags will be measured as each sandbag or by the foot along the top of sandbag berms or dams.
- 4.8. **Temporary Sediment-Control Fence.** Installation or removal of temporary sediment-control fence will be measured by the foot.
- 4.9. **Biodegradable Erosion Control Logs.** Installation or removal of biodegradable erosion control logs will be measured by the foot along the centerline of the top of the control logs.
- 4.10. **Vertical Tracking.** Vertical tracking will not be measured or paid for directly but is considered subsidiary to this Item.

5. PAYMENT

The following will not be paid for directly but are subsidiary to pertinent Items:

- erosion-control measures for Contractor project-specific locations (PSLs) inside and outside the right of way (such as construction and haul roads, field offices, equipment and supply areas, plants, and material sources);
- removal of litter, unless a separate pay item is shown on the plans;
- repair to devices and features damaged by Contractor operations;
- added measures and maintenance needed due to negligence, carelessness, lack of maintenance, and failure to install permanent controls;
- removal and reinstallation of devices and features needed for the convenience of the Contractor;
- finish grading and dressing upon removal of the device; and
- minor adjustments including but not limited to plumbing posts, reattaching fabric, minor grading to maintain slopes on an erosion embankment feature, or moving small numbers of sandbags.

Stabilization of disturbed areas will be paid for under pertinent Items.

Furnishing and installing pipe for outfalls associated with sediment traps and ponds will not be paid for directly but is subsidiary to the excavation and embankment under this Item.

- 5.1. **Rock Filter Dams.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:

5.1.1. **Installation.** Installation will be paid for as "Rock Filter Dams (Install)" of the type specified. This price is full compensation for furnishing and operating equipment, finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.

5.1.2. **Removal.** Removal will be paid for as "Rock Filter Dams (Remove)." This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.

When the Owner directs that the rock filter dam installation or portions thereof be replaced, payment will be made at the unit price bid for "Rock Filter Dams (Remove)" and for "Rock Filter Dams (Install)" of the type specified. This price is full compensation for furnishing and operating equipment, finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.

5.2. **Temporary Pipe Slope Drains.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Temporary Pipe Slope Drains" of the size specified. This price is full compensation for furnishing materials, removal and disposal, furnishing and operating equipment, labor, tools, and incidentals.

Removal of temporary pipe slope drains will not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the pipe slope drain installation or portions thereof be replaced, payment will be made at the unit price bid for "Temporary Pipe Slope Drains" of the size specified, which is full compensation for the removal and reinstallation of the pipe drain.

Earthwork required for the pipe slope drain installation, including construction of the sediment trap, will be measured and paid for under "Earthwork for Erosion and Sediment Control."

Riprap concrete or stone, when used as an energy dissipater or as a stabilized sediment trap, will be measured and paid for in accordance with Item 432, "Riprap."

5.3. **Temporary Paved Flumes.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Temporary Paved Flume (Install)" or "Temporary Paved Flume (Remove)." This price is full compensation for furnishing and placing materials, removal and disposal, equipment, labor, tools, and incidentals.

When the Owner directs that the paved flume installation or portions thereof be replaced, payment will be made at the unit prices bid for "Temporary Paved Flume (Remove)" and "Temporary Paved Flume (Install)." These prices are full compensation for the removal and replacement of the paved flume and for equipment, labor, tools, and incidentals.

Earthwork required for the paved flume installation, including construction of a sediment trap, will be measured and paid for under "Earthwork for Erosion and Sediment Control."

5.4. **Construction Exits.** Contractor-required construction exits from off right of way locations or on-right of way PSLs will not be paid for directly but are subsidiary to pertinent Items.

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" for construction exits needed on right of way access to work areas required by the Owner will be paid for at the unit price bid for "Construction Exits (Install)" of the type specified or "Construction Exits (Remove)." This price is full compensation for furnishing and placing materials, excavating, removal and disposal, cleaning vehicles, labor, tools, and incidentals.

When the Owner directs that a construction exit or portion thereof be removed and replaced, payment will be made at the unit prices bid for "Construction Exit (Remove)" and "Construction Exit (Install)" of the type specified. These prices are full compensation for the removal and replacement of the construction exit and for equipment, labor, tools, and incidentals.

Construction of sediment traps used in conjunction with the construction exit will be measured and paid for under "Earthwork for Erosion and Sediment Control."

5.5. **Earthwork for Erosion and Sediment Control.**

- 5.5.1. **Initial Earthwork for Erosion and Sediment Control.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Excavation (Erosion and Sediment Control, In Place)," "Embankment (Erosion and Sediment Control, In Place)," "Excavation (Erosion and Sediment Control, In Vehicle)," "Embankment (Erosion and Sediment Control, (In Vehicle)," or "Earthwork (Erosion and Sediment Control, In Vehicle)."

This price is full compensation for excavation and embankment including hauling, disposal of material not used elsewhere on the project; embankments including furnishing material from approved sources and construction of erosion-control features; and equipment, labor, tools, and incidentals.

Sprinkling and rolling required by this Item will not be paid for directly, but will be subsidiary to this Item.

- 5.5.2. **Maintenance Earthwork for Erosion and Sediment Control for Cleaning and Restoring Control Measures.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid under a Contractor Force Account Item from invoice provided to the Owner.

This price is full compensation for excavation, embankment, and re-grading including removal of accumulated sediment in various erosion control installations as directed, hauling, and disposal of material not used elsewhere on the project; excavation for construction of erosion-control features; embankments including furnishing material from approved sources and construction of erosion-control features; and equipment, labor, tools, and incidentals.

Earthwork needed to remove and obliterate erosion-control features will not be paid for directly but is subsidiary to pertinent Items unless otherwise shown on the plans.

Sprinkling and rolling required by this Item will not be paid for directly, but will be subsidiary to this Item.

- 5.6. **Construction Perimeter Fence.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Construction Perimeter Fence." This price is full compensation for furnishing and placing the fence; digging, fence posts, wire, and flagging; removal and disposal; and materials, equipment, labor, tools, and incidentals.

Removal of construction perimeter fence will be not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the perimeter fence installation or portions thereof be removed and replaced, payment will be made at the unit price bid for "Construction Perimeter Fence," which is full compensation for the removal and reinstallation of the construction perimeter fence.

- 5.7. **Sandbags for Erosion Control.** Sandbags will be paid for at the unit price bid for "Sandbags for Erosion Control" (of the height specified when measurement is by the foot). This price is full compensation for materials, placing sandbags, removal and disposal, equipment, labor, tools, and incidentals.

Removal of sandbags will not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the sandbag installation or portions thereof be replaced, payment will be made at the unit price bid for "Sandbags for Erosion Control," which is full compensation for the reinstallation of the sandbags.

- 5.8. **Temporary Sediment-Control Fence.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:

- 5.8.1. **Installation.** Installation will be paid for as "Temporary Sediment-Control Fence (Install)." This price is full compensation for furnishing and operating equipment finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.
- 5.8.2. **Removal.** Removal will be paid for as "Temporary Sediment-Control Fence (Remove)." This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.
- 5.9. **Biodegradable Erosion Control Logs.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:
- 5.9.1. **Installation.** Installation will be paid for as "Biodegradable Erosion Control Logs (Install)" of the size specified. This price is full compensation for furnishing and operating equipment finish backfill and grading, staking, proper disposal, labor, materials, tools, and incidentals.
- 5.9.2. **Removal.** Removal will be paid for as "Biodegradable Erosion Control Logs (Remove)." This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.
- 5.10. **Vertical Tracking.** Vertical tracking will not be measured or paid for directly but is considered subsidiary to this Item.

SPECIAL PROVISIONS

DALLAS COUNTY

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

EQUAL EMPLOYMENT OPPORTUNITY

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, that employees are treated during employment without regard to their race, color, sex, religion, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, ratios of pay or other forms of compensation; and selection for training, including apprenticeship, except that illegal-alien shall not be employed in this project. The Contractor shall post in conspicuous places, available to employees or applicants for employment, notices to be provided setting for the provisions of this non-discrimination clause.

The Contractor shall, in all solicitations or advertisements for employees place by or on behalf of the Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, national origin or age.

The Contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided, advising the said labor union or worker's representatives of the Contractor's commitments under this Section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Contractor shall include the provisions of this special provision in all subcontracts pertaining to the work.

During the course of the work, the Contractor shall submit to the engineer, on a monthly basis, a breakdown by ethnic group of all employees, including sub-contractor's employees, at the site of the work. The Contractor shall certify that no illegal aliens are employed on the project.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

TEXAS STATE SALES TAX

The Contractor's attention is directed to the fact that the Texas Limited Sales, Excise and Use Tax Statue, Chapter 20, Title 122A has been amended, effective October 2, 1968. This statute was further affected by House Bill 11 (HB-11) passed by the Texas State Legislature in 1991 and recent interpretations of this bill by the Texas State Comptroller.

The Contractor will furnish a "Resale Certificate" to the supplier or vendor from which he acquires the materials which are incorporated into the project. Dallas County is a tax exempt agency in accordance with the above cited statutes and as the final purchaser of the materials incorporated into the project will provide an exemption certificate to the Contractor for those materials.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

GIFTS

The Contractor's specific attention is directed to Title 8, Articles 36.08 and 36.09, Texas Penal Code, titled "Gifts to Public Servant by Persons Subject to His Jurisdiction" and "Offering Gift to Public Servant".

Article 36.08 states that any public servant who solicits, accepts, or agrees to accept any benefit from a Contractor has committed an offense punishable as a Class A misdemeanor.

Article 36.09 states that any Contractor who offers, confers, or agrees to confer any benefit on a public servant has committed an offense punishable as a Class A misdemeanor.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

EMPLOYMENT OF FORMER COUNTY EMPLOYEES

TWELVE-MONTH WAITING PERIOD FOR EMPLOYMENT OF CERTAIN FORMER COUNTY EMPLOYEES - In accordance with the County's Transparency Policy, any firm awarded a contract for the procurement of goods or services shall be prohibited from hiring any individual who has previously worked for the County and in that capacity either evaluated, recommended, approved, monitored, or managed a contract involving that firm no sooner than twelve months after that individual has ceased to work for or be employed by the County. Failure to adhere to such a contractual requirement may result in the termination of the contract with the County.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

CONSTRUCTION PAYMENTS

Dallas County's policy for periodic construction payments shall be as follows:

Dallas County construction funds shall be disbursed to Dallas County Contractors in time intervals of not less than 30 days, consistent with time frames which meet the requirements of the State Timely Payment Act.

Construction contracts, without exception, shall include an estimated draw down schedule, outlining expected payments which shall be made no sooner than completion of contracted work, subject to weather, materials availability, and the normal review and certification of specified Dallas County officials and outside consultants and authorities, as may be required.

Contractors shall provide Dallas County with an updated draw down schedule on a quarterly basis.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

MOBILIZATION

The Contractor's attention is directed to Item 500, MOBILIZATION. It is very important that the Contractor not unbalance the bid for this item. Unit prices bid must be related to the work required for each particular bid item and not be unbalanced.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

UNCONTROLLED RANDOM CRACKING

The Contractor's attention is directed to Item 360, CONCRETE PAVEMENT, Article 360.4.10, Sawing Joints. It is the Contractor's responsibility to promptly and correctly saw the weakened plane joints to prevent uncontrolled cracking of pavement from occurring. The requirements for sawed joints applies equally to Item 360, Concrete Pavement; Item 529, Concrete Curb, Gutter, and Combined Curb and Gutter, Item 530, Intersections, Driveways, and Turnouts, and Item 531, Sidewalks.

To prevent uncontrolled cracking, longitudinal joint spacing should not exceed fifteen feet. Transverse joint spacing should not exceed twenty feet. Concrete pavement joint sawing should commence as soon as the pavement has hardened sufficiently to support the saw and operator without scarring and the sawing operation does not pull out aggregate. This will assist in preventing random cracks.

The Specifications require sawing at approximately 60-foot intervals as soon as sawing can be accomplished without damage to the pavement and before 24 hours after the concrete has been placed. The intervening joints would then be sawed. All sawing must be completed within 24-hours to prevent uncontrolled cracking. Where there is considerable difference between day temperatures and night temperatures, cracking is more likely to occur. Therefore, the Contractor is cautioned to proceed with sawing as quickly as possible after placing and commensurate without causing damage to the pavement. Delaying sawing until the next day or to near the end of the 24-hour period is likely to result in uncontrolled cracking. Concrete which has uncontrolled cracking is considered deficient workmanship and unacceptable work under the terms of the Contract Documents. Such cracks shall be repaired according to the plans or as directed by the Engineer at the entire expense of the Contractor.

Surface cracks shall be routed to the depth and width specified and shall be sealed with joint sealing material, Class 5 or Class 8 as specified in TxDOT's DMS-6310 "Joint Sealant and Fillers" as directed by the Engineer in writing.

Uncontrolled cracks which extend completely through the concrete section are considered failed pavement. Sections must be removed and replaced in accordance with details in the Plans or as directed by the Engineer. Such failed pavement will not be accepted for payment until repaired. Necessary repairs shall be made at the Contractor's entire expense.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

UTILITY ADJUSTMENTS

The Contractor's attention is directed to Texas Transportation Code, Chapters 181, 182, and 283 which authorize utilities, both public and private, to occupy public rights-of-way (ROW). Utilities by virtue of the direct legislative grant of Chapter 181, and other similar statutes, are authorized to place their facilities within the ROW along public roads, streets and highways in this State. The Contractor will not have exclusive use of the ROW as this project will require concurrent utility relocations and/or adjustments for water and sanitary sewer; as well as electrical, communication, cable television and/or gas lines throughout the construction period.

Contractors bidding this project which is within a city's jurisdiction should also be aware that Dallas County has no regulatory nor enforcement authority over utility companies occupying a portion of the ROW. These utilities are franchised by the City. Dallas County will, however, make every effort to encourage any conflicting utilities to expeditiously adjust their conflicts.

Also, where utilities are uncooperative or slow in removing conflicts, Dallas County will request that the City within the limits of their franchise agreement require the utility to make the adjustment.

Since the County has no jurisdictional authority to set a time limit upon nor force quick action in utility adjustments of conflicts and relocation of lines, failure on the part of any utility, either public or private, to expeditiously eliminate the conflict shall not be a basis for a claim to Dallas County for lack of production. **THE CONTRACTOR SHALL PROTECT AND SAVE HARMLESS DALLAS COUNTY FROM ANY CLAIMS WHATSOEVER RESULTING FROM DAMAGES, INJURIES AND/OR LACK OF PRODUCTION BECAUSE OF FAILURE UPON THE PART OF SUCH UTILITIES TO ADJUST THEIR LINES AND REMOVE CONFLICTS IN A TIMELY MANNER. THIS REQUIREMENT IS NOT INTENDED TO DENY THE CONTRACTOR ANY RIGHTS OR REMEDY AT LAW WHICH HE MAY HAVE AGAINST UTILITIES OR OTHER THIRD PARTIES CAUSING SUCH LACK OF PRODUCTION.**

THE CONTRACTOR IN EXECUTING THE CONTRACT FOR CONSTRUCTION OF THIS PROJECT ACKNOWLEDGES AND AGREES TO THE REQUIREMENTS HEREIN.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

WORKERS COMPENSATION REGULATIONS

The Contractor's attention is directed to Texas Workers' Compensation Commission Rule 110.110. The contractor and Dallas County shall comply with all aspects of said rule including the posting of "Required Workers' Compensation Coverage" notice and "Texas Workers' Compensation Commission 406.121-127 of the Texas Workers' Compensation Act, Texas Labor Code, Forms TWCC-81 and 85."

Sample forms are included in the contract documents.

TEXAS WORKERS' COMPENSATION COMMISSION
Southfield Building, 4000 South IH-35
Austin, Texas 78704

If you are not certain whether all parties meet the requirements for entering into this agreement, you may wish to consult an attorney.

AGREEMENT BETWEEN GENERAL CONTRACTOR AND SUBCONTRACTOR
TO PROVIDE WORKERS' COMPENSATION INSURANCE

Notice of Agreement

The undersigned General Contractor and the undersigned Subcontractor hereby agree that the General Contractor will withhold will not withhold the cost of workers' compensation insurance coverage from the Subcontractor's contract price and that, for the purpose of providing workers' compensation insurance coverage, the General Contractor will be the employer of the Subcontractor and the Subcontractor's employees. This agreement makes the General Contractor the employer of the Subcontractor and the Subcontractor's employees only for the purposes of workers' compensation laws of Texas and for no other purpose.

TERM (DATES) OF AGREEMENT: _____
FROM: _____ TO: _____

LOCATION OF EACH AFFECTED JOB SITE (OR STATE WHETHER THIS IS A BLANKET AGREEMENT): _____

ESTIMATED NUMBER OF EMPLOYEES AFFECTED: _____
THIS AGREEMENT SHALL TAKE EFFECT NO SOONER THAN THE DATE IT IS SIGNED.

General Contractor's Affirmation

If the General Contractor's workers' compensation carrier changes during the effective period of coverage, it is advisable for the General Contractor to file this form with the new insurance carrier.

Federal Tax I.D. Number

Signature of General Contractor

Date

Address (Street)

Printed Name of General Contractor

Address (City, State, Zip)

Subcontractor's Affirmation

Federal Tax I.D. Number

Signature of Subcontractor

Date

Address (Street)

Printed Name of Subcontractor

Address (City, State, Zip)

Four copies of this form must be completed: This agreement must be filed by the General Contractor with both the Texas Workers' Compensation Commission and the workers' compensation insurance carrier of the General Contractor within 10 days of the date of execution. **The original must be filed with the Commission.** The agreement must be filed by PERSONAL DELIVERY OR REGISTERED OR CERTIFIED MAIL. Failure to file this agreement may result in a fine of up to \$5,000. Both the General Contractor and the Subcontractor must also retain a copy of the agreement.

TEXAS WORKERS' COMPENSATION COMMISSION
Southfield Building, 4000 South IH-35
Austin, Texas 78704

If you are not certain whether all parties meet the requirements for entering into this agreement, you may wish to consult an attorney.

Texas Workers' Compensation Act, Texas Labor Code, Section 406.121(2) defines "independent contractor" as follows: (1) "Independent contractor" means a person who contracts to perform work or provide a service for the benefit of another and who ordinarily: (A) acts as the employer of any employee of the contractor by paying wages, directing activities, and performing other similar functions characteristic of an employer-employee relationship; (B) is free to determine the manner in which the work or service is performed, including the hours of labor or of method of payment to any employee; (C) is required to furnish or have his employees, if any, furnish necessary tools, supplies, or materials to perform the work or service; and (D) possesses the skills required for the specific work or service.

**AGREEMENT BETWEEN GENERAL CONTRACTOR AND SUBCONTRACTOR
TO ESTABLISH INDEPENDENT RELATIONSHIP
Notice of Agreement**

The undersigned General Contractor and the undersigned Subcontractor hereby declare that:

- (A) the Subcontractor meets the qualifications of an Independent Contractor under Texas Workers' Compensation Act, Texas Labor Code, Section 406.121;
- (B) the Subcontractor is operating as an independent contractor as that term is defined under Section 406.121 of the Act;
- (C) the Subcontractor assumes the responsibilities of an employer for the performance of work; and
- (D) the Subcontractor and the Subcontractor's employees are not employees of the General Contractor for purposes of the Act.

TERM (DATES) OF AGREEMENT:

FROM: _____ TO: _____

Name of General Contractor _____

Name of Subcontractor _____

LOCATION OF EACH AFFECTED JOB SITE (OR STATE WHETHER THIS IS A BLANKET AGREEMENT):

Estimated number of employees affected: _____

THIS AGREEMENT SHALL TAKE EFFECT NO SOONER THAN THE DATE IT IS SIGNED.

General Contractor's Affirmation

If the General Contractor's workers' compensation carrier changes during the effective period of coverage, it is advisable for the General Contractor to file this form with the new insurance carrier

Federal Tax I. D. Number

Signature of General Contractor

Date

Address (Street)

Printed Name of General Contractor

Address (City, State, Zip)

Subcontractor's Affirmation

Tax I. D. Number _____

Signature of Subcontractor

Date

Address (Street)

Printed Name of Subcontractor

Address (City, State, Zip)

Three copies of this form must be completed: This agreement must be filed by the General Contractor with the workers' compensation insurance carrier of the General Contractor within 10 days of the date of execution. The original must be filed with the insurance carrier by PERSONAL DELIVERY OR REGISTERED OR CERTIFIED MAIL. Both the General Contractor and the Subcontractor must also retain a copy of the agreement.

DALLAS COUNTY, TEXAS

SPECIAL PROVISION

IMPORTANT NOTICE TO CONTRACTORS

SUBMITTING BID PROPOSALS BY COMPUTER PRINTOUT

Bidders, at their option, in lieu of hand writing in the unit prices in words in ink in the proposal, may submit an original computer printout sheet bearing certification by and signature for the bidding firm. The unit prices shown on acceptable printouts will be the unit prices used to tabulate the bid and used in the contract if awarded by the Dallas County Commissioners Court.

At a minimum, computer printouts must contain the information and in the arrangement shown on the "Example of Bid Prices Submitted by Computer Printout" form in the proposal. Proposals with unit prices by computer printout will not be read if:

- (a) The proposal does not bear the certification verbatim, as shown on the example in the proposal.
- (b) The computer printout is not signed in the name of the firm to whom the proposal was issued.
- (c) The computer printout omits required bid items or includes items not shown in the proposal.
- (d) The proposal issued by the Dallas County Public Works Department is not fully executed as provided above.

If the proposal submitted by the Bidder contains both the form furnished by the Dallas County Public Works Department, completed according to the instructions, and also a computer printout, completed according to the instructions, only one will be considered. In this situation, the unit bid prices shown on the computer printout will be used to determine the bid.

EXAMPLE OF BID PRICES SUBMITTED BY COMPUTER PRINTOUT

**BID PROPOSAL
BLACKBURN ROAD PROJECT 91-843
(HOLFORD RD to WATER OAK DR)
PAVING, DRAINAGE, AND UTILITY IMPROVEMENTS**

ITEM NO.	DESCRIPTION OF BID ITEM	UNIT OF MEASURE	APPROX QUANTITY	CONSTRUCTION UNIT PRICES	EXTENSION OF AMOUNT FOR ITEM	UNIT PRICE WRITTEN IN WORDS
100	PREPARING RIGHT OF WAY	STATION	60	\$700.00	\$42,000.00	SEVEN HUNDRED DOLLARS AND NO CENTS
104	REMOVE CONCRETE (PAVEMENT)	SY	3239	\$7.00	\$22,673.00	SEVEN DOLLARS AND NO CENTS
104	REMOVING CONCRETE (STAB BASE AND/OR ASHALT PAVEMENT)	SY	11164	\$2.00	\$22,328.00	TWO DOLLARS AND NO CENTS

NOTE: To help in the bid tabulation process please show a maximum of 15 bid item lines on each separate sheet.

TOTAL BID AMOUNT \$87,001.00

(YOUR FIRM'S NAME) certifies that the unit prices shown on this complete computer printout for all the bid items and the alternates contained in this proposal are the unit prices intended and that its bid will be tabulated using these unit prices and no other information from this printout. (YOUR FIRM'S NAME) acknowledges and agrees that the total bid amount shown will be read as its total bid and further agrees that the official total bid amount will be determined by multiplying the unit bid prices shown in this printout by the respective estimated quantities shown in the proposal and then totaling all the extended amounts.

SIGNED: _____

TITLE: _____

ACKNOWLEDGE RECEIPT OF ADDENDUM(A) DATE: _____

NOTE: All questions regarding this RFP are to be submitted, in writing, to Darian Gavin, Contract Specialist, via e-mail to Darian.Gavin@dallascounty.org or by fax to (214) 653-7449. You may inquire regarding your previous fax or email by calling 214-653-6223 or via mail to Dallas County Purchasing, 500 Elm Street, Suite 5500, Dallas, TX 75202. All questions, comments and requests for clarification must reference the RFP number (Bid Number) on all correspondence to Dallas County. Any oral communications shall be considered unofficial and non-binding. Only written responses to written communications shall be considered official and binding upon the County. The County reserves the right, at its sole discretion, to determine appropriate and adequate responses to the written comments, questions, and requests for clarification. All addendum(a) and/or any other correspondence (general information, question and responses) to this RFP will be made available **exclusively** through the Dallas County website for retrieval. Contractors are solely responsible for frequently checking this website for updates to this RFP. Addendum(a) to this RFP can be located at the following web address: <http://www.dallascounty.org/departments/purchasing/currentbids.html> (go to the appropriate RFP #, click on the appropriate hyperlink for viewing and/or downloading.)

DALLAS COUNTY, TEXAS
SPECIAL PROVISION
IMPORTANT NOTICE TO CONTRACTORS
SUBSTANTIAL COMPLETION

Substantial completion of the work is achieved on the date when the following conditions are met:

1. All project work requiring lane or shoulder closures or obstructions is completed, and traffic and pedestrians are following the lane arrangement as shown on the plans for the finished roadway and or shared-use path.
2. All pavement construction and resurfacing are complete and in their final configuration and permanent traffic control devices and pavement markings are in their final positions. At his/her discretion, Dallas County may make an exception for permanent pavement markings provided the lack of markings does not cause a disruption to traffic and pedestrians flow or an unsafe condition for the traveling public, and work zone pavement markings are in place.

The contractor shall submit to Dallas County a written request to consider certification that substantial completion has been achieved when the Contractor determines he has satisfied the definitions of substantial completion as defined in this special provision. Dallas County will evaluate the request and provide written responses to approve or deny the request. If Dallas County certifies substantial completion is achieved, s/he will indicate the date upon which substantial completion was achieved and will suspend contract time charges. However, assessment of time charges will resume if the contractor does not complete any of the remaining contract work within 30 (thirty) calendar days, and or deficiencies in the work requiring correction are not complete as stipulated in Final Acceptance. Dallas County may extend suspension of contract time charges upon request by the Contractor in writing, if reasons for extension are acceptable. If Dallas County denies the request, s/he will identify the unfulfilled requirements necessary to obtain substantial completion certification and contract time charges will continue to be assessed.

Certification of Substantial Completion shall not in any respect be taken as a certification of satisfactory completion of the Contract Work or as an acceptance of Work nor, in any way, release the Contractor and its surety from any responsibility of the Contract. All project insurance and bonds shall remain in force during the lifetime of the project contract as stipulated in the contract. Issuance of Substantial Completion shall solely be used for the determination of a date to suspend charging contract working days.

**SPECIAL PROVISION
TO
ITEM 100
PREPARING RIGHT OF WAY**

For this Project, Item 100, "PREPARING RIGHT OF WAY," of the Standard Specifications, is hereby amended with respect to the clauses cited below and no other clauses or requirements of this item are waived or changed hereby.

Article 100.1 DESCRIPTION: is supplemented with the following:

This Item shall also include the verification of the location of all underground utilities which affect the work included in the scope of this contract. The Contractor shall submit, to the Engineer, field notes and/or sketches showing locations and elevations of all conflicts between existing utilities and the work included in the scope of this contract.

Article 100.4 MEASUREMENT: is supplemented with the following:

Measurement for payment will be made between the limits of construction. Measurement will be parallel and adjacent to the centerline of the right-of-way or, in the case of off-site drainage improvements, along the centerline of the improvement. No separate measurements will be made parallel and adjacent to the centerlines of intersecting streets.

Article 100.5 PAYMENT: is supplemented with the following:

Item 100 shall be full compensation for removing and disposing of all obstructions, trees and debris within the public right-of-way and within all easements shown on the plans to be removed or that is in direct conflict with the proposed improvements, unless specifically paid for in Item 104 series, "Removing Concrete", Item 105 series, "Treated and Untreated Base and Asphalt Pavement", or Item 496, "Removing Structures."

Any abandoned utilities, light pole foundation or drainage structures that are encountered by the Contractor shall be removed. The cost of the removal of the structures shall be considered subsidiary to this Item.

This Item also includes tree trimming, which shall generally be for the purpose of providing adequate clearance for vehicular, pedestrian and utility usage within the public right of way. The extent of tree trimming will be specifically defined by the Engineer during construction.

All work performed in the areas not so designated on plans as "Preparing Right of Way" will not be paid for directly but shall be considered subsidiary work to the various bid items.

**SPECIAL PROVISION
TO
ITEM 110
EXCAVATION**

For this Project, Item 110 "EXCAVATION", of the Standard Specifications is hereby amended with respect to the clauses cited below and no other clauses or requirements of this item are waived or changed hereby.

Article 110.1 DESCRIPTION : is supplemented with the following:

If no classification is indicated on the plans, it shall be considered "Unclassified". Unclassified Roadway Excavation shall include all materials encountered regardless of their nature or in the manner in which they are removed.

Article 110.3 MEASUREMENT : is supplemented with the following:

Excavation for driveways, alleys, sidewalks, side road connections and street connections shall be included in the measurement for this item in cases where such quantities are not computed in the cross-sections. Excavation volumes shall be calculated by end area method.

Article 110.4 PAYMENT: is supplemented with the following:

The hauling of materials, including waste, will not be measured for separate payment, but will be considered as subsidiary to the various items of the contract.

**SPECIAL PROVISION
TO
ITEM 164
SEEDING FOR EROSION CONTROL**

For this Project, Item 164, "SEEDING FOR EROSION CONTROL", of the Standard Specifications, is hereby amended with respect to the clauses cited below and no other clauses or requirements of this item are waived or changed hereby.

Article 164.5. PAYMENT: This article is deleted and replaced with the following:

The work performed and the materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Broadcast Seeding (Perm)" of the rural or urban seed mixture and sandy or clay soil specified, "Broadcast Seeding (Temp)" of warm or cool season specified, "Straw or Hay Mulch Seeding (Perm)" of the rural or urban seed mixture and sandy or clay soil specified, "Straw or Hay Mulch Seeding (Temp)" of warm or cool season specified, "Cellulose Fiber Mulch Seeding (Perm)" of the rural or urban seed mixture and sandy or clay soil specified, "Cellulose Fiber Mulch Seeding (Temp)" of warm or cool season specified, "Drill Seeding (Perm)" of the rural or urban seed mixture and sandy or clay soil specified, "Drill Seeding (Temp)" of warm or cool season specified, "Accent Seeding", "Straw or Hay Mulching", or "Seeding for Temporary Erosion Control", of the type specified. This price is full compensation for furnishing materials, including water for hydro-seeding, water for seed-fertilizer slurry and hydro-mulching operations, mowing, labor, equipment, tools, supplies, and incidentals necessary to complete the work, including all sprinkle irrigation. Fertilizer will not be paid for directly but will be subsidiary to this Item. Water for irrigating the seeded area, when specified, will be paid for under Item 168 "Vegetative Watering".

Payment shall be authorized upon completion of the work. However, the Owner reserves the right to reduce the quantities of previously paid sod on monthly pay estimates in cases where such seeding fails to establish or sustain. Pay quantities will be reinstated upon replacement of dead sod by the Contractor.

THE FOLLOWING ARTICLE IS ADDED TO ITEM 164:

Article 164.6. ACCEPTANCE.

Acceptance as it relates to this article is defined as the Owner's acceptance of the project for warranty.

A. Weed Control. The Contractor is responsible for weed control beginning with the preparation to commence seeding activities and continuing through final acceptance. Treat weeds with pre-emergent and post-emergent herbicides that do not have a long residual effect. No seeding shall be applied to soil which has been chemically treated until sufficient time has elapsed to permit dissipation of toxic materials and to permit the effective

eradication of weeds. The Contractor shall assume full responsibility for any loss or damage to seeding arising from improper use of herbicides. The cost for weed control is subsidiary to Item 164.

B. Coverage. Ensure that seeded areas have a uniform, healthy and weed-free stand of grass. The minimum living plant coverage standards for acceptance of seeding in any planted area are as follows:

- Temporary Seeding - 70% coverage of ground surface
- Permanent Seeding - 90% coverage of ground surface

**SPECIAL PROVISION
TO
ITEM 420
CONCRETE SUBSTRUCTURES**

For this project, Item 420, "CONCRETE SUBSTRUCTURES", of the Standard Specifications, is hereby amended with respect to the clause cited below and no other clauses or requirements of this item are waived or changed hereby.

Article 420.4.7.1. CONSTRUCTION; Placing Temperature is supplemented by the following

The maximum temperature of cast-in-place concrete in bridge slabs and top slabs of direct traffic structures shall not exceed 85 degrees Fahrenheit when placed. Concrete diaphragms, parapets, concrete portions of railing, curbs and sidewalks, unless monolithically placed with the slab, will not be subject to the above maximum. For all other portions of structures, the maximum temperature of cast-in-place concrete shall not exceed 95 degrees F. unless permitted otherwise on the Plans.

Article 420.4. CONSTRUCTION, is supplemented by the following

After completion of the straightedge operation, as soon as construction operations permit, texture shall be applied with 1/8 inch wide metal tines with clear spacing between the tines being not less than 1/4 nor more than one inch. If approved by the Engineer in writing, other equipment and methods may be used, provide that a surface texture meeting the specified requirements is obtained. The texture shall be applied transversely. It is the intent that the average depth measured by three randomly disturbed tests within each day's production be not less than 0.05 inch when tested in accordance with Test method Tex-436-A. Should the average texture depth fall below that intended, the finishing procedures shall be revised to produce the desired texture.

**SPECIAL PROVISION
TO
ITEM 500
MOBILIZATION**

For this project, Item 500, "MOBILIZATION", of the Standard Specifications, is hereby amended with respect to the clauses cited below and no other clauses or requirements of this specification are waived or changed hereby.

Article 500.1. DESCRIPTION: This article is supplemented with the following:

This Item shall consist of the mobilization necessary to construct all work on contract items, excluding Water and Sanitary Sewer items, which have separate mobilization.

Article 500.2. MEASUREMENT: This article is voided in its entirety and replaced by the following: Measurement of the Item, Mobilization, as specified herein will be by the "Lump Sum" as the work on Paving and Drainage items only progress.

Article 500.3. PAYMENT: This article is deleted in its entirety and replaced by the following:

Partial payments of the "Lump Sum" bid for mobilization will be as follows. The adjusted contract amount for construction items as used below is defined as the contract amount (including any change orders approved at the time a request for partial mobilization payment is made) of all Paving and Drainage Work items less the lump sum bid for Item 500, "Mobilization", Item 504, "Field Office and Laboratory" and Item 502 "Barricades, Signs and Traffic Handling". The Lump Sum bid for this item shall not include any cost or sum for mobilization of Work on Water and Sanitary Sewer items. Those costs shall be included in the unit price bid for Water and Sanitary Sewer Work items. Otherwise, the bids will be considered unbalanced and a cause for consideration of rejection. Partial payments for mobilization will be made in accordance with the following schedule up to a maximum of 10 percent of the adjusted contract amount.

- (1) When 10 percent of the adjusted contract amount for paving and drainage construction items is earned, payment for 50 percent of the lump sum for "Mobilization" will be made.
- (2) Upon completion of 25 percent of paving and drainage work under this contract, payment for 75 percent of the lump sum bid for "Mobilization" will be made.
- (3) Upon completion of 50 percent of all paving and drainage work under this contract, payment for the remainder of the lump sum bid for "Mobilization" will be made.

**SPECIAL PROVISION
TO
ITEM 502
BARRICADES, SIGNS, AND TRAFFIC HANDLING**

For this Project, Item 502, "BARRICADES, SIGNS, AND TRAFFIC HANDLING", of the Standard Specifications, is hereby amended with respect to the clauses cited below and no other clauses or requirements of this item are waived or changed hereby.

Article 502.2. CONSTRUCTION: The first paragraph is supplemented with the following:

High intensity grade reflective sheeting shall be used on all signs and barricades on this project in accordance with TxDOT specification DMS-8300.

The Contractor's Traffic Control Plan (TCP) shall be submitted to the Engineer for approval a minimum of ten days prior to beginning work. The TCP will be coordinated with the approved schedule and sequence of construction. No work shall begin until the TCP is approved by the Engineer.

Prior to beginning work, the contractor shall designate, in writing, a competent person who will be responsible and available on the project site to ensure compliance with the TCP. The Engineer or his representative will have the authority to assure compliance with the MUTCD and TCP.

Article 502.3. MEASUREMENT: This article is voided in its entirety and replaced with the following:

Barricades, Signs and Traffic Handling will be measured by the month or fraction of a month. Time for beginning measurement for payment shall begin upon the effective date of the "Notice to Proceed" provided signs and barricades are in place or upon the date that signs and barricades are complete in place following the effective date of the "Notice to Proceed". Measurement for payment shall end upon the date of completion of the final inspection unless the Contractor has been previously authorized to remove the signs and barricades, in which case measurement shall cease on the date of such authorization.

Article 502.4. PAYMENT: This article is voided in its entirety and replaced with the following:

The work performed and materials furnished in accordance with this item and measured as provided under "MEASUREMENT" will be paid for at the unit bid price for "Barricades, Signs and Traffic Handling". This price is full compensation for installation, maintenance, adjustments, replacements, removal, materials, equipment, labor (including flaggers), tools, and incidentals, including but not limited to signs and barricades including the proper application and removal of temporary (construction) markings, signs and barricades.

The cost for removing pavement markings and markers in association with the various phases of the traffic control plan will not be paid for directly but will be considered subsidiary to Item 502.

**SPECIAL PROVISION
TO
ITEM 506
TEMPORARY EROSION, SEDIMENTATION AND ENVIRONMENTAL CONTROLS**

For this project, Item 506, “Temporary Erosion, Sedimentation, and Environmental Controls,” of the Standard Specifications, is hereby amended with respect to the clauses cited below, and no other clauses or requirements of this Item are waived or changed hereby.

Article 506.2. Materials. Section I. Sandbags. Table 1 is replaced with the following:

**Table 1
Sand Gradation**

Sieve #	Retained (% by Weight)
4	MAXIMUM 3%
100	MINIMUM 80%
200	MINIMUM 95%

SPECIAL PROVISIONS DALLAS COUNTY
TO
GENERAL PROVISIONS AND REGULATIONS

**SPECIAL PROVISION
TO
GENERAL PROVISIONS AND REGULATIONS
ARTICLE 5.37 – COOPERATION OF CONTRACTOR**

The last paragraph of Article 5.37 of the General Provisions and Regulations is deleted and replaced with the following:

The superintendent will be designated solely to the Project and will be available on the project site at all times. In the event a competent superintendent is not available, the Engineer may suspend work until one is available, but contract time charges will continue to be assessed.

**SPECIAL PROVISION
TO
GENERAL PROVISIONS AND REGULATIONS
ARTICLE 5.44– FINAL ACCEPTANCE**

Article 5.44.2.2 of the General Provisions and Regulations is appended as follows:

The Contractor shall provide TV video inspections for all installed (under this contract) public storm sewer after all work is completed, and correct any deficiencies identified through the TV inspections. The TV videos shall be provided to the Engineer at the time of request for final inspection. No additional payment will be made for the performance of TV inspections or for the correction of any deficiencies.

The Contractor shall provide work schedule to correct the deficiencies identified during the final inspection for approval. Correcting the deficiencies will need to be started as soon as possible, and not later than 10 working days after the receipt of the list of deficiencies in writing from the Engineer. Working day charges will resume if correcting the deficiencies is not started within 10 working days, unless otherwise authorized by the Engineer.

**SPECIAL PROVISION
TO
GENERAL PROVISIONS AND REGULATIONS
ARTICLE 6.48 – SAMPLING, TESTING AND INSPECTION**

Article 6.48 of the General Provisions and Regulations is appended as follows:

When Work requiring sampling and/or testing is not ready for sampling and/or testing at the time the Laboratory arrives on the project site, the Contractor shall be responsible for payment of Laboratory technician standby time, which is represented by the time between the technician's arrival on the project site and the time the Work is ready for sampling and/or testing.

The Contractor shall be responsible for the direct and indirect costs for any tests that benefit the Contractor. For any tests that benefit the Contractor, sampling, prove-out tests, or re-tests, the Contractor shall be required to use the same Laboratory that the County has contracted with to perform sampling and testing services for the project. Unit rates for services billed to the Contractor by the Laboratory will be the same rates billed to the County.

The Contractor shall make timely payments to the Laboratory for any technician time and services performed by the Laboratory that are billable to the Contractor. Make payment to the Laboratory within 30 days of receipt of any invoice from the Laboratory. If the Contractor fails to make timely payments to the Laboratory, the County may elect to pay the outstanding Laboratory invoice(s) and deduct the amount(s) from the monthly pay applications, regardless of the reason for payment delays. The Contractor is responsible for making payments to the Laboratory, regardless of whether any of his subcontractors is responsible for payment.

**SPECIAL PROVISION
TO
GENERAL PROVISIONS AND REGULATIONS
ARTICLE 6.50– STORAGE OF MATERIALS**

Paragraph 2 of Article 6.50 of the General Provisions and Regulations is appended as follows:

If the Owner grants authorization to store materials within the right of way, the materials shall be stockpiled in such a way that they do not restrict visibility of and access to adjacent properties or lessens the ability for the motoring public to safely navigate through the work zone.

**SPECIAL PROVISION
TO
GENERAL PROVISIONS AND REGULATIONS
ARTICLE 7.61.4 – TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM
(TPDES)**

Article 7.61.4 of the General Provisions and Regulations is deleted and replaced with the following:

Permits and Stormwater Pollution Prevention Plans (SW3P). As the primary operator, the Contractor shall be responsible for filing with the Texas Commission on Environmental Quality the Notice of Intent (NOI) for coverage under the TPDES Construction General Permit TXR150000 and the Notice of Termination (NOT) for all work to be performed as part of the contract. The County will be designated as the secondary operator.

**SPECIAL PROVISION
TO
GENERAL PROVISIONS AND REGULATIONS
ARTICLE 9.86 – PROGRESS PAYMENTS**

Article 9.86 of the General Provisions and Regulations is appended as follows:

Between the 25th day and the last day of each month, the Contractor will submit to the Engineer an approximate estimate of the value of the Work done under these Specifications during the month. Whenever the estimate of Work done since the last previous estimate exceeds one thousand dollars (\$1,000.00) in amount, a percentage of such estimated sum will be paid the Contractor. The Contractor shall furnish to the Engineer such detailed information as may be requested to assist in the verification of monthly estimates. It is understood that monthly estimates will be approximate only and that all monthly estimates and partial payments in which errors may occur will be automatically corrected in the succeeding estimate and partial payment. Such estimates shall not in any respect be taken as a certification of the amount of Work done or of its quality or sufficiency or as an acceptance of Work nor, in any way, release the Contractor from any responsibility of the Contract.

In conjunction with each monthly pay estimate, the Contractor may be required to submit an updated schedule detailing planned work activities to complete the contract within the allocated time, when in the Engineer's review of the most recently submitted schedule, the progress of work activities is determined to be behind schedule. Submittal of an updated schedule, when requested by the Engineer, will be required to process the monthly pay estimate.

**SPECIAL PROVISION
TO
GENERAL PROVISIONS AND REGULATIONS
ARTICLE 9.87 – PAYMENT FOR MATERIAL ON HAND (MOH)**

Article 9.87 of the General Provisions and Regulations deleted and replaced with the following:

If payment for MOH is desired, request compensation for the invoice cost of acceptable nonperishable materials that have not been used in the work before the request, and that have been delivered to the work location or are in acceptable storage places. Nonperishable materials are those that do not have a shelf life or whose characteristics do not materially change when exposed to the elements. Include only materials that have been sampled, tested, approved, or certified, and are ready for incorporation into the work.

Only materials which are completely constructed or fabricated on the Contractor's order for a specific Contract and are so marked and on which an approved test report has been issued are eligible. Any repairs required after fabricated materials have been approved for storage shall require approval of the Engineer before being made and shall be made at the Contractor's expense. Include only those materials that have an invoice cost of at least \$10,000.00 in the request for MOH payment. For multiple work order Contracts, payment for MOH will only be made for materials authorized for purchase by the work order or by written approval of the Engineer.

If the request is acceptable, the Engineer will include payment for MOH in a progress payment. Payment for MOH does not constitute acceptance of the materials. Payment will not exceed the actual cost of the material as established by invoice, or the total cost for the associated Item less reasonable placement costs, whichever is less. In conjunction with monthly pay applications, the Contractor shall furnish paid invoice(s) to the County for materials on hand in which payment is requested. The paid invoice shall contain a statement signed by the Contractor indicating that payment for materials shown on the invoice(s) has been made. Payment may be limited to a portion of the invoice cost or unit price if shown elsewhere in the Contract. Payment for precast products fabricated or constructed by the Contractor for which invoices or freight bills are not available may be made based on statements of actual cost.

Submit the request on forms approved by the Owner. These forms may be electronically reproduced, provided they are in the same format and contain all the required information and certifications. Continue to submit monthly MOH forms until the total value of MOH is \$0.

By submitting a request for MOH payment, the Contractor expressly authorizes the Owner to audit MOH records, and to perform process reviews of the record-keeping system. If the Owner determines noncompliance with any of the requirements of this provision, the Owner may exclude payment for any or all MOH for the duration of the Contract.

Maintain all records relating to MOH payment until final acceptance. Provide these records to the Engineer upon request.

Payment for MOH for work items funded wholly by a City or other entity may be subject to additional requirements or the City or other entity may elect not to pay for MOH at all, in which case there shall be no recourse for the Contractor.

**SPECIAL PROVISION
TO
GENERAL PROVISIONS AND REGULATIONS
ARTICLE 9.89 – RETAINAGE**

Article 9.89 of the General Provisions and Regulations is appended as follows:

The County of Dallas will retain fifteen (15) percent on all contracts of \$200,000.00 and less, ten (10) percent on contracts less than \$400,000.00 and five (5) percent on contracts of \$400,000.00 and over. When the project is 95 percent complete and Work is progressing satisfactorily and on schedule, the Contractor may apply for a reduction in the amount retained. The request for a reduction in the amount retained is subject to the approval of the Engineer. Said amount retained will not be paid until final acceptance of the project.

SPECIAL SPECIFICATIONS

DALLAS COUNTY

SPECIAL SPECIFICATION

ITEM 599 PARTNERING WORKSHOP

1. PARTNERING

The intent of this section is to promote an environment of trust, mutual respect, integrity, and fair-dealing between the Department and the Contractor. The Department and the Contractor agree that no party is an agent, servant, or employee of the other party. No joint enterprise exists between the Department and the Contractor.

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

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

1.2.1 **Internal Facilitators.** A Department or Contractor staff member may be selected as the facilitator at no additional cost to either party.

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

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

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

The Department will invite and provide a list of attendees that includes but is not limited to Department, City, County, law enforcement, railroad, and utility representatives.

Participate in additional partnering meetings as mutually agreed.

1.4. **Payment.** Expenses for labor, Contractor equipment, or overhead will not be allowed.

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

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

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

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

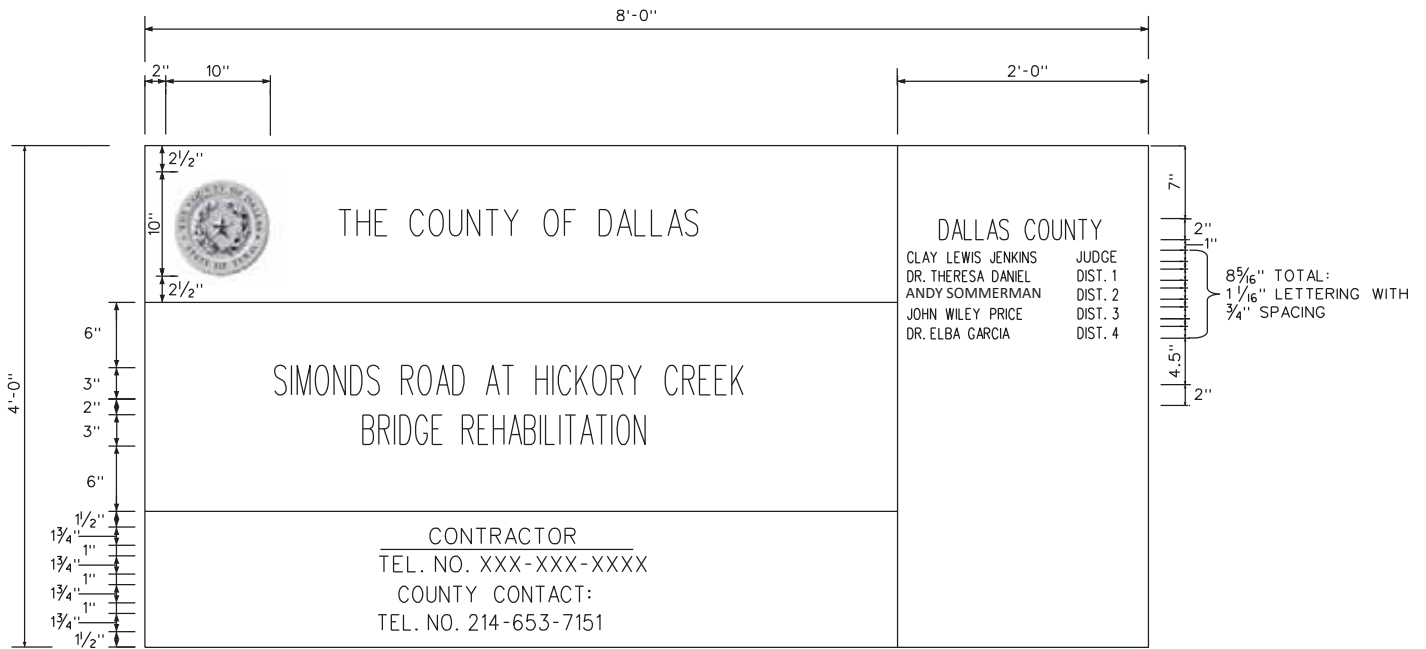
SPECIAL SPECIFICATION

ITEM 6340

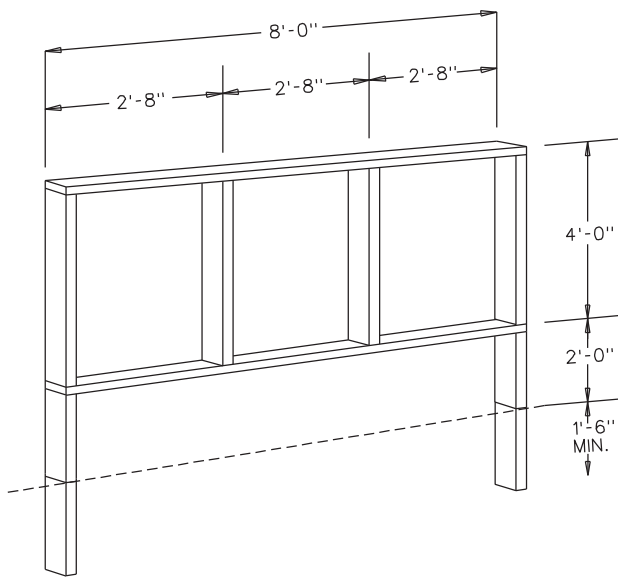
PROJECT SIGN

1. **DESCRIPTION.** This item shall govern for all materials and work necessary for the installation of the project sign.
Two (2) Project Identification signs shall be furnished and installed by the Contractor. The location of the signs shall be determined by the Engineer and shall be visible to vehicular traffic where applicable and approved by the City and the County.
2. **MATERIALS.**
 - a) Sign Panel - The sign panel shall be ½ inch laminated duolox masonite or ½ inch marine plywood. The sign panel shall be 1-piece construction for 4-ft by 8-ft or smaller signs.
 - b) Frame- The frame shall be constructed from 2 inch by 4 inch stock.
 - c) Post- The post shall be 4 inch by 6 inch lumber.
 - d) Paint- The paint shall be exterior type.
3. **CONSTRUCTION.** The sign shall be constructed and painted as indicated by the project sign detail sheet on the following page. The Contractor shall submit a proof of the sign for approval by the Engineer prior to fabrication.
4. **MEASUREMENT.** This item will be measured as each project sign assembly complete in place.
5. **PAYMENT.** The work performed and materials furnished in accordance with this Item and measured as provided under “Measurement” will not be paid directly but will be considered subsidiary to the contract.

SPECIAL SPECIFICATIONS



PROJECT SIGN DETAIL



SIGN FRAME DETAIL

N.T.S.

NOTES:

1. LETTERING - HELVETICA REGULAR 1/16", 1/2", 2", 2 1/2", 3" & 5" SIZES. USE PREMANUFACTURED VINYL, DARK BLUE.
2. USE BOLD LETTERING 1/16" HIGH AND SPACE APART FOR COUNCIL MEMBER NAMES AND DISTRICT NUMBERS. USE 2" LETTERING FOR THE TITLE "DALLAS & CITY COUNCIL" & "DALLAS COUNTY".
3. PHONE NUMBERS WILL BE FURNISHED FOR EACH PROJECT.
4. CONTACT CITY OF DALLAS FOR CITY LOGO DETAILS.
5. SIGN PANEL SHALL BE 1/2" LAMINATED DUOLOX MASONITE OR 1/2" MARINE PLYWOOD.
6. FRAME SHALL BE 2" X 4" STOCK.
7. POST SHALL BE 4" X 6" TREATED LUMBER.
8. PAINT SHALL BE:
 FRAME TO PAINTED "WHITE".
 PAINT BACKGROUND OF SIGN "WHITE".
 PAINT MESSAGE OF SIGN "BLUE".
 ALL PAINT TO BE "EXTERIOR TYPE".
9. 6" SIDE SHALL BE PARALLEL TO ROADWAY.

**SPECIAL SPECIFICATION
ITEM 7000**

**GUIDANCE FOR DOCUMENTING
CONTRACTOR PERFORMANCE EVALUATIONS**

1. There are several reasons for documenting the performance of a construction contractor: to establish a written case for possible future termination; to document possible justification for exclusion from future County project considerations; and for use as a tool to urge the contractor to perform up to the contract standard. In order to develop adequate documentation for performance appraisals, it is suggested that the following general guidelines be used to evaluate a contractor's performance with respect to each rated element.

a. Quality of Work (Contractor Quality Control (CQC)):

- i. Inadequate control
- ii. Failure to perform necessary testing
- iii. Failure to implement 3-phase inspection process
- iv. Inadequate or incomplete CQC documentation
- v. Failure to identify, and correct deficient work
- vi. Inadequate reviews of materials and shop drawings
- vii. Incorporation of unspecified materials

To back up any proposed unsatisfactory rating, the Remarks Section in Part III of the Performance Evaluation form must contain detailed comments, based on back-up material and with specific instances of deficiencies, as appropriate.

b. Timely Performance:

- i. Is the contractor completing the construction activities in a timely manner? This includes administrative activities as well as physical construction activities.
- ii. Did the contractor adequately schedule the work?
- iii. Has the contractor met administrative milestone dates?
- iv. Has the contractor met physical milestone dates specified by contract or agreed to in the project schedule?
- v. If the schedule has slipped through the contractor's fault or negligence, has he taken appropriate corrective action of his own volition?
- vi. Has the contractor furnished updated project schedules on a timely basis?

c. Effectiveness of Management:

- i. Are the contractor's on-site and home office management personnel exhibiting the capacity to adequately plan, schedule, resource, organize and otherwise manage the work? If not, describe and relate to other rated elements.
- ii. Is the contractor making a good faith effort to comply with the subcontracting plan?

d. Compliance with Labor Standards:

- i. Has the contractor complied with all required labor standards and provisions?
- ii. Have necessary corrective actions been made without significant County interventions?
- iii. Are payroll records being submitted in a complete and timely manner?
- iv. Is the contractor complying with affirmative action and EEO compliance requirements?

e. Compliance with Safety Standards:

- i. Has the contractor implemented an effective safety program; one which minimizes/mitigates potential accidents?
- ii. Has the contractor provided appropriate personnel protective equipment and associated necessary training?
- iii. Has the contractor taken necessary corrective actions when safety deficiencies are noted or are violations only corrected after significant County intervention?

f. Performance Evaluation Form Preparation:

- i. The telephone number of the Project Manager or other evaluator who prepares the report should be on the form.
- ii. A notation of the Project Manager or appropriate evaluator is required on each form.
- iii. A notation of Interim report, or Subcontractor should be clearly displayed at the top of the form, if applicable.
- iv. The signature of the Project Engineer or appropriate evaluator is required on each form.

The above questions are not intended to be all inclusive, but should provide a point of departure to develop additional questions and responses which will result in the preparation of a well-documented performance evaluation.

CONSTRUCTION CONTRACTOR PERFORMANCE EVALUATION

1. PURPOSE

To establish a policy and procedures for evaluating construction contractor performance.

2. APPLICABILITY

The policy and procedures set forth herein will be applied by the Dallas County Department of Public Works to all contracts that include expenditure of County funds for direct construction costs regardless of the responsibility for construction management/oversight.

3. PROCEDURES

- (a) Project managers in the Engineering and Construction Division of the Department of Public Works will collaborate with the Dallas County Construction Inspector throughout the construction period to evaluate the Contractor's performance and prepare a performance evaluation report on the prescribed form(s) accompanying this document.
- (b) The final performance evaluation report shall be prepared within 60 days of substantial completion of the work, or at the time of contract termination.
- (c) An interim performance evaluation report shall be prepared for contracts underway when a Contractor's performance is generally unsatisfactory for any element for a period of three months or longer, or as appropriate.
- (d) Pre-award Responsibility Determinations. Previous performance evaluations of construction contractors will be used in making responsibility determinations. Before selecting qualified responsible contractors for future awards, the Project Manager must retrieve all performance evaluations on file pertaining to the prospective awardee's and make a determination of responsibility regarding the contractor's previous performance on County contracts. Particular attention should be given interim unsatisfactory evaluations whenever a final evaluation is not yet available.

4. IMPLEMENTATION

- (a) The first step in evaluating Contractor's performance is notifying the Contractor at the preconstruction conference of the performance elements against which his performance will be evaluated. This notification is documented in the contract file. The contractor should be informed as to what constitutes satisfactory and unsatisfactory performance during the life of the contract, and that the Project Manager and Inspector intend to use performance evaluations to document contract performance. Documentation to support the evaluation should be collected throughout the course of the contract.
- (b) Interim Performance Evaluation Reports
 - (1) An interim performance evaluation report must be initiated when a contractor's performance is unsatisfactory on one or more elements for a period of three months or longer, or when circumstances dictate as noted in paragraph b(3) below. When unsatisfactory performance is noted, the contractor will be called into a conference to discuss problem areas and their resolution. A Memorandum for Record (MFR) of the meeting will be prepared. The contractor will be advised that performance must improve within 30 days or within a reasonable period. During this period, the Project Manager and Inspector will closely monitor problem areas. If no material improvement is noted, a letter will be sent to the contractor as notification of intent to issue an interim unsatisfactory performance rating. The letter will address previous meetings and

identify the facts on which the interim unsatisfactory rating is based. A copy of this correspondence will be forwarded to the contractor's bonding company. NOTE: The Director of Public Works should be kept personally aware of the status of the contract.) It is mandatory that the contractor be given the opportunity to meet with the Project Manager and/or Director of Public Works prior to issuance of the unsatisfactory rating.

- (2) The contractor will be allowed at least 14 days to respond in writing to the notification of intent letter. At the end of the specified time period, if there is no response or evidence of substantially improved performance, the interim unsatisfactory rating will be issued in a report prepared by the Inspector or Project Engineer. Once again, the contractor's bonding company will be notified of the actions taken. If the contractor responds within the allotted time frame, all written comments will be included in the report. If not, a comment regarding the contractor's lack of response will be included in the evaluation. Should the contractor respond to the "letter of intent" within the allotted time frame, any written comments made by the contractor will be included in the report and factual discrepancies alleged shall be discussed, resolved, if possible, and made a part of the report. Changes in the report may be made, if appropriate.
 - (3) As stated in paragraph 4(b)(1) above the normal time frame for initiation of an interim unsatisfactory performance evaluation usually occurs after three months of unsatisfactory performance. However, in circumstances involving a critical feature of the work that the contractor must perform satisfactorily and does not, or if the project is of a short duration, an unsatisfactory rating for poor performance may be issued without waiting for the end of the three month evaluation period.
 - (4) Interim unsatisfactory ratings alert contractors of their shortcomings and serve as a valuable tool in energizing them to improve their performance, correct deficiencies, and avoid a final unsatisfactory rating. After the issuance of an interim unsatisfactory rating, the Project Manager and Inspector must continue to monitor the contractor's performance and to document performance improvement. Documents should be in the form of a memoranda of meetings, letters to the contractor, quality assurance reports, photographs, etc. The Project Manger and Inspector will re-evaluate the interim unsatisfactory rating every three months until the contract is complete. The re-evaluation should include the reasons why it is in the County's best interests to allow the contractor to continue performance of the contract. A new evaluation is not required if the unsatisfactory performance continues for additional periods, although the files should continue to be fully documented. However, should the contractor's performance on any performance evaluation element change, the original interim rating may be amended with a 'written addendum which reflects the changes. This written amendment should become a part of the original contract file.
- (c) Final Implementation Evaluation Reports
- (1) Within 60 days of substantial completion of the work (as determined jointly by the Project Manager and Inspector) a Performance Evaluation Form must be prepared. Final evaluation performance reports are processed in the same manner as described above, except that the 30-day review period stipulated is only applicable to interim unsatisfactory evaluation reports. The original performance evaluation report for each contract is to be retained in the contract file for a minimum of three years after the date of the report. The Project Manager is usually the evaluator who prepares the report, and each performance report shall be reviewed for accuracy and fairness by an individual having knowledge of the contractor's performance at a supervisory level above that of the evaluator.

- (2) If the evaluator concludes that a contractor's overall performance was unsatisfactory, the contractor shall be advised in writing that a report of unsatisfactory performance is being prepared and the basis for the report. The contractor must be afforded the opportunity to submit written comments, which should be addressed and included in the report. There are no rigid rules governing the number of items of a performance evaluation that must be unsatisfactory before an overall unsatisfactory rating is issued. Unsatisfactory performance on one or more of the elements to be rated may be sufficient to justify an overall unsatisfactory rating. Final unsatisfactory ratings should not be a surprise to the contractor since interim notification of the contractor's deficiencies should be fully documented during the course of the contract, and it is mandatory that the contractor be given the opportunity to meet with the Project Manager and/or Director of Public Works prior to issuance of the unsatisfactory rating. However, an interim unsatisfactory report is not a prerequisite for issuing a final unsatisfactory rating. Further, the Project Manager and/or Director of Public Works must be satisfied that the justification and documentation supporting an unsatisfactory rating is adequate. Interim and final unsatisfactory performance evaluation reports must be signed by the Project Manager or Director of Public Works. The final performance evaluation report will supersede any previous interim reports. Final unsatisfactory ratings can be amended, if warranted, to reflect changes in the evaluation of performance elements caused by resolution of contractor claims or compliance with warranty requirements. Amendments to final unsatisfactory reports must be made in writing stating why an amendment to the rating is necessary and which elements need to be changed.
- (3) On job order contracts, a final performance evaluation report should be prepared at the conclusion of the entire contract.
- (d) Future Exclusion from County Projects
Following issuance of a final unsatisfactory performance evaluation report, the Director of Public Works shall promptly make a determination regarding the appropriateness of pursuing exclusion of the contractor from future consideration for work on Dallas County projects based on his record of unsatisfactory performance evaluations. This written determination shall indicate the rationale for seeking or not seeking exclusion.
- (e) Outstanding Performance Ratings
When appropriate, contractors should be recognized for outstanding performance on projects. When submitting an outstanding rating, the evaluator will include a draft letter of appreciation to the contractor with a copy of the evaluation. The Project Manager shall review the draft and have it typed in final form of the Director of Public Works signature.
- (f) Subcontractor Performance Evaluations
Where a subcontractor is known to exert significant influence on or control progress through a special relationship with the prime contractor (as in the case of a subsidiary of an affiliated company), or by virtue of performing a significant portion of the contract, a performance evaluation will be prepared on the subcontractor, in addition to the evaluation report prepared on the prime contractor. Subcontractor evaluations are stored in the same manner as for prime contractors.
- (g) Contractor Notice
A copy of each completed performance evaluation must be formally transmitted to the contractor, regardless of the rating. This action is especially important for contractors who are performing in an unsatisfactory manner. Unsatisfactory contractors should be given a copy of the performance evaluation report as soon as it has been processed and signed by the Director of Public Works.

CONTRACTOR PERFORMANCE EVALUATION CONSTRUCTION

Type of Evaluation:

INTERIM ()%
 FINAL
 AMENDED
 TERMINATED FOR DEFAULT

Project Manager:

Sr. Inspector:

Project Inspector:

Contractor Name:

Contractor Phone No:

Street Number & Name:

City:

State:

Zip Code:

PART I – GENERAL CONTRACT DATA

Project Name and Limits:

Project Number:

Project Location:

Original Contract Amount:

Number of Change Orders To Date:

Contract Amt with Modifications:

Net Amount Paid (if Final):

Liquidated Damages:

Bid Open Date:

Award Date:

Substantial Completion Date:

Type of Subcontracting:

Bridge
 Drainage
 Water and/or Sewer
 Landscaping
 Paving

Pavement Markings
 Excavation
 Other(s) [Specify]:

PART II – PERFORMANCE EVALUATION OF CONTRACTOR

Overall Rating:
 Outstanding
 Above Average
 Satisfactory
 Marginal
 Unsatisfactory

Evaluator Information

Evaluator (Print Name):

Evaluator Title:

Evaluator's Signature:

Organization (if not Dallas County):

Date:

Management Concurrence (FOR DALLAS COUNTY USE)

Evaluation Reviewed By (Print Name):

Reviewer's Title:

Reviewer's Signature:

Date:

REFER TO PART III FOR EVALUATION OF PERFORMANCE ELEMENTS

PART III-EVALUATION OF PERFORMANCE ELEMENTS

N/A=NOT APPLICABLE O=OUTSTANDING A=ABOVE AVERAGE S=SATISFACTORY M=MARGINAL U=UNSATISFACTORY

QUALITY CONTROL	N/A	O	A	S	M	U	EFFECTIVENESS OF MANAGEMENT	N/A	O	A	S	M	U
a. QUALITY OF WORKMANSHIP							a. COOPERATION						
b. ADEQUACY OF THE CQC PLAN							b. MANAGEMENT OF RESOURCES PERSONNEL						
c. IMPLEMENTATION OF THE CQC PLAN							c. COORDINATION AND CONTROL OF SUBCONTRACTORS						
d. QUALITY OF CQC DOCUMENTATION							d. ADEQUACY OF SITE CLEAN UP						
e. STORAGE OF MATERIALS							e. EFFECTIVENESS OF JOB SITE SUPERVISION						
f. ADEQUACY OF MATERIALS							f. COMPLIANCE WITH LAWS AND REGULATIONS						
g. ADEQUACY OF SUBMITTALS							g. PROFESSIONAL CONDUCT						
h. ADEQUACY OF QC TESTING							h. REVIEW/RESOLUTION OF SUBCONTRACTORS ISSUES						
i. ADEQUACY OF AS-BUILTS							i. IMPLEMENTATION OF SUBCONTRACTING PLAN						
j. USE OF SPECIFIC MATERIALS							COMPLIANCE WITH LABOR STANDARDS						
k. IDENTIFICATION/CORRECTION OF DEFICIENT WORK IN A TIMELY MANNER							a. CORRECTION OF NOTED DEFICIENCIES						
TIMELY PERFORMANCE							b. PAYROLLS PROPERLY COMPLETED AND SUBMITTED						
a. ADEQUACY OF INITIAL PROGRESS SCHEDULE							c. COMPLIANCE WITH LABOR LAWS AND REGULATIONS WITH SPECIFIC ATTENTION TO THE DAVIS-BACON ACT AND EEO REQUIREMENTS						
b. ADHERENCE TO APPROVED SCHEDULE							COMPLIANCE WITH SAFETY STANDARDS						
c. RESOLUTION OF DELAYS							a. ADEQUACY OF SAFETY PLAN						
d. SUBMISSION OF REQUIRED DOCUMENTATION							b. IMPLEMENTATION OF SAFETY PLAN						
e. COMPLETION OF PUNCHLIST							c. CORRECTION OF NOTED DEFICIENCIES						
f. SUBMISSION OF UPDATED AND REVISED PROGRESS SCHEDULES													
g. WARRANTY RESPONSE													

REMARKS

Explanation of unsatisfactory evaluation is required. Other comments are optional. Provide facts concerning specific events or actions to justify the evaluation. These data must be in sufficient detail to assist contracting officers in determining the Contractor's responsibility. Continue on separate sheet(s) if needed.

CONTRACTOR EVALUATION OF DALLAS COUNTY

Evaluator's Name:		Company Name:				
Street Name and Number:		City:	State:	Zip Code:	Phone No:	
Project Name:		Project Limits:				
Dallas County Project Manager:		Dallas County Inspector 1:			Dallas County Inspector 2:	
O=Outstanding A=Above Average S=Satisfactory M=Marginal U=Unsatisfactory N/A=Not Applicable						
Evaluation Criteria	O	A	S	M	U	N/A
Coordination with Contractor						
Good Project Decisions						
Fairness in Resolving Issues						
Concerted Effort to Resolve Issues						
Meetings Conducted Professionally						
Timely Advice on Pending/Existing Issues						
Timely Processing of Invoices						
Change Orders/Field Modifications Handled Fairly						
Reasonable Construction Time						
Knowledgeable about Project						
Remarks: <i>Evaluator should provide remarks for any criterion measured below satisfactory. Attach additional sheets if necessary.</i>						
Signature:		Title:			Date:	

SPECIAL SPECIFICATION

ITEM 8000

CEMENT USE ON PUBLIC PROJECTS-SUSTAINABLE AIR QUALITY

Pursuant to Section 271.907 of the Texas Local Government Code, as amended, the purpose of this Item is to provide a material standard for Portland cement to be purchased or used by the Contractor in connection with the Project. This Item applies to all product or material applications manufactured or mixed with Portland cement, whether the product or material is batched or prepared on or off the Project site, including but not limited to concrete for structural or nonstructural purposes, drywall, mortar for bricks, block, or stone, or other similar uses. It has been determined that Portland cement manufactured by means of a dry kiln process results in substantial reductions in emissions of nitrogen oxides (NO_x). In the interest of improving the quality of the air in the Dallas County and throughout the North Texas nonattainment area, the Dallas County determines that it is in the public interest for the Contractor to obtain and use this type of Portland cement during construction of the Project.

The Contractor will use during the construction of the Project and include the cost in its price for the base bid, or in the applicable unit prices of the base bid for concrete and other products that utilize Portland cement, only concrete or other products or materials that contain Portland cement manufactured by means of a dry kiln process. For purposes of this paragraph, the term “dry kiln process” means the process in which the admixture of raw materials used to make Portland cement are mixed or ground into a dry powder for heating in the kiln without the addition of any extraneous water or other liquid material. The Contractor shall also separately itemize in the Bid in the space provided in the Bid sheet, **for the information and benefit of the Owner**, the price of the concrete or other product that utilizes Portland cement manufactured by means of a dry kiln process. Failure to use Portland cement manufactured through a dry kiln process as required above shall render the bid nonresponsive.

As an alternate to the base bid, the Contractor will also be required to state the price (as an addition or a deduction to the base bid price or to the applicable unit prices for concrete and other products that utilize Portland cement) of any products or materials to be furnished that contain Portland cement manufactured by means other than the dry kiln process. An item is contained in the Bid sheet for the alternate. All blanks provided in the bid alternate, along with the statement as to whether the amount is an addition to or a deduction from the base bid, shall be filled in by the Contractor. If the Owner accepts the alternate as part of the award then the paragraph below shall not apply. Nothing in this Subsection shall be construed to require the Owner to accept any alternate submitted.

When any load or item of Portland cement, concrete, or other product which contains Portland cement is delivered to the Project site for use, the Contractor shall obtain and present to the Owner a sworn-to certification, using a certification form approved by the Owner, from the Portland cement or concrete manufacturer that the load or item delivered contains no Portland cement other than Portland cement made through a dry kiln process. The Contractor shall also obtain a manifest for each Portland cement or concrete load showing the quantity of Portland

cement or concrete delivered and the location of the manufacture of the Portland cement, along with the name of a designated representative of the Portland cement manufacturer for purposes of contact by the Owner if necessary. On a monthly basis or other frequency desired by the Owner, the Contractor shall furnish for inspection by the Owner of a copy of the delivery manifests obtained. The Contractor shall certify in writing that the manifests are true and correct to the best of the Contractor's knowledge. Notwithstanding the manufacturer's certification, the Contractor will be held responsible in the event the Owner discovers that the cement used was not manufactured through a dry kiln process.

The Owner reserves the right to pursue any remedies it has under the Contract Documents in the event the Contractor fails to comply with this materials specification, including but not limited to termination of the Contract, adverse evaluation at final completion of the Contract, or debarment from participation in future construction contracts the Owner may advertise or award. The Owner also reserves the right to reject any load or item of Portland cement, concrete, or other product containing Portland cement delivered in the event it is discovered that the Portland cement used in the load or item was not manufactured through a dry kiln process.

Preference: Pursuant to Section 271.907 of the Texas Local Government Code, as amended, the Owner will give a preference to the Bid of a contractor who certifies in the Bid that, in the purchase of concrete or other products using Portland cement in construction of the Project, it is utilizing Portland cement from a manufacturer who manufactures the cement through a dry kiln process that generates average NOx emissions of not greater than 1.7 pounds of NOx per ton of clinker produced, based upon NOx emissions information furnished to the Texas Commission on Environmental Quality for the 12 months prior to the date of the bid opening during which emissions data is available. The preference shall apply only to the extent that the Contractor's bid, as certified, is not greater than 105 percent of the lowest responsible bid of a Contractor who does not or cannot certify that it will utilize Portland cement from a cement kiln meeting the above mentioned emission standard. The Contractor shall also separately itemize in the Bid in the space provided in the Bid sheet, **for the information and benefit of the Owner**, the price of the concrete or other product that utilizes Portland cement manufactured at a kiln that meets the above-mentioned standards. The Owner reserves the right to pursue any remedies it has under the Contract documents in the event the Contractor falsely certifies to the requirements stated above, including but not limited to termination of the Contract, adverse evaluation at final completion of the Contract, or debarment from participation in future construction contracts the Owner may advertise or award. The Owner also reserves the right to reject any load or item of Portland cement, concrete, or other product containing Portland cement delivered in the event it is discovered that the Portland cement used in the load or item was not manufactured as certified.

SECTION R

GENERAL NOTES & BID ITEM NOTES

County: Dallas

Highway: Simonds Road Bridge at Hickory Creek

GENERAL

The construction, operation and maintenance of the proposed project will be consistent with the state implementation plan as prepared by the Texas Commission on Environmental Quality.

The total disturbed area (TDA) for this project, as shown on the plans is 0.5 acres. However, the TDA will establish the required authorization for storm water discharges. The TDA of this project will be determined by the sum of the disturbed area in all project locations in the contract, and all disturbed area on all Project-Specific Locations (PSL) located in the project limits and/or within 1 mile of the project limits. The department will obtain an authorization to discharge storm water from the Texas Commission on Environmental Quality (TCEQ) for the construction site as shown on the plans, according to the TDA of the project. The contractor will obtain any required authorization from the TCEQ for the discharge of storm water from any PSL for construction support activities on or off of the project row according to the TDA of the project.

When the TDA for the project exceeds 1 acre, provide a copy of the appropriate application of permit (NOI, or Construction Site Notice) to the engineer, for any PSL located in the project limits or within 1 mile of the project limits. Follow the directives and adhere to all requirements set forth in the TCEQ, Texas Pollution Discharge Elimination System, Construction General Permit (TPDES, CGP).

This project required permitting with environmental resources agencies, as outlined in the plan set Environmental Permits, Issues and Commitments (EPIC) Sheet. There is a high probability that an environmentally sensitive area could be encountered on the contractor designated Project-Specific Locations (PSL) for this project (haul roads, equipment staging areas, borrow pits, disposal sites, field offices, storage areas, parking areas, etc.). Item 7.6 "Project-Specific Locations", provides a listing of regulatory agencies that may need to be contacted regarding this project.

Leave all right of way areas undisturbed until actual construction is to be performed in said areas.

When a manufacturer name is called out in the plans or specifications, it shall be understood to include "or approved equal" as an alternative.

The Contractor is responsible for obtaining the Floodplain Development Permit from Dallas County UAS (Unincorporated Area Services).

<https://www.dallascounty.org/departments/duas/development-permit.php>

County: Dallas

Highway: Simonds Road Bridge at Hickory Creek

GENERAL NOTES

1. In the adoption of the Texas Department of Transportation (TXDOT) Specifications, it is understood that any reference to the Texas Department of Transportation (TXDOT) shall be interpreted to include the County of Dallas as applicable. Any conflict between the contract drawings, general provisions, specifications, and/or standard construction details that apply to the project shall be decided by the Engineer. Priority shall be in the order listed as follows, with the first having the highest priority:

A. 2024 TxDOT Specifications & Project Special Specifications and Standard Drawings
B. Dallas County Standards
C. NCTCOG Public Works Construction Standards (latest version)
2. The items under which payment is to be made to the Contractor are as listed in the bid proposal. Reference to other items in the standard specifications as pay items is hereby deleted. The provisions for construction and material requirements for such items are to be complied with and only the provisions for direct payment are deleted. No separate pay is implied by these general notes for the items covered herein, unless specifically established in the proposal section of the project specifications. Include the cost of items covered herein in the contract unit price for the item of work of which the item is a component or as incidental to other work.
3. Construction Sequencing and Traffic Control shown in plans are suggested for preparation and comparison of bids only. Any change shall have prior approval of the Engineer and shall be sealed and signed by a Texas Licensed P.E. Submit any revisions to these plans for County approval. Prior to the start of Work, the Contractor shall develop, in detail, a construction schedule and method that shall cause minimum interference with traffic along, across, or adjacent to the project during construction. If the schedule or method becomes unworkable or unsatisfactory as work proceeds, adjustments shall be made. If, at any time during construction, the Contractor's proposed Plan of operation results in unsafe traffic movement in the opinion of the Engineer, the Contractor shall immediately correct the unsatisfactory condition. The traffic control plan shall be submitted by the Contractor a minimum of ten (10) days prior to the pre-construction meeting for approval. Work shall not begin prior to the approval of the construction traffic control plan.
4. A very important feature of this contract is providing for the safety and convenience of the traveling public and abutting property owners. The schedule to be provided under item no. 3 of these general notes and Article 8.1 of the General Provisions and Regulations shall ensure this provision. Where, in the opinion of the Engineer, local traffic and abutting property owners would be unduly inconvenienced for an extended period of time, the Engineer shall limit the length of excavation that the Contractor may open up at one time.
5. Working hours are Monday thru Friday from 7:00 am to 5:00 pm. Work is not allowed on Saturdays or Sunday's without written permission from the Dallas County Public Works

County: Dallas

Highway: Simonds Road Bridge at Hickory Creek

Project Manager. The Contractor shall notify the Engineer no later than noon on the Thursday proceeding any Saturday he desires to work. No Concrete from Batch Plant after 3:00 PM will be accepted.

6. Two (2) project signs shall be furnished and installed by the Contractor, one on each end of the project. The signs shall be constructed as shown in the contract documents. The signs shall be considered incidental and will not be paid for directly.
7. Two-way traffic shall be maintained at all times, unless otherwise authorized by the Engineer in writing, and unless flagmen are present to control traffic. Before 9:00 AM and after 4:00 PM weekdays, two-way traffic must be maintained at all times, with or without flagmen.
8. The Contractor shall provide for continuous supervision of construction and a superintendent shall be on the project site at all times during work hours. The superintendent shall, at all times, have in his immediate possession a complete set of current contract documents including the plans and specifications. The superintendent shall be fully authorized to act on behalf of the Contractor in all matters pertaining to the work.
9. The following utility owners are known to have facilities on or within the vicinity of the project.

Utility Companies	Phone Numbers
Texas One Call (Utility Locator)	811
Oncor Electric Delivery	214-486-4245
Atmos Energy	972-485-6277
AT&T	214-320-6443
Spectrum	817-298-3528
TRA	972-225-3462
R&B – District 3	972-225-2378
Dallas County – Ronnie Cox	214-435-3889

The Contractor shall notify the utility companies forty-eight (48) hours before starting construction. The Contractor shall properly notify Texas One Call before starting any work or improvements shown on the plans.

10. Exact location and elevation of all utilities shall be determined in the field by the Contractor prior to construction. It shall be the duty of the Contractor to ascertain whether any additional utilities other than those shown on the plans may exist and to locate the same in the field prior to construction. The Contractor shall notify all utility companies with facilities in the project area forty-eight (48) hours prior to construction. The Contractor is responsible for repairing damage to existing utilities. The Contractor is required to maintain

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existing utilities in a safe and serviceable condition. No extra compensation will be allowed for additional work or materials to maintain service.

11. The Contractor shall make all the necessary provisions for the support, locating, protection, relocation and temporary relocation of all utilities and structures both above and below ground during construction.
12. The Contractor shall coordinate with other Contractors of any trade or discipline working adjacent to the project site prior to and during construction.
13. All existing street and traffic control signs shall be maintained as needed throughout construction. Existing signs and posts to be relocated shall be maintained in good condition. Any signs damaged prior to installation in final position shall be replaced at no cost to the Owner. This work is subsidiary to Item 502 and no additional payment will be made.
14. Mailboxes and mail services shall be maintained throughout the project at all times during construction. Payment for removal, temporary relocation and permanent location of all mail boxes, regardless of type or construction, shall be subsidiary to the various contract pay items. The locations of temporary mailboxes shall be coordinated with the United States Postal Service postmaster.
15. Contractor shall be responsible for providing required security to protect his own property, equipment, and work in progress.
16. Contractor shall field verify all dimensions and conditions before commencing work. It shall be the Contractor's responsibility to report any discrepancies to the Owner before commencing work.
17. Water supply for use during construction shall be approved by the Engineer and secured by the Contractor.
18. Contractor shall be responsible for and adequately protect existing structures, utilities, trees, shrubs, fences, signs, sprinkler systems, walls, mailboxes and other adjoining facilities. Damages caused by Contractor shall be reported to the Engineer and the appropriate property owner and repaired to original or better condition or replaced at the Contractor's expense within twenty-four (24) hours.
19. Contractor shall comply with OSHA regulations and State of Texas laws concerning excavation, trenching, shoring and handling hazardous materials.
20. Dewatering system or systems installed during construction shall be approved by the Engineer. Trench and pit bottoms and excavations shall be maintained in dry stable conditions until work is complete. Any groundwater or surface dewatering shall be considered subsidiary to the contract.

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21. The Contractor shall haul away all waste material such as rubbish, pavement, concrete pipe, unacceptable soil, etc., to an approved landfill. This shall be subsidiary to the various bid items.
22. Existing concrete pavement, concrete curb, curb and gutter, asphalt pavement, asphalt driveway or asphalt curb to be removed, whether in streets or drives, shall be sawed along neat lines where portions are to be left in place.
23. Unpaved areas disturbed by construction are to be hydromulched or sodded, fertilized and watered, unless otherwise specified in the plans.
24. All salvageable material encountered on this project which is not being used as fill or for other purposes on this project shall become the property of Dallas County, including, but not limited to, surplus flexible base and/or milled flexible pavement, pipe culverts, guard fence, etc., when Dallas County Road and Bridge Districts request the material. The Contractor shall load the material on the Dallas County trucks following removal or shall stockpile the material at an agreed adjacent site to be loaded onto the county trucks by the Contractor at a later date at no cost to the Owner. The Road and Bridge District in which the project is located shall have first choice of the available material. It shall be the Contractor's responsibility to mill existing flexible pavement regardless of the depth; the cost for milling of material that will be accepted by the Road and Bridge District is subsidiary and no additional payment will be made for this work. If no Road and Bridge District requests any salvageable material from the project, it shall become the property of the Contractor to be disposed of by him at his entire expense. The Contractor may remove old flexible base and asphalt and use for embankment including subgrade material (provided it meets the requirements of the plans and specifications), however, this material may not be used as finished flexible base.
25. All cut and fill slopes shall be 4:1 except as noted on the plans. Cut slopes may be steepened to protect existing trees and fences only with prior approval of the Engineer. All property adjacent to the proposed construction shall be graded as directed by the Engineer (non-pay item).
26. The Contractor shall not be permitted to have open trenches at the end of each working day unless approved by the Engineer.
27. Where applicable, the Contractor shall place rubber mats on the pavement to protect it from track marks and/or cracking during construction. The use of rubber-tired equipment will be required for moving soil and other materials along or across paved surfaces.
28. All adjacent property damaged by the proposed construction shall be restored to the same or better condition in which the same was found before such work was undertaken at no cost to the County.

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29. The end of the street and driveway pavement shall match the existing paving, unless otherwise directed by the Engineer.
30. No dirt, mud, or any other material shall be allowed to fall or be tracked onto the existing or finished roadway. It shall be the responsibility of the Contractor to maintain the existing traveled way in a clean condition at all times. Contractor is responsible for keeping streets and sidewalks adjacent to the project free of mud and debris from the construction.
31. The Contractor shall furnish the Engineer a copy of the signed agreement with any and all property owners for any private property that will be used by the Contractor and/or subcontractors for storage of equipment, materials and supplies, and/or each disposal site which the Contractor intends to use for "waste" materials. Conditions and restrictions, if any, shall be clearly stated. Compliance shall be required and a release from the property owner shall be obtained upon completion of the project.
32. Fertilizer used will be considered subsidiary to the pertinent bid items of the contract.
33. The Contractor shall consult with the Engineer prior to any tree removal.
34. Hand finishing will not be a separate pay item.
35. No "STOP" or "YIELD" sign is to be relocated or moved without prior approval by the City.
36. Contractor shall maintain flows in ditch outfalls, storm sewer pipes, inlets, and other drainage systems during construction and restore damaged of same during construction to original condition or better. This work shall not be paid for directly.
37. The Contractor shall protect all areas receiving storm water runoff from the construction site, per special provision storm water pollution prevention plan (SW3P).
38. The Contractor shall protect any existing and/or proposed storm sewer structure which is in the proposed subgrade during the subgrade stabilization process.
39. Trench excavation for trenches five (5) feet or more in depth shall be in accordance with all provisions of Part 1926, Subpart P – Excavations, Trenching and Shoring of the Occupational Safety and Health's Standards and Interpretations. It shall be the responsibility of the Contractor to conform to the above provisions.

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50. A master set of record drawing markups has to be left by the contractor in the field office with all permanent construction completed and changes/additions to plans clearly identified to the extent necessary by the Contractor in conjunction with the project inspector. No payment for any applicable items shall be made until they are marked as constructed on the record drawing markups. This work shall not be paid for directly but shall be considered incidental.
51. All sprinkler systems, fences, signs, etc., and related components disturbed by construction are to be restored to existing conditions or better.
52. Sprinkling, as directed by the Engineer, to control dust on the project, shall be considered subsidiary to the various bid items.
53. Owner reserves the right to reduce the quantities of previously paid plants, seeding, or sod on monthly pay estimates in cases where such plant material fails to establish or sustain. Pay quantities will be reinstated upon replacement of the dead plant material by the Contractor.
54. If a suspected archeological object/artifact is found or uncovered during construction the contractor shall cease work in the area immediately and contact The County and the Engineer who will contact The Historical Commission (THC), who will coordinate appropriate actions.
55. If a suspected federally-listed threatened or endangered species is encountered during construction operations the Contractor shall cease work in the area immediately and contact The County and the Engineer who will contact the U.S. Fish and Wildlife Services (US FWS) to coordinate appropriate avoidance measures. This included but is not limited to the Interior Least Tern.
56. The Contractor shall be compliant with the Migratory Bird Treaty Act should any suspected migratory bird be encountered.
57. The Contractor shall make a reasonable effort to comply with local, state and federal regulations pertaining to construction equipment emissions and for construction equipment work hour restrictions.
58. The Contractor shall make a reasonable effort to minimize construction noise through abatement measures such as work hours controls and proper maintenance of muffler systems throughout the duration of the project.
59. The Contractor shall be compliant with all local, state and federal regulations pertaining the regulated/hazardous materials encountered on the construction site. Any disposal of said material shall follow these guidelines.

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60. Any impact to existing irrigation systems beyond what is shown on the plans shall be replaced/repared with equal to or better than existing materials. Payment for these replacement repairs shall be included under bid item 100-Prep ROW.

General Notes to TxDOT Specifications

Item 5L:

For the project to be deemed complete, permanently stabilize all unpaved disturbed areas of the project with a vegetative cover at a minimum of 70% density for the control of erosion.

Submit all shop drawings, working drawings, or other documents which require review sufficiently in advance of scheduled construction to allow no less than thirty (30) calendar days for review and response.

Locate all utilities, both underground and above ground, in the project area prior to beginning work so that conflicts are avoided.

Provide to the Engineer, in addition to any submittals required by the specifications and elsewhere in the general notes, a list of pre-qualified material to be used on the project.

Item 7L:

Repair or replace any structures and utilities that might have been damaged by negligence or a failure to have utility locates performed.

Item 8L:

This Project will be a Standard Workweek in accordance with Article 8.3.5.

Nighttime work is allowed in accordance with Article 8.3.9.

Meet weekly with the engineer to notify him or her of planned work for the upcoming week.

Submit Critical Path Method (CPM) schedule in P3 or P6 format.

Item 100:

All trees to be removed shall be flagged and approved prior to removal. No trees shall be removed prior to approval by the Engineer.

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60. Any impact to existing irrigation systems beyond what is shown on the plans shall be replaced/repared with equal to or better than existing materials. Payment for these replacement repairs shall be included under bid item 100-Prep ROW.

General Notes to TxDOT Specifications

Item 5L:

Underground utilities owned by City of Dallas and other utility companies are present within the Right-Of-Way on this project. For water and sewer, call Michael Reed with the City of Dallas Water Utilities Office at (214) 670-3262 for locates a minimum of 48 hours in advance of excavation.

For the project to be deemed complete, permanently stabilize all unpaved disturbed areas of the project with a vegetative cover at a minimum of 70% density for the control of erosion.

Submit all shop drawings, working drawings, or other documents which require review sufficiently in advance of scheduled construction to allow no less than thirty (30) calendar days for review and response.

Locate all utilities, both underground and above ground, in the project area prior to beginning work so that conflicts are avoided.

Provide to the Engineer, in addition to any submittals required by the specifications and elsewhere in the general notes, a list of pre-qualified material to be used on the project.

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Nighttime work is allowed in accordance with Article 8.3.9.

Meet weekly with the engineer to notify him or her of planned work for the upcoming week.

Submit Critical Path Method (CPM) schedule in P3 or P6 format.

Item 100:

All trees to be removed shall be flagged and approved prior to removal. No trees shall be removed prior to approval by the Engineer.

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No tree mitigation is required.

Any shrubs, vegetation, and trees smaller than 8" in diameter caliper trunk size shall be incidental to item 100-7001.

At the discretion of the Engineer, mow non-paved areas within the project prior to placement of permanent vegetation. Mow up to three (3) cycles per growing season. This work is subsidiary to this item.

Item 500:

Material On Hand (MOH) will not be used in calculating partial payments for Mobilization.

Item 502:

All traffic control operations to follow TxDOT Traffic Control Standards, and TxMUTCD requirements.

Access will be provided to all business and residences at all times. Where turning radii are limited during phased construction at intersections, provide all weather surfaces such as RAP or base in turning movements to accommodate and to protect the traffic from edge drop-offs. Materials, labor, maintenance and removal for these temporary accesses and radii will not be paid for directly but will be considered subsidiary to the various bid items.

Provide written proposed lane closure information by 1:00 pm on the business day prior to the proposed closures. Do not close lanes when this requirement is not met

When excavation is required next to a pavement lane carrying traffic and the widening is not completed by the end of the work day, backfill against the edge of the pavement with at least a 3:1 slope using an acceptable material to support vehicular traffic. Carefully remove and dispose of this material when work resumes. Backfilling pavement edges, and the materials required for the work will be subsidiary to this item.

Place barricades and signs in locations that do not obstruct the sight distance of drivers entering the highway from driveways or side streets.

Do not commence work on the road before sunrise. Do not operate or park any equipment/machinery closer than 30 feet from the traveled roadway after sunset unless authorized by the engineer.

When moving unlicensed equipment on or across any pavement or public highways, protect the pavement from all damage using an acceptable method.

The Contractor shall develop a Safety Plan which is based on the construction sequence prescribed in the contract drawings. If the contractor deviates from the construction sequence, it

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will be at their own risk & cost. Development and implementation of Safety Plan subsidiary to item 502.

Item 506:

Take all practicable precautions to prevent debris from being discharged into the Waters of Texas or a designated wetland. Install Best Management Practices before demolition begins and maintain them during the demolition. Remove any debris or construction material that escapes containment devices and are discharged into the restricted areas, before the next rain event or within 24 hours of the discharge.

If temporary construction stream crossings are allowed under a Nationwide Permit, submit in writing for approval the type and location of each temporary stream crossing. Use temporary bridges, timber mats, or other structurally sound and non-eroding material for temporary stream crossings. A temporary culvert crossing will consist of storm sewer pipes and 4- to 8-inch nominal size rock. Temporary stream crossings must not cause more than minimal changes to the hydraulic flow characteristics of the stream, increase flooding, or cause more than minimal degradation of water quality. Remove the temporary stream crossings in their entirety and return the affected areas to their pre-existing elevation. All work and materials use for temporary construction stream crossings will not be paid for directly but are subsidiary to pertinent Items.

The Contractor shall minimize traversing the creek banks and beds with heavy equipment to the extent possible to protect existing banks and beds.

Provide SW3P Signs. Obtain from the Engineer a copy of the project's completed TPDES Storm Water Program Construction Site Notice and Contractor Site Notice. Laminate the sheets and bond with adhesive to 36" X 36" plywood sign blanks. Ensure the sheets remain dry. Apply Type C Blue reflective sheeting as the background and add the text "SW3P" in 5" white lettering,

centered at the top. Attach the signs to approved temporary mounts and locate at each of the project limits just inside the right of way line at a readable height or as directed by the Engineer. If the sign cannot be placed outside the clear zone, it must adhere to the TMUTCD. SW3P signs, maintenance, and reposting (for replacement or as needed to ensure readability) will be subsidiary to Item 502.

Concrete Washouts are required per the CGP. The Concrete Washout Area(s) structural controls must consist of temporary berms, temporary shallow pits, and/or temporary storage tanks to prevent contaminated runoff and must be lined as to prevent contamination of underlying soil. Ensure pits properly maintained including removal of concrete as not to allow over flow. The location(s) of washout area will be approved by the Engineer. When washout pits are no longer needed, they will be removed and area will be restored to original condition. This work, materials and labor will not be measured or paid for directly but will be subsidiary to Item 506.

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Item 6185:

The total number of truck mounted attenuators (TMAs) or trailer attenuators (TAs) required when utilizing the traffic control standards are shown in the tables below.

TCP 2 Series	Scenario	Required TMA/TA
(1-1)-18 / (1-2)-18	All	1

The contractor will be responsible for determining if one or more of these operations will be ongoing at the same time to determine the total number of TMAs/TAs needed for the project. Additional TMAs/TAs used that are not specified in the plans in which the contractor expects compensation will require prior approval from the Engineer.

SECTION S
SPECIAL PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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.

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

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of 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. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), 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 basic hourly 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. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. 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 must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. 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 classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must 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. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

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

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must 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 be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate 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 used 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) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) 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 will be sent by the contracting officer by email to DBAconformance@dol.gov. 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.

(4) 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 will, by email to DBAconformance@dol.gov, 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.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must 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.

d. *Fringe benefits not expressed as an hourly rate.* 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 may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* 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, in accordance with the criteria set forth in § 5.28, 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.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and 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.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements (1) Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section 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 [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must 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.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements (1) Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working 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](#); and

(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(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

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

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* 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. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, 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, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform 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 (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must 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, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must 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 this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. 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 journeyworkers 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 must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 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. a. By entering into this contract, the contractor certifies that neither it 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 [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

11. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

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 watchpersons 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 and interest from the date of the underpayment. 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 watchpersons 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.

* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) 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

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, 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 that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

4. **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

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 long-standing 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 200.327.

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 200.327.

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 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).

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.

* * * * *

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

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) 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;

(2) 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

(3) 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)

b. 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.

The wage rates listed herein are those predetermined by the Secretary of Labor and State Statute and listed in the United States Department of Labor's (USDOL) General Decisions dated 01-03-2025 and are the minimum wages to be paid accordingly for each specified classification. To determine the applicable wage rate zone, a list entitled "TEXAS COUNTIES IDENTIFIED BY WAGE RATE ZONES" is provided in the contract. Any wage rate that is not listed in the USDOL's general decision, must be requested by the contractor through the completion of an Additional Classification and Wage Rate Request and be submitted for approval. A blank cell indicates that the classification and wage rate are not listed on the USDOL's general decision and therefore must be requested by the contractor through the completion of an Additional Classification and Wage Rate Request. IMPORTANT NOTICE FOR STATE PROJECTS: only the controlling wage rate zone applies to the contract. Effective 01-03-2025.

CLASS. #	CLASSIFICATION DESCRIPTION	ZONE TX02 *(TX20250002)	ZONE TX03 *(TX20250003)	ZONE TX04 *(TX20250004)	ZONE TX05 *(TX20250005)	ZONE TX06 *(TX20250006)	ZONE TX07 *(TX20250007)	ZONE TX08 *(TX20250008)	ZONE TX24 *(TX20250024)	ZONE TX25 *(TX20250025)	ZONE TX27 *(TX20250027)	ZONE TX28 *(TX20250028)	ZONE TX29 *(TX20250029)	ZONE TX30 *(TX20250030)	ZONE TX37 *(TX20250037)	ZONE TX38 *(TX20250038)	ZONE TX42 *(TX20250042)
1428	Agricultural Tractor Operator						\$12.69					\$12.35			\$11.75		
1300	Asphalt Distributor Operator	\$14.87	\$13.48	\$13.88	\$15.72	\$15.58	\$15.55	\$15.72	\$13.28	\$15.32	\$15.62	\$14.36	\$14.25	\$14.03	\$13.75	\$14.06	\$14.40
1303	Asphalt Paving Machine Operator	\$13.40	\$12.25	\$12.35	\$13.87	\$14.05	\$14.36	\$14.20	\$13.26	\$13.99	\$14.68	\$12.92	\$13.44	\$12.53	\$14.00	\$14.32	\$12.99
1106	Asphalt Raker	\$12.28	\$10.61	\$12.02	\$14.21	\$11.65	\$12.12	\$11.64	\$11.44	\$12.69	\$12.05	\$11.34	\$11.67	\$11.40	\$12.59	\$12.36	\$11.78
1112	Batching Plant Operator, Asphalt																
1115	Batching Plant Operator, Concrete																
1214	Blaster																
1615	Boom Truck Operator						\$18.36										
1444	Boring Machine Operator																
1305	Broom or Sweeper Operator	\$11.21	\$10.33	\$10.08	\$11.99		\$11.04	\$11.62		\$11.74	\$11.41	\$10.30		\$10.23	\$10.60	\$12.68	\$11.05
1144	Communications Cable Installer																
1124	Concrete Finisher, Paving and Structures	\$13.55	\$12.46	\$13.16	\$12.85	\$12.64	\$12.56	\$12.77	\$12.44	\$14.12	\$13.04	\$13.38	\$12.64	\$12.80	\$12.79	\$12.98	\$13.32
1318	Concrete Pavement Finishing Machine Operator				\$16.05		\$15.48			\$16.05		\$19.31				\$13.07	
1315	Concrete Paving, Curing, Float, Texturing Machine Operator											\$16.34				\$11.71	
1333	Concrete Saw Operator				\$14.67					\$14.48	\$17.33					\$13.99	
1399	Concrete/Gunite Pump Operator																
1344	Crane Operator, hydraulic 80 tons or less				\$18.22		\$18.36			\$18.12	\$18.04	\$20.21			\$18.63	\$13.86	
1345	Crane Operator, Hydraulic Over 80 Tons																
1342	Crane Operator, Lattice Boom 80 Tons or Less	\$16.82	\$14.39	\$13.85	\$17.27		\$15.87			\$17.27		\$14.67			\$16.42	\$14.97	\$13.87
1343	Crane Operator, Lattice Boom Over 80 Tons				\$20.52		\$19.38			\$20.52		\$17.49			\$25.13	\$15.80	
1306	Crawler Tractor Operator	\$13.96	\$16.63	\$13.62	\$14.26		\$15.67			\$14.07	\$13.15	\$13.38			\$14.60	\$13.68	\$13.50
1351	Crusher or Screen Plant Operator																
1446	Directional Drilling Locator						\$11.67										
1445	Directional Drilling Operator				\$20.32		\$17.24										
1139	Electrician	\$20.96		\$19.87	\$19.80		\$26.35		\$20.27	\$19.80		\$20.92				\$27.11	\$19.87
1347	Excavator Operator, 50,000 pounds or less	\$13.46	\$12.56	\$13.67	\$17.19		\$12.88	\$14.38	\$13.49	\$17.19		\$13.88			\$14.09	\$12.71	\$14.42
1348	Excavator Operator, Over 50,000 pounds		\$15.23	\$13.52	\$17.04		\$17.71			\$16.99	\$18.80	\$16.22				\$14.53	\$13.52
1150	Flagger	\$9.30	\$9.10	\$8.50	\$10.28	\$8.81	\$9.45	\$8.70		\$10.06	\$9.71	\$9.03	\$8.81	\$9.08	\$9.90	\$10.33	\$8.10
1151	Form Builder/Setter, Structures	\$13.52	\$12.30	\$13.38	\$12.91	\$12.71	\$12.87	\$12.38	\$12.26	\$13.84	\$12.98	\$13.07	\$13.61	\$12.82	\$14.73	\$12.23	\$12.25
1160	Form Setter, Paving & Curb	\$12.36	\$12.16	\$13.93	\$11.83	\$10.71	\$12.94			\$13.16	\$12.54	\$11.33	\$10.69		\$13.33	\$12.34	\$13.93
1360	Foundation Drill Operator, Crawler Mounted				\$17.99					\$17.99						\$17.43	
1363	Foundation Drill Operator, Truck Mounted		\$16.86	\$22.05	\$21.51		\$16.93			\$21.07	\$20.20	\$20.76		\$17.54	\$21.39	\$15.89	\$22.05
1369	Front End Loader Operator, 3 CY or Less	\$12.28	\$13.49	\$13.40	\$13.85		\$13.04	\$13.15	\$13.29	\$13.69	\$12.64	\$12.89			\$13.51	\$13.32	\$12.17
1372	Front End Loader Operator, Over 3 CY	\$12.77	\$13.69	\$12.33	\$14.96		\$13.21	\$12.86	\$13.57	\$14.72	\$13.75	\$12.32			\$13.19	\$13.17	\$13.02
1329	Joint Sealer																
1172	Laborer, Common	\$10.30	\$9.86	\$10.08	\$10.51	\$10.71	\$10.50	\$10.24	\$10.58	\$10.72	\$10.45	\$10.30	\$10.25	\$10.03	\$10.54	\$11.02	\$10.15
1175	Laborer, Utility	\$11.80	\$11.53	\$12.70	\$12.17	\$11.81	\$12.27	\$12.11	\$11.33	\$12.32	\$11.80	\$11.53	\$11.23	\$11.50	\$11.95	\$11.73	\$12.37
1346	Loader/Backhoe Operator	\$14.18	\$12.77	\$12.97	\$15.68		\$14.12			\$15.18	\$13.58	\$12.87		\$13.21	\$14.13	\$14.29	\$12.90
1187	Mechanic	\$20.14	\$15.47	\$17.47	\$17.74	\$17.00	\$17.10			\$17.68	\$18.94	\$18.58	\$17.00	\$16.61	\$18.46	\$16.96	\$17.47

CLASS. #	CLASSIFICATION DESCRIPTION	ZONE TX02 *(TX20250002)	ZONE TX03 *(TX20250003)	ZONE TX04 *(TX20250004)	ZONE TX05 *(TX20250005)	ZONE TX06 *(TX20250006)	ZONE TX07 *(TX20250007)	ZONE TX08 *(TX20250008)	ZONE TX24 *(TX20250024)	ZONE TX25 *(TX20240025)	ZONE TX27 *(TX20250027)	ZONE TX28 *(TX20250028)	ZONE TX29 *(TX20250029)	ZONE TX30 *(TX20250030)	ZONE TX37 *(TX20250037)	ZONE TX38 *(TX20250038)	ZONE TX42 *(TX20250042)
1380	Milling Machine Operator Motor Grader Operator,	\$15.54	\$14.64	\$12.22	\$14.29		\$14.18			\$14.32	\$14.35	\$12.86			\$14.75	\$13.53	\$12.80
1390	Fine Grade	\$17.49	\$16.52	\$16.88	\$17.12	\$18.37	\$18.51	\$16.69	\$16.13	\$17.19	\$18.35	\$17.07	\$17.74	\$17.47	\$17.08	\$15.69	\$20.01
1393	Motor Grader Operator, Rough	\$16.15	\$14.62	\$15.83	\$16.20	\$17.07	\$14.63	\$18.50		\$16.02	\$16.44	\$15.12	\$16.85	\$14.47	\$17.39	\$14.23	\$15.53
1413	Off Road Hauler			\$10.08	\$12.26		\$11.88			\$12.25		\$12.23			\$13.00	\$14.60	
1196	Painter, Structures Pavement Marking Machine Operator					\$21.29	\$18.34						\$21.29			\$18.62	
1396	Operator	\$16.42		\$13.10	\$13.55		\$19.17	\$12.01		\$13.63	\$14.60	\$13.17		\$16.65	\$10.54	\$11.18	\$13.10
1443	Percussion or Rotary Drill Operator																
1202	Piledriver															\$14.95	
1205	Pipelayer		\$11.87	\$14.64	\$13.17	\$11.17	\$12.79		\$11.37	\$13.24	\$12.66	\$13.24	\$11.17	\$11.67		\$12.12	\$14.64
1384	Reclaimer/Pulverizer Operator	\$12.85			\$11.90		\$12.88			\$11.01		\$10.46					
1500	Reinforcing Steel Worker	\$13.50	\$14.07	\$17.53	\$16.17		\$14.00			\$16.18	\$12.74	\$15.83		\$17.10		\$15.15	\$17.72
1402	Roller Operator, Asphalt	\$10.95		\$11.96	\$13.29		\$12.78	\$11.61		\$13.08	\$12.36	\$11.68			\$11.71	\$11.95	\$11.50
1405	Roller Operator, Other	\$10.36		\$10.44	\$11.82		\$10.50	\$11.64		\$11.51	\$10.59	\$10.30		\$12.04	\$12.85	\$11.57	\$10.66
1411	Scraper Operator	\$10.61	\$11.07	\$10.85	\$12.88		\$12.27		\$11.12	\$12.96	\$11.88	\$12.43		\$11.22	\$13.95	\$13.47	\$10.89
1417	Self-Propelled Hammer Operator																
1194	Servicer	\$13.98	\$12.34	\$14.11	\$14.74		\$14.51	\$15.56	\$13.44	\$14.58	\$14.31	\$13.83		\$12.43	\$13.72	\$13.97	\$14.11
1513	Sign Erector Slurry Seal or Micro-Surfacing Machine Operator																
1708	Machine Operator																
1341	Small Slipform Machine Operator									\$15.96							
1515	Spreader Box Operator	\$12.60		\$13.12	\$14.71		\$14.04			\$14.73	\$13.84	\$13.68		\$13.45	\$11.83	\$13.58	\$14.05
1705	Structural Steel Welder															\$12.85	
1509	Structural Steel Worker						\$19.29									\$14.39	
1339	Subgrade Trimmer																
1143	Telecommunication Technician																
1145	Traffic Signal/Light Pole Worker Trenching Machine Operator,						\$16.00										
1440	Heavy						\$18.48										
1437	Trenching Machine Operator, Light																
1609	Truck Driver Lowboy-Float	\$14.46	\$13.63	\$13.41	\$15.00	\$15.93	\$15.66			\$16.24	\$16.39	\$14.30	\$16.62	\$15.63	\$14.28	\$16.03	\$13.41
1612	Truck Driver Transit-Mix				\$14.14					\$14.14							
1600	Truck Driver, Single Axle Truck Driver, Single or Tandem Axle Dump Truck	\$12.74	\$10.82	\$10.75	\$13.04	\$11.61	\$11.79	\$13.53	\$13.16	\$12.31	\$13.40	\$10.30	\$11.61		\$11.97	\$11.46	\$10.75
1606	Truck Driver, Tandem Axle Tractor with Semi Trailer	\$11.33	\$14.53	\$11.95	\$12.95		\$11.68		\$14.06	\$12.62	\$11.45	\$12.28		\$13.08	\$11.68	\$11.48	\$11.10
1607	Tunneling Machine Operator, Heavy	\$12.49	\$12.12	\$12.50	\$13.42		\$12.81	\$13.16		\$12.86	\$16.22	\$12.50			\$13.80	\$12.27	\$12.50
1441	Tunneling Machine Operator, Light																
1706	Welder		\$14.02		\$14.86		\$15.97		\$13.74	\$14.84					\$13.78		
1520	Work Zone Barricade Servicer	\$10.30	\$12.88	\$11.46	\$11.70	\$11.57	\$11.85	\$10.77		\$11.68	\$12.20	\$11.22	\$11.51	\$12.96	\$10.54	\$11.67	\$11.76

Notes:

*Represents the USDOL wage decision.

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

For reference, the titles and descriptions for the classifications listed here are detailed further in the AGC of Texas' *Standard Job Classifications and Descriptions for Highway, Heavy, Utilities, and Industrial Construction in Texas* posted on the AGC's Web site for any contractor.

**TEXAS COUNTIES IDENTIFIED BY
WAGE RATE ZONES: 2, 3, 4, 5, 6, 7, 8, 24, 25, 27, 28, 29, 30, 37, 38, 42**

County Name	Zone	County Name	Zone	County Name	Zone	County Name	Zone
Anderson	28	Donley	37	Karnes	27	Reagan	37
Andrews	37	Duval	30	Kaufman	25	Real	37
Angelina	28	Eastland	37	Kendall	7	Red River	28
Aransas	29	Ector	2	Kenedy	30	Reeves	8
Archer	25	Edwards	8	Kent	37	Refugio	27
Armstrong	2	El Paso	24	Kerr	27	Roberts	37
Atascosa	7	Ellis	25	Kimble	37	Robertson	7
Austin	38	Erath	28	King	37	Rockwall	25
Bailey	37	Falls	28	Kinney	8	Runnels	37
Bandera	7	Fannin	28	Kleberg	27	Rusk	4
Bastrop	7	Fayette	27	Knox	37	Sabine	28
Baylor	37	Fisher	37	Lamar	28	San Augustine	28
Bee	27	Floyd	37	Lamb	37	San Jacinto	38
Bell	7	Foard	37	Lampasas	7	San Patricio	29
Bexar	7	Fort Bend	38	LaSalle	30	San Saba	37
Blanco	27	Franklin	28	Lavaca	27	Schleicher	37
Borden	37	Freestone	28	Lee	27	Scurry	37
Bosque	28	Frio	27	Leon	28	Shackelford	37
Bowie	4	Gaines	37	Liberty	38	Shelby	28
Brazoria	38	Galveston	38	Limestone	28	Sherman	37
Brazos	7	Garza	37	Lipscomb	37	Smith	4
Brewster	8	Gillespie	27	Live Oak	27	Somervell	28
Briscoe	37	Glasscock	37	Llano	27	Starr	30
Brooks	30	Goliad	29	Loving	37	Stephens	37
Brown	37	Gonzales	27	Lubbock	2	Sterling	37
Burleson	7	Gray	37	Lynn	37	Stonewall	37
Burnet	27	Grayson	25	Madison	28	Sutton	8
Caldwell	7	Gregg	4	Marion	28	Swisher	37
Calhoun	29	Grimes	28	Martin	37	Tarrant	25
Callahan	25	Guadalupe	7	Mason	27	Taylor	2
Cameron	3	Hale	37	Matagorda	27	Terrell	8
Camp	28	Hall	37	Maverick	30	Terry	37
Carson	2	Hamilton	28	McCulloch	37	Throckmorton	37
Cass	28	Hansford	37	McLennan	7	Titus	28
Castro	37	Hardeman	37	McMullen	30	Tom Green	2
Chambers	38	Hardin	38	Medina	7	Travis	7
Cherokee	28	Harris	38	Menard	37	Trinity	28
Childress	37	Harrison	42	Midland	2	Tyler	28
Clay	25	Hartley	37	Milam	28	Upshur	4
Cochran	37	Haskell	37	Mills	37	Upton	37
Coke	37	Hays	7	Mitchell	37	Uvalde	30
Coleman	37	Hemphill	37	Montague	37	Val Verde	8
Collin	25	Henderson	28	Montgomery	38	Van Zandt	28
Collingsworth	37	Hidalgo	3	Moore	37	Victoria	6
Colorado	27	Hill	28	Morris	28	Walker	28
Comal	7	Hockley	37	Motley	37	Waller	38
Comanche	37	Hood	28	Nacogdoches	28	Ward	37
Concho	37	Hopkins	28	Navarro	28	Washington	28
Cooke	37	Houston	28	Newton	28	Webb	3
Coryell	7	Howard	37	Nolan	37	Wharton	27
Cottle	37	Hudspeth	8	Nueces	29	Wheeler	37
Crane	37	Hunt	25	Ochiltree	37	Wichita	5
Crockett	8	Hutchinson	37	Oldham	37	Wilbarger	37
Crosby	2	Irion	2	Orange	38	Willacy	30
Culberson	8	Jack	28	Palo Pinto	28	Williamson	7
Dallam	37	Jackson	27	Panola	28	Wilson	7
Dallas	25	Jasper	28	Parker	25	Winkler	37
Dawson	37	Jeff Davis	8	Parmer	37	Wise	25
Deaf Smith	37	Jefferson	38	Pecos	8	Wood	28
Delta	25	Jim Hogg	30	Polk	28	Yoakum	37
Denton	25	Jim Wells	27	Potter	2	Young	37
DeWitt	27	Johnson	25	Presidio	8	Zapata	30
Dickens	37	Jones	25	Rains	28	Zavala	30
Dimmit	30			Randall	2		

CONTRACTOR'S ASSURANCE (Subcontracts-Federal Aid Projects)

By signing this proposal, the contractor is giving assurances that all subcontract agreements will incorporate the Standard Specification and Special Provisions to Section 9.9., Payment Provisions for Subcontractors, all subcontract agreements exceeding \$2,000 will incorporate the applicable Wage Determination Decision, and all subcontract agreements will incorporate the following:

Special Provision	Certification of Nondiscrimination in Employment
Special Provision	Standard Federal Equal Employment Opportunity
Form FHWA 1273	Required Contract Provisions Federal-aid Construction Contracts (Form FHWA 1273 must also be physically attached to subcontracts and all lower-tier subcontracts)
Special Provision	Nondiscrimination (Include provisions of Sections 3.1 – 3.6 in all subcontracts and agreements for materials)
Special Provision	Cargo Preference Act Requirements in Federal-Aid Contracts

CERTIFICATION TO NOT BOYCOTT ENERGY COMPANIES

Pursuant to Texas Government Code §809.051, the Department must include a provision requiring a written verification affirming that the Contractor does not boycott energy companies, as defined in Government Code §809.001, and will not boycott energy companies during the term of the contract. This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not boycott energy companies and will not boycott energy companies during the term of this contract. "Boycott" means taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (1) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (2) does business with a company described by (1).

Violation of this certification may result in action by the Department.

CERTIFICATION TO NOT BOYCOTT ISRAEL

Pursuant to Texas Government Code §2271.002, the Department must include a provision requiring a written verification affirming that the Contractor does not boycott Israel, as defined in Government Code §808.001, and will not boycott Israel during the term of the contract. This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not boycott Israel and will not boycott Israel during the term of this contract. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Violation of this certification may result in action by the Department.

CERTIFICATION REGARDING DISCLOSURE OF PUBLIC INFORMATION

Pursuant to Subchapter J, Chapter 552, Texas Government Code, contractors executing a contract with a governmental body that results in the expenditure of at least \$1 million in public funds must:

- 1) preserve all contracting information* as provided by the records retention requirements applicable to Texas Department of Transportation (TxDOT) for the duration of the contract,
- 2) on request of TxDOT, promptly provide any contracting information related to the contract that is in the custody or possession of the entity, and
- 3) on completion of the contract, either:
 - a. provide, at no cost to TxDOT, all contracting information related to the contract that is in the custody or possession of the entity, or
 - b. preserve the contracting information related to the contract as provided by the records retention requirements applicable to TxDOT

The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract, and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

By entering into Contract, the Contractor agrees to:

- provide, or make available, to TxDOT and any authorized governmental investigating or auditing agency all records, including electronic and payment records related to the contract, for the same period provided by the records retention schedule applicable to TxDOT, and
- ensure that all subcontracts include a clause requiring the same.

* As defined in Government Code §552.003, "Contracting information" means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- 1) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
- 2) solicitation or bid documents relating to a contract with a governmental body;
- 3) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- 4) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- 5) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

CERTIFICATION TO NOT DISCRIMINATE AGAINST FIREARM ENTITIES OR FIREARM TRADE ASSOCIATIONS

Pursuant to Texas Government Code §2274.002, the Department must include a provision requiring a written verification affirming that the Contractor:

- 1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Government Code §2274.001, and
- 2) will not discriminate against a firearm entity or firearm trade association during the term of the contract.

This provision applies to a contract that:

- 1) is with a Contractor that is not a sole proprietorship,
- 2) is with a Contractor with 10 or more full-time employees, and
- 3) has a value of \$100,000 or more.

By signing the contract, the Contractor certifies that it does not discriminate against a firearm entity or firearm trade association as described and will not do so during the term of this contract. "Discriminate against a firearm entity or firearm trade association" means, with respect to the entity or association, to: (1) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (2) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (3) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association. "Discriminate against a firearm entity or firearm trade association" does not include: (1) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; (2) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency, or for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Violation of this certification may result in action by the Department.

CHILD SUPPORT STATEMENT

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

Prohibition on Certain Telecommunications Equipment or Services

The Federal Register Notice issued the Final Rule and states that the amendment to 2 CFR 200.216 is effective on August 13, 2020. The new 2 CFR 200.471 regulation provides clarity that the telecommunications and video surveillance costs associated with 2 CFR 200.216 are unallowable for services and equipment from these specific providers. [OMB's Federal Register Notice](#) includes the new 2 CFR 200.216 and 2 CFR 200.471 regulations.

Per the Federal Law referenced above, use of services, systems, or services or systems that contain components produced by any of the following manufacturers is strictly prohibited for use on this project. Therefore, for any telecommunications, CCTV, or video surveillance equipment, services or systems cannot be manufactured by, or have components manufactured by:

- Huawei Technologies Company,
- ZTE Corporation (any subsidiary and affiliate of such entities),
- Hyatera Communications Corporation,
- Hangzhou Hikvision Digital Technology Company,
- Dahua Technology Company (any subsidiary and affiliate of such entities).

Violation of this requirement will require replacement of the equipment at the contractor's expense.

Special Provision to Item 000

Nondiscrimination



1. DESCRIPTION

All recipients of federal financial assistance are required to comply with various nondiscrimination laws, including Title VI of the Civil Rights Act of 1964, as amended (Title VI). Title VI forbids discrimination against anyone in the United States on the grounds of race, color, or national origin by any agency receiving federal funds.

The Owner, as a recipient of federal financial assistance, and under Title VI and related statutes, ensures that no person will on the grounds of race, religion (where the primary objective of the financial assistance is to provide employment in accordance with 42 USC 2000d-3), color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any of Owner's programs or activities.

2. DEFINITION OF TERMS

Where the term "Contractor" appears in the following six nondiscrimination clauses, the term "Contractor" is understood to include all parties to Contracts or agreements with the Owner.

3. NONDISCRIMINATION PROVISIONS

During the performance of this Contract, the Contractor agrees as follows.

- 3.1. **Compliance with Regulations.** The Contractor must comply with the Regulations pertinent to nondiscrimination in federally assisted programs of the United States Department of Transportation 49 CFR 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- 3.2. **Nondiscrimination.** The Contractor, regarding the work performed during the Contract, must 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 must not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- 3.3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, the Contractor must notify each potential subcontractor or supplier of the Contractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- 3.4. **Information and Reports.** The Contractor must provide all information and reports required by the Regulations or directives issued pursuant thereto, and must permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the Recipient or the Owner to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor must so certify to the Owner, or the Texas Department of Transportation as appropriate, and must set forth what efforts it has made to obtain the information.
- 3.5. **Sanctions for Noncompliance.** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the Owner must impose such Contract sanctions as it or the Owner may

determine to be appropriate, including, but not limited to actions defined in Article 5.1., "Authority of Engineer."

- 3.6. **Incorporation of Provisions.** The Contractor must include the provisions of Sections 3.1–3.6 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Contractor must take such action with respect to any subcontract or procurement as the Owner may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the Owner to enter into such litigation to protect the interests of the Owner, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Special Provision to Item 000

Certification of Nondiscrimination in Employment



1. GENERAL

By signing this proposal, the Bidder certifies that it has participated in a previous Contract or subcontract subject to the equal opportunity clause, as required by Executive Order (EO) 10925, 11114, or 11246, or if it has not participated in a previous Contract of this type, or if it has had previous Contracts or subcontracts and has not filed, it will file with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity (EEO), all reports due under the applicable filing requirements.

Note—The above certification is required by the EEO Regulations of the Secretary of Labor [41 CFR 60-1.7(b)(1)], and must be submitted by Bidders and proposed subcontractors only in connection with Contracts and subcontracts that are subject to the equal opportunity clause. Contracts and subcontracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only Contracts or subcontracts of \$10,000 or less are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the EOs or their implementing regulations.

Proposed prime Contractors and subcontractors that have participated in a previous Contract or subcontract subject to the EO and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of Contracts and subcontracts unless such Contractor submits a report covering the delinquent period or such other period specified by FHWA or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Special Provision 000

Cargo Preference Act Requirements in Federal Aid Contracts



1. DESCRIPTION

All recipients of federal financial assistance are required to comply with the U.S. Department of Transportation's Cargo Preference Act requirements, 46 CFR 381, "Use of United States-Flag Vessels."

This requirement applies to material or equipment that is acquired specifically for a federal-aid highway project. It is not applicable to goods or materials that come into inventories independent of an FHWA-funded Contract.

When oceanic shipments are necessary for materials or equipment acquired for a specific federal-aid construction project, the Contractor agrees to:

- use privately owned United States-flag commercial vessels to ship at least 50% 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;
- furnish a legible copy of a rated, onboard commercial ocean bill of lading in English for each shipment of cargo described in Paragraph (b)(1) of 46 CFR 381, Section 7, "Federal Grant, Guaranty, Loan and Advance of Funds Agreements," 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, to both the Engineer (through the prime Contractor in the case of subcontractor bills of lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and
- insert the substance of the provisions of this clause in all subcontracts issued pursuant to this Contract.

Special Provision to Item 000

Schedule of Liquidated Damages



The dollar amount of daily contract administration Liquidated Damages per Working Day is \$

Liquidated Damages Schedule	
Contract Amount	Amount of Liquidated Damages
Less than \$25,000.00	\$65.00/day
\$25,000.01 to \$50,000.00	\$105.00/day
\$50,000.01 to \$100,000.00	\$155.00/day
\$100,000.01 to \$500,000.00	\$210.00/day
\$500,000.01 to \$1,000,000.00	\$350.00/day
\$1,000,000.01 to \$2,000,000.00	\$500.00/day
\$2,000,000.01 to \$5,000,000.00	\$850.00/day
\$5,000,000.01 to \$7,500,000.00	\$1,050.00/day
\$7,500,000.01 to \$10,000,000.00	\$1,750.00/day
Great than \$10,000,000.00	\$2,500.00/day

Special Provision to Item 6L

Control of Materials



Item 6L, "Control of Materials" of the Standard Specifications is amended with respect to the clauses cited below. No other clauses or requirements of this Item are waived or changed.

Section 1.1. "Buy America," and Section 1.2., "Buy America Exceptions," are voided and replaced by the following.

- 1.1. **Buy America.** Comply with the latest provisions of Build America, Buy America Act (BABA Act) and applicable CFR, which restrict funds being made available from Federal financial assistance programs unless all the iron products, steel products, manufactured products, and construction materials used in the project are manufactured in the United States. Use iron or steel products, manufactured products, or construction materials manufactured in the United States for all permanently installed materials and products except when defined in Section 1.1.5., "Buy America Exceptions."

A material is solely classified based on its status at the time it is brought to the work site as either an iron or steel product, construction material, manufactured product, or excluded material. Refer to the Buy America Material Classification Sheet found at <https://www.txdot.gov/business/resources/materials/buy-america/buy-america-material-classification-sheet.html> for additional clarification on material classification.

- 1.1.1. **Materials Excluded from Buy America.** Excluded Materials mean cement and cementitious material; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. Excluded Materials do not require domestic sourcing or Buy America certification. In addition, mixtures of concrete or asphalt delivered to a job site without final form for incorporation into a project are not a manufactured product and are considered excluded.

- 1.1.2. **Iron or Steel Product.** Iron or steel products means articles, materials, or supplies that consist wholly or predominantly of iron or steel or a combination of both. For iron or steel products that are wholly or predominantly iron or steel, all manufacturing of the iron or steel must occur in the United States.

Predominantly of iron or steel or a combination of both means the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components.

For iron or steel products, manufacturing includes any process that modifies the chemical content, physical shape or size, or final finish of a product. The manufacturing process begins with initial melting and mixing and continues through fabrication (e.g., cutting, drilling, welding, bending,) and coating (e.g., paint, galvanizing, epoxy).

For iron or steel products, submit a notarized original FORM D-9-USA-1 (Department Form 1818) with the proper attachments for verification of compliance.

- 1.1.1 **Construction Materials.** Construction materials are classified as articles, materials, or supplies that consist of only one of the items listed in bullets below. Minor additions of articles, materials, supplies, or binding agents (as determined by the plans or the Engineer) to any of the items listed do not change the classification of a construction material.

- non-ferrous metals,
- plastic and polymer-based products (including polyvinyl chloride, composite building materials, and polymers used in fiber optic cables),

- glass (including optic glass),
- fiber optic cable (including drop cable),
- optical fiber,
- lumber,
- engineered wood, or
- drywall.

For construction materials, submit a Construction Material Buy America Certification Form (Department Form 2806) for verification of compliance that all manufacturing processes, as required, occurred in the United States. Each construction material has specific certification requirements stated below. Provide additional documentation as requested.

For non-ferrous metals, verification of compliance requires all manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.

For plastic and polymer-based products (including polyvinyl chloride, composite building materials, and polymers used in fiber optic cables), verification of compliance requires all manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.

For glass (including optic glass), verification of compliance requires all manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.

For fiber optic cable (including drop cable), verification of compliance requires all manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.

For optical fiber, verification of compliance requires all manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.

For lumber, verification of compliance requires all manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.

For engineered wood, verification of compliance requires all manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

For drywall, verification of compliance requires all manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

- 1.1.3. **Manufactured Products** means articles, materials, or supplies that have been processed into a specific form and shape, or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. Manufactured products may include components that are iron or steel products, excluded materials, or construction materials. Any product classified as an iron or steel product, excluded material, or construction material is not a manufactured product. Mixtures of excluded materials delivered to a work site without final form for incorporation into a project are not a manufactured product.

Manufactured products do not require Buy America certification except for categories described below.

- 1.1.3.1. **Precast Concrete products** classified as a manufactured product (not predominantly of iron and steel) require iron or steel components to comply with Buy America requirements as stated in Section 6.1.1.2 Iron or Steel Product.

- 1.1.3.2. **Intelligent Transportation Systems and other electronic hardware systems** classified as a manufactured product require iron or steel cabinets or other enclosures of such systems to comply with Buy America requirements as stated in Section 6.1.1.2 Iron or Steel Products.
- 1.1.3.3. **Component** means an article, material, or supply, whether manufactured or unmanufactured, incorporated directly into a manufactured product or where applicable, an iron or steel product.
- 1.1.4. **Buy America Exceptions.** Use of iron or steel products, construction materials, and manufactured products manufactured in the United States is required unless the material meets an exception below.
- A waiver exists exempting the material from Buy America compliance.
 - The total value of the non-compliant products (other than iron or steel products) is no more than the lesser of \$1,000,000 or 5% of Total Applicable Costs for the project. Total Applicable Cost means the actual cost of all materials requiring Buy America compliance including iron, steel, or other materials that are within the scope of existing waivers. Contractor must provide documentation showing under threshold in advance for Engineer's consideration.
 - The total value of foreign iron or steel products, including delivery, does not exceed 0.1% of the total Contract cost or \$2,500, whichever is greater. The Contractor must provide documentation showing under threshold in advance for the Engineer's consideration.
 - Foreign iron or steel products may be allowed when the Contract contains an alternate item for a foreign source iron or steel product and the Contract is awarded based on the alternate item.
 - The materials are temporarily installed or are supplies, tools, and equipment not incorporated into the project. Temporarily installed means the materials and products must be removed at the end of the project or may be removed at the Contractor's convenience with the Engineer's approval.

Special Provision to Item 506

Temporary Erosion, Sedimentation, and Environmental Controls



For this project, item 506, "Temporary Erosion, Sedimentation, and Environmental Controls," of the standard specifications, is hereby voided and replaced with the following.

1. DESCRIPTION

Install, maintain, and remove erosion, sedimentation, and environmental control measures to prevent or reduce the discharge of pollutants in accordance with the Storm Water Pollution Prevention Plan (SWP3) in the plans and the Texas Pollutant Discharge Elimination System (TPDES) General Permit TXR150000.

2. MATERIALS

Furnish materials in accordance with the following:

- Item 161, "Compost"
- Item 432, "Riprap"
- Item 556, "Pipe Underdrains"

2.1. Rock Filter Dams.

2.1.1. **Aggregate.** Furnish aggregate with hardness, durability, cleanliness, and resistance to crumbling, flaking, and eroding acceptable to the Owner. Provide the following:

- Types 1, 2, and 4 Rock Filter Dams. Use 3 to 6 in. aggregate.
- Type 3 Rock Filter Dams. Use 4 to 8 in. aggregate.

2.1.2. **Wire.** Provide minimum 20 gauge galvanized wire for the steel wire mesh and tie wires for Types 2 and 3 rock filter dams. Type 4 dams require:

- a double-twisted, hexagonal weave with a nominal mesh opening of 2-1/2 in. × 3-1/4 in.;
- minimum 0.0866 in. steel wire for netting;
- minimum 0.1063 in. steel wire for selvages and corners; and
- minimum 0.0866 in. for binding or tie wire.

2.1.3. **Sandbag Material.** Furnish sandbags meeting Section 506.2.8., "Sandbags," except that any gradation of aggregate may be used to fill the sandbags.

2.2. **Temporary Pipe Slope Drains.** Provide corrugated metal pipe, polyvinyl chloride (PVC) pipe, flexible tubing, watertight connection bands, grommet materials, prefabricated fittings, and flared entrance sections that conform to the plans. Recycled and other materials meeting these requirements are allowed if approved.

Furnish concrete in accordance with Item 432, "Riprap."

2.3. **Temporary Paved Flumes.** Furnish asphalt concrete, hydraulic cement concrete, or other comparable non-erodible material that conforms to the plans. Provide rock or rubble with a minimum diameter of 6 in. and a maximum volume of 1/2 cu. ft. for the construction of energy dissipaters.

- 2.4. **Construction Exits.** Provide materials that meet the details shown on the plans and this Section.
- 2.4.1. **Rock Construction Exit.** Provide crushed aggregate for long- and short-term construction exits. Furnish aggregates that are clean, hard, durable, and free from adherent coatings such as salt, alkali, dirt, clay, loam, shale, soft or flaky materials, and organic and injurious matter. Use 4- to 8-in. aggregate for Type 1. Use 2- to 4-in. aggregate for Type 3.
- 2.4.2. **Timber Construction Exit.** Furnish No. 2 quality or better railroad ties and timbers for long-term construction exits, free of large and loose knots and treated to control rot. Fasten timbers with nuts and bolts or lag bolts, of at least 1/2 in. diameter, unless otherwise shown on the plans or allowed. Provide plywood or pressed wafer board at least 1/2 in. thick for short-term exits.
- 2.4.3. **Foundation Course.** Provide a foundation course consisting of flexible base, bituminous concrete, hydraulic cement concrete, or other materials as shown on the plans or directed.
- 2.5. **Embankment for Erosion Control.** Provide rock, loam, clay, topsoil, or other earth materials that will form a stable embankment to meet the intended use.
- 2.6. **Pipe.** Provide pipe outlet material in accordance with Item 556, "Pipe Underdrains," and details shown on the plans.
- 2.7. **Construction Perimeter Fence.**
- 2.7.1. **Posts.** Provide essentially straight wood or steel posts that are at least 60 in. long. Furnish soft wood posts with a minimum diameter of 3 in., or use nominal 2 × 4 in. boards. Furnish hardwood posts with a minimum cross-section of 1-1/2 × 1-1/5 in. Furnish T- or L-shaped steel posts with a minimum weight of 0.5 lb. per foot.
- 2.7.2. **Fence.** Provide orange construction fencing as approved.
- 2.7.3. **Fence Wire.** Provide 11 gauge or larger galvanized smooth or twisted wire. Provide 16 gauge or larger tie wire.
- 2.7.4. **Flagging.** Provide brightly-colored flagging that is fade-resistant and at least 3/4 in. wide to provide maximum visibility both day and night.
- 2.7.5. **Staples.** Provide staples with a crown at least 1/2 in. wide and legs at least 1/2 in. long.
- 2.7.6. **Used Materials.** Previously used materials meeting the applicable requirements may be used if approved.
- 2.8. **Sandbags.** Provide sandbag material of polypropylene, polyethylene, or polyamide woven fabric with a minimum unit weight of 4 oz. per square yard, a Mullen burst-strength exceeding 300 psi, and an ultraviolet stability exceeding 70%.

Use natural coarse sand or manufactured sand meeting the gradation given in Table 1 to fill sandbags. Filled sandbags must be 24 to 30 in. long, 16 to 18 in. wide, and 6 to 8 in. thick.

Table 1
Sand Gradation

Sieve #	Retained (% by Weight)
4	Maximum 3%
100	Minimum 80%
200	Minimum 95%

Aggregate may be used instead of sand for situations where sandbags are not adjacent to traffic. The aggregate size shall not exceed 3/8 in.

- 2.9. **Temporary Sediment Control Fence.** Provide a net-reinforced fence using woven geo-textile fabric. Logos visible to the traveling public will not be allowed.
- 2.9.1. **Fabric.** Provide fabric materials in accordance with DMS-6230, "Temporary Sediment Control Fence Fabric."
- 2.9.2. **Posts.** Provide essentially straight wood or steel posts with a minimum length of 48 in., unless otherwise shown on the plans. Furnish soft wood posts at least 3 in. in diameter, or use nominal 2 × 4 in. boards. Furnish hardwood posts with a minimum cross-section of 1-1/2 × 1-1/2 in. Furnish T- or L-shaped steel posts with a minimum weight of 1.3 lb. per foot.
- 2.9.3. **Net Reinforcement.** Provide net reinforcement of at least 12-1/2 gauge galvanized welded wire mesh, with a maximum opening size of 2 × 4 in., at least 24 in. wide, unless otherwise shown on the plans.
- 2.9.4. **Staples.** Provide staples with a crown at least 3/4 in. wide and legs 1/2 in. long.
- 2.9.5. **Used Materials.** Use recycled material meeting the applicable requirements if approved.
- 2.10. **Biodegradable Erosion Control Logs.**
- 2.10.1. **Core Material.** Furnish core material that is biodegradable or recyclable. Use compost, mulch, aspen excelsior wood fibers, chipped site vegetation, agricultural rice or wheat straw, coconut fiber, 100% recyclable fibers, or any other acceptable material unless specifically called out on the plans. Permit no more than 5% of the material to escape from the containment mesh. Furnish compost meeting the requirements of Item 161, "Compost."
- 2.10.2. **Containment Mesh.** Furnish containment mesh that is 100% biodegradable, photodegradable, or recyclable such as burlap, twine, UV photodegradable plastic, polyester, or any other acceptable material.
- Furnish biodegradable or photodegradable containment mesh when log will remain in place as part of a vegetative system.
- Furnish recyclable containment mesh for temporary installations.
- 2.10.3. **Size.** Furnish biodegradable erosion control logs with diameters shown on the plans or as directed. Stuff containment mesh densely so logs do not deform.

3. CONSTRUCTION

- 3.1. **Contractor Responsibilities.** Implement the Owner's Storm Water Pollution Prevention Plan (SWP3) for the project in accordance with the plans and specifications, TPDES General Permit TXR150000, and as directed by the Owner. Develop and implement an SWP3 for project-specific material supply plants within and outside of the Owner's right of way in accordance with the specific or general storm water permit requirements. Prevent water pollution from storm water associated with construction activity from entering any surface water or private property on or adjacent to the project site.
- 3.2. **General.**
- 3.2.1. **Phasing.** Implement control measures in the area to be disturbed before beginning construction, or as directed. Limit the disturbance to the area shown on the plans or as directed. If, in the opinion of the Owner, the Contractor cannot control soil erosion and sedimentation resulting from construction operations, the Owner will limit the disturbed area to that which the Contractor is able to control. Minimize disturbance to vegetation.
- 3.2.2. **Maintenance.** Immediately correct ineffective control measures. Implement additional controls as directed. Remove excavated material within the time requirements specified in the applicable storm water permit.

- 3.2.3. **Stabilization.** Stabilize disturbed areas where construction activities will be temporarily stopped in accordance with the applicable storm water permit. Establish a uniform vegetative cover. The project will not be accepted until a 70% density of existing adjacent undisturbed areas is obtained, unless otherwise shown on the plans. When shown on the plans, the Owner may accept the project when adequate controls are in place that will control erosion, sedimentation, and water pollution until sufficient vegetative cover can be established.
- 3.2.4. **Finished Work.** Upon acceptance of vegetative cover, remove and dispose of all temporary control measures, temporary embankments, bridges, matting, falsework, piling, debris, or other obstructions placed during construction that are not a part of the finished work, or as directed.
- 3.2.5. **Restricted Activities and Required Precautions.** Do not discharge onto the ground or surface waters any pollutants such as chemicals, raw sewage, fuels, lubricants, coolants, hydraulic fluids, bitumens, or any other petroleum product. Operate and maintain equipment on-site to prevent actual or potential water pollution. Manage, control, and dispose of litter on-site such that no adverse impacts to water quality occur. Prevent dust from creating a potential or actual unsafe condition, public nuisance, or condition endangering the value, utility, or appearance of any property. Wash out concrete trucks only as described in the TPDES General Permit TXR150000. Utilize appropriate controls to minimize the offsite transport of suspended sediments and other pollutants if it is necessary to pump or channel standing water (i.e. dewatering). Prevent discharges that would contribute to a violation of Edwards Aquifer Rules, water quality standards, the impairment of a listed water body, or other state or federal law.
- 3.3. **Installation, Maintenance, and Removal Work.** Perform work in accordance with the SWP3, according to manufacturers' guidelines, and in accordance with the TPDES General Permit TXR150000. Install and maintain the integrity of temporary erosion and sedimentation control devices to accumulate silt and debris until soil disturbing activities are completed and permanent erosion control features are in place or the disturbed area has been adequately stabilized as determined by the Owner. . If a device ceases to function as intended, repair or replace the device or portions thereof as necessary. Remove sediment, debris, and litter. When approved, sediments may be disposed of within embankments, or in the right of way in areas where the material will not contribute to further siltation. Dispose of removed material in accordance with federal, state, and local regulations.
- Remove devices upon approval or as directed. Finish-grade and dress the area upon removal. Stabilize disturbed areas in accordance with the permit, and as shown on the plans or directed. Materials removed are considered consumed by the project. Retain ownership of stockpiled material and remove it from the project when new installations or replacements are no longer required.
- 3.3.1. **Rock Filter Dams for Erosion Control.** Remove trees, brush, stumps, and other objectionable material that may interfere with the construction of rock filter dams. Place sandbags as a foundation when required or at the Contractor's option.
- Place the aggregate to the lines, height, and slopes specified, without undue voids for Types 1, 2, 3, and 5. Place the aggregate on the mesh and then fold the mesh at the upstream side over the aggregate and secure it to itself on the downstream side with wire ties, or hog rings for Types 2 and 3, or as directed. Place rock filter dams perpendicular to the flow of the stream or channel unless otherwise directed. Construct filter dams according to the following criteria unless otherwise shown on the plans:
- 3.3.1.1. **Type 1 (Non-reinforced).**
- 3.3.1.1.1. **Height.** At least 18 in. measured vertically from existing ground to top of filter dam.
- 3.3.1.1.2. **Top Width.** At least 2 ft.
- 3.3.1.1.3. **Slopes.** No steeper than 2:1.
- 3.3.1.2. **Type 2 (Reinforced).**

- 3.3.1.2.1. **Height.** At least 18 in. measured vertically from existing ground to top of filter dam.
- 3.3.1.2.2. **Top Width.** At least 2 ft.
- 3.3.1.2.3. **Slopes.** No steeper than 2:1.
- 3.3.1.3. **Type 3 (Reinforced).**
- 3.3.1.3.1. **Height.** At least 36 in. measured vertically from existing ground to top of filter dam.
- 3.3.1.3.2. **Top Width.** At least 2 ft.
- 3.3.1.3.3. **Slopes.** No steeper than 2:1.
- 3.3.1.4. **Type 4 (Sack Gabions).** Unfold sack gabions and smooth out kinks and bends. Connect the sides by lacing in a single loop–double loop pattern on 4- to 5-in. spacing for vertical filling. Pull the end lacing rod at one end until tight, wrap around the end, and twist 4 times. Fill with stone at the filling end, pull the rod tight, cut the wire with approximately 6 in. remaining, and twist wires 4 times.
- Place the sack flat in a filling trough, fill with stone, connect sides, and secure ends as described above for horizontal filling.
- Lift and place without damaging the gabion. Shape sack gabions to existing contours.
- 3.3.1.5. **Type 5.** Provide rock filter dams as shown on the plans.
- 3.3.2. **Temporary Pipe Slope Drains.** Install pipe with a slope as shown on the plans or as directed. Construct embankment for the drainage system in 8-in. lifts to the required elevations. Hand-tamp the soil around and under the entrance section to the top of the embankment as shown on the plans or as directed. Form the top of the embankment or earth dike over the pipe slope drain at least 1 ft. higher than the top of the inlet pipe at all points. Secure the pipe with hold-downs or hold-down grommets spaced a maximum of 10 ft. on center. Construct the energy dissipaters or sediment traps as shown on the plans or as directed. Construct the sediment trap using concrete or rubble riprap in accordance with Item 432, "Riprap," when designated on the plans.
- 3.3.3. **Temporary Paved Flumes.** Construct paved flumes as shown on the plans or as directed. Provide excavation and embankment (including compaction of the subgrade) of material to the dimensions shown on the plans unless otherwise indicated. Install a rock or rubble riprap energy dissipater, constructed from the materials specified above, to a minimum depth of 9 in. at the flume outlet to the limits shown on the plans or as directed.
- 3.3.4. **Construction Exits.** Prevent traffic from crossing or exiting the construction site or moving directly onto a public roadway, alley, sidewalk, parking area, or other right of way areas other than at the location of construction exits when tracking conditions exist. Construct exits for either long- or short-term use.
- 3.3.4.1. **Long-Term.** Place the exit over a foundation course as required. Grade the foundation course or compacted subgrade to direct runoff from the construction exits to a sediment trap as shown on the plans or as directed. Construct exits with a width of at least 14 ft. for one-way and 20 ft. for two-way traffic for the full width of the exit, or as directed.
- 3.3.4.1.1. **Type 1.** Construct to a depth of at least 8 in. using crushed aggregate as shown on the plans or as directed.
- 3.3.4.1.2. **Type 2.** Construct using railroad ties and timbers as shown on the plans or as directed.
- 3.3.4.2. **Short-Term.**

- 3.3.4.2.1. **Type 3.** Construct using crushed aggregate, plywood, or wafer board. This type of exit may be used for daily operations where long-term exits are not practical.
- 3.3.4.2.2. **Type 4.** Construct as shown on the plans or as directed.
- 3.3.5. **Earthwork for Erosion Control.** Perform excavation and embankment operations to minimize erosion and to remove collected sediments from other erosion control devices.
- 3.3.5.1. **Excavation and Embankment for Erosion Control Features.** Place earth dikes, swales, or combinations of both along the low crown of daily lift placement, or as directed, to prevent runoff spillover. Place swales and dikes at other locations as shown on the plans or as directed to prevent runoff spillover or to divert runoff. Construct cuts with the low end blocked with undisturbed earth to prevent erosion of hillsides. Construct sediment traps at drainage structures in conjunction with other erosion control measures as shown on the plans or as directed.
- Create a sediment basin, where required, providing 3,600 cu. ft. of storage per acre drained, or equivalent control measures for drainage locations that serve an area with 10 or more disturbed acres at one time, not including offsite areas.
- 3.3.5.2. **Excavation of Sediment and Debris.** Remove sediment and debris when accumulation affects the performance of the devices, after a rain, and when directed.
- 3.3.6. **Construction Perimeter Fence.** Construct, align, and locate fencing as shown on the plans or as directed.
- 3.3.6.1. **Installation of Posts.** Embed posts 18 in. deep or adequately anchor in rock, with a spacing of 8 to 10 ft.
- 3.3.6.2. **Wire Attachment.** Attach the top wire to the posts at least 3 ft. from the ground. Attach the lower wire midway between the ground and the top wire.
- 3.3.6.3. **Flag Attachment.** Attach flagging to both wire strands midway between each post. Use flagging at least 18 in. long. Tie flagging to the wire using a square knot.
- 3.3.7. **Sandbags for Erosion Control.** Construct a berm or dam of sandbags that will intercept sediment-laden storm water runoff from disturbed areas, create a retention pond, detain sediment, and release water in sheet flow. Fill each bag with sand so that at least the top 6 in. of the bag is unfilled to allow for proper tying of the open end. Place the sandbags with their tied ends in the same direction. Offset subsequent rows of sandbags 1/2 the length of the preceding row. Place a single layer of sandbags downstream as a secondary debris trap. Place additional sandbags as necessary or as directed for supplementary support to berms or dams of sandbags or earth.
- 3.3.8. **Temporary Sediment-Control Fence.** Provide temporary sediment-control fence near the downstream perimeter of a disturbed area to intercept sediment from sheet flow. Incorporate the fence into erosion-control measures used to control sediment in areas of higher flow. Install the fence as shown on the plans, as specified in this Section, or as directed.
- 3.3.8.1. **Installation of Posts.** Embed posts at least 18 in. deep, or adequately anchor, if in rock, with a spacing of 6 to 8 ft. and install on a slight angle toward the runoff source.
- 3.3.8.2. **Fabric Anchoring.** Dig trenches along the uphill side of the fence to anchor 6 to 8 in. of fabric. Provide a minimum trench cross-section of 6 × 6 in. Place the fabric against the side of the trench and align approximately 2 in. of fabric along the bottom in the upstream direction. Backfill the trench, then hand-tamp.
- 3.3.8.3. **Fabric and Net Reinforcement Attachment.** Attach the reinforcement to wooden posts with staples, or to steel posts with T-clips, in at least 4 places equally spaced unless otherwise shown on the plans. Sewn vertical pockets may be used to attach reinforcement to end posts. Fasten the fabric to the top strand of reinforcement by hog rings or cord every 15 in. or less.

- 3.3.8.4. **Fabric and Net Splices.** Locate splices at a fence post with a minimum lap of 6 in. attached in at least 6 places equally spaced unless otherwise shown on the plans. Do not locate splices in concentrated flow areas.

Requirements for installation of used temporary sediment-control fence include the following:

- fabric with minimal or no visible signs of biodegradation (weak fibers),
- fabric without excessive patching (more than 1 patch every 15 to 20 ft.),
- posts without bends, and
- backing without holes.

- 3.3.9. **Biodegradable Erosion Control Logs.** Install biodegradable erosion control logs near the downstream perimeter of a disturbed area to intercept sediment from sheet flow. Incorporate the biodegradable erosion control logs into the erosion measures used to control sediment in areas of higher flow. Install, align, and locate the biodegradable erosion control logs as specified below, as shown in plans or as directed.

Secure biodegradable erosion control logs in a method adequate to prevent displacement as a result of normal rain events, prevent damage to the logs, and to the satisfaction of the Owner such that flow is not allowed under the logs. Temporarily removing and replacing biodegradable erosion logs as to facilitate daily work is allowed at the Contractor's expense.

- 3.3.10. **Vertical Tracking.** Perform vertical tracking on slopes to temporarily stabilize soil. Provide equipment with a track undercarriage capable of producing a linear soil impression measuring a minimum of 12 in. long × 2 to 4 in. wide × 1/2 to 2 in. deep. Do not exceed 12 in. between track impressions. Install continuous linear track impressions where the 12 in. length impressions are perpendicular to the slope. Vertical tracking is required on projects where soil disturbing activities have occurred unless otherwise approved.

4. MEASUREMENT

- 4.1. **Rock Filter Dams.** Installation or removal of rock filter dams will be measured by the foot or by the cubic yard. The measured volume will include sandbags, when used.
- 4.1.1. **Linear Measurement.** When rock filter dams are measured by the foot, measurement will be along the centerline of the top of the dam.
- 4.1.2. **Volume Measurement.** When rock filter dams are measured by the cubic yard, measurement will be based on the volume of rock computed by the method of average end areas.
- 4.1.2.1. **Installation.** Measurement will be made in final position.
- 4.1.2.2. **Removal.** Measurement will be made at the point of removal.
- 4.2. **Temporary Pipe Slope Drains.** Temporary pipe slope drains will be measured by the foot.
- 4.3. **Temporary Paved Flumes.** Temporary paved flumes will be measured by the square yard of surface area. The measured area will include the energy dissipater at the flume outlet.
- 4.4. **Construction Exits.** Construction exits will be measured by the square yard of surface area.
- 4.5. **Earthwork for Erosion and Sediment Control.**
- 4.5.1. **Equipment and Labor Measurement.** Equipment and labor used will be measured by the actual number of hours the equipment is operated and the labor is engaged in the work.
- 4.5.2. **Volume Measurement.**

- 4.5.2.1. **In Place.**
- 4.5.2.1.1. **Excavation.** Excavation will be measured by the cubic yard in its original position and the volume computed by the method of average end areas.
- 4.5.2.1.2. **Embankment.** Embankment will be measured by the cubic yard in its final position by the method of average end areas. The volume of embankment will be determined between:
- the original ground surfaces or the surface upon that the embankment is to be constructed for the feature and
 - the lines, grades and slopes of the accepted embankment for the feature.
- 4.5.2.2. **In Vehicles.** Excavation and embankment quantities will be combined and paid for under "Earthwork (Erosion and Sediment Control, In Vehicle)." Excavation will be measured by the cubic yard in vehicles at the point of removal. Embankment will be measured by the cubic yard in vehicles measured at the point of delivery. Shrinkage or swelling factors will not be considered in determining the calculated quantities.
- 4.6. **Construction Perimeter Fence.** Construction perimeter fence will be measured by the foot.
- 4.7. **Sandbags for Erosion Control.** Sandbags will be measured as each sandbag or by the foot along the top of sandbag berms or dams.
- 4.8. **Temporary Sediment-Control Fence.** Installation or removal of temporary sediment-control fence will be measured by the foot.
- 4.9. **Biodegradable Erosion Control Logs.** Installation or removal of biodegradable erosion control logs will be measured by the foot along the centerline of the top of the control logs.
- 4.10. **Vertical Tracking.** Vertical tracking will not be measured or paid for directly but is considered subsidiary to this Item.

5. PAYMENT

The following will not be paid for directly but are subsidiary to pertinent Items:

- erosion-control measures for Contractor project-specific locations (PSLs) inside and outside the right of way (such as construction and haul roads, field offices, equipment and supply areas, plants, and material sources);
- removal of litter, unless a separate pay item is shown on the plans;
- repair to devices and features damaged by Contractor operations;
- added measures and maintenance needed due to negligence, carelessness, lack of maintenance, and failure to install permanent controls;
- removal and reinstallation of devices and features needed for the convenience of the Contractor;
- finish grading and dressing upon removal of the device; and
- minor adjustments including but not limited to plumbing posts, reattaching fabric, minor grading to maintain slopes on an erosion embankment feature, or moving small numbers of sandbags.

Stabilization of disturbed areas will be paid for under pertinent Items.

Furnishing and installing pipe for outfalls associated with sediment traps and ponds will not be paid for directly but is subsidiary to the excavation and embankment under this Item.

- 5.1. **Rock Filter Dams.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:

5.1.1. **Installation.** Installation will be paid for as "Rock Filter Dams (Install)" of the type specified. This price is full compensation for furnishing and operating equipment, finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.

5.1.2. **Removal.** Removal will be paid for as "Rock Filter Dams (Remove)." This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.

When the Owner directs that the rock filter dam installation or portions thereof be replaced, payment will be made at the unit price bid for "Rock Filter Dams (Remove)" and for "Rock Filter Dams (Install)" of the type specified. This price is full compensation for furnishing and operating equipment, finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.

5.2. **Temporary Pipe Slope Drains.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Temporary Pipe Slope Drains" of the size specified. This price is full compensation for furnishing materials, removal and disposal, furnishing and operating equipment, labor, tools, and incidentals.

Removal of temporary pipe slope drains will not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the pipe slope drain installation or portions thereof be replaced, payment will be made at the unit price bid for "Temporary Pipe Slope Drains" of the size specified, which is full compensation for the removal and reinstallation of the pipe drain.

Earthwork required for the pipe slope drain installation, including construction of the sediment trap, will be measured and paid for under "Earthwork for Erosion and Sediment Control."

Riprap concrete or stone, when used as an energy dissipater or as a stabilized sediment trap, will be measured and paid for in accordance with Item 432, "Riprap."

5.3. **Temporary Paved Flumes.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Temporary Paved Flume (Install)" or "Temporary Paved Flume (Remove)." This price is full compensation for furnishing and placing materials, removal and disposal, equipment, labor, tools, and incidentals.

When the Owner directs that the paved flume installation or portions thereof be replaced, payment will be made at the unit prices bid for "Temporary Paved Flume (Remove)" and "Temporary Paved Flume (Install)." These prices are full compensation for the removal and replacement of the paved flume and for equipment, labor, tools, and incidentals.

Earthwork required for the paved flume installation, including construction of a sediment trap, will be measured and paid for under "Earthwork for Erosion and Sediment Control."

5.4. **Construction Exits.** Contractor-required construction exits from off right of way locations or on-right of way PSLs will not be paid for directly but are subsidiary to pertinent Items.

The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" for construction exits needed on right of way access to work areas required by the Owner will be paid for at the unit price bid for "Construction Exits (Install)" of the type specified or "Construction Exits (Remove)." This price is full compensation for furnishing and placing materials, excavating, removal and disposal, cleaning vehicles, labor, tools, and incidentals.

When the Owner directs that a construction exit or portion thereof be removed and replaced, payment will be made at the unit prices bid for "Construction Exit (Remove)" and "Construction Exit (Install)" of the type specified. These prices are full compensation for the removal and replacement of the construction exit and for equipment, labor, tools, and incidentals.

Construction of sediment traps used in conjunction with the construction exit will be measured and paid for under "Earthwork for Erosion and Sediment Control."

5.5. **Earthwork for Erosion and Sediment Control.**

- 5.5.1. **Initial Earthwork for Erosion and Sediment Control.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Excavation (Erosion and Sediment Control, In Place)," "Embankment (Erosion and Sediment Control, In Place)," "Excavation (Erosion and Sediment Control, In Vehicle)," "Embankment (Erosion and Sediment Control, In Vehicle)," or "Earthwork (Erosion and Sediment Control, In Vehicle)."

This price is full compensation for excavation and embankment including hauling, disposal of material not used elsewhere on the project; embankments including furnishing material from approved sources and construction of erosion-control features; and equipment, labor, tools, and incidentals.

Sprinkling and rolling required by this Item will not be paid for directly, but will be subsidiary to this Item.

- 5.5.2. **Maintenance Earthwork for Erosion and Sediment Control for Cleaning and Restoring Control Measures.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid under a Contractor Force Account Item from invoice provided to the Owner.

This price is full compensation for excavation, embankment, and re-grading including removal of accumulated sediment in various erosion control installations as directed, hauling, and disposal of material not used elsewhere on the project; excavation for construction of erosion-control features; embankments including furnishing material from approved sources and construction of erosion-control features; and equipment, labor, tools, and incidentals.

Earthwork needed to remove and obliterate erosion-control features will not be paid for directly but is subsidiary to pertinent Items unless otherwise shown on the plans.

Sprinkling and rolling required by this Item will not be paid for directly, but will be subsidiary to this Item.

- 5.6. **Construction Perimeter Fence.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid for "Construction Perimeter Fence." This price is full compensation for furnishing and placing the fence; digging, fence posts, wire, and flagging; removal and disposal; and materials, equipment, labor, tools, and incidentals.

Removal of construction perimeter fence will be not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the perimeter fence installation or portions thereof be removed and replaced, payment will be made at the unit price bid for "Construction Perimeter Fence," which is full compensation for the removal and reinstallation of the construction perimeter fence.

- 5.7. **Sandbags for Erosion Control.** Sandbags will be paid for at the unit price bid for "Sandbags for Erosion Control" (of the height specified when measurement is by the foot). This price is full compensation for materials, placing sandbags, removal and disposal, equipment, labor, tools, and incidentals.

Removal of sandbags will not be paid for directly but is subsidiary to the installation Item. When the Owner directs that the sandbag installation or portions thereof be replaced, payment will be made at the unit price bid for "Sandbags for Erosion Control," which is full compensation for the reinstallation of the sandbags.

- 5.8. **Temporary Sediment-Control Fence.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:

- 5.8.1. **Installation.** Installation will be paid for as "Temporary Sediment-Control Fence (Install)." This price is full compensation for furnishing and operating equipment finish backfill and grading, lacing, proper disposal, labor, materials, tools, and incidentals.
- 5.8.2. **Removal.** Removal will be paid for as "Temporary Sediment-Control Fence (Remove)." This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.
- 5.9. **Biodegradable Erosion Control Logs.** The work performed and materials furnished in accordance with this Item and measured as provided under "Measurement" will be paid for at the unit price bid as follows:
- 5.9.1. **Installation.** Installation will be paid for as "Biodegradable Erosion Control Logs (Install)" of the size specified. This price is full compensation for furnishing and operating equipment finish backfill and grading, staking, proper disposal, labor, materials, tools, and incidentals.
- 5.9.2. **Removal.** Removal will be paid for as "Biodegradable Erosion Control Logs (Remove)." This price is full compensation for furnishing and operating equipment, proper disposal, labor, materials, tools, and incidentals.
- 5.10. **Vertical Tracking.** Vertical tracking will not be measured or paid for directly but is considered subsidiary to this Item.

SECTION T
SPECIAL PROVISIONS
STATE/FEDERAL REQUIREMENTS

SECTION S – SPECIAL PROVISIONS: STATE / FEDERAL REQUIREMENTS

- S1. Buy America (23 CFR 635.410)
- S2. Change Orders (23 CFR 635.120)
- S3. Child Support Documentation (Family Code 231.006)
- S4. Claims (23 CFR 635.124)
- S5. Differing Site Conditions (23 CFR 635.109) (23 USC 112 (e))

- S7. Title VI and Nondiscrimination Programs (49 CFR 21, 23 CFR 200)
- S8. Equipment Rental Rates (48 CFR 31.205-36)
- S9. FHWA Final Rule on Temporary Traffic Control Devices (23 CFR 630, Subpart K) (23 CFR 630.1008(d))
- S10. Lobbying Certification (49 CFR 20)
- S11. Local Hiring Preference (23 CFR 635.117)
- S12. Non-Collusion Provision (23 CFR 635.112(f))
- S13. Non-Discrimination Against Persons with Disabilities (49 CFR 27.7)
- S14. Non-Resident Bidder and Texas Preference (23 CFR 635.110(b))(23 CFR 635.110(f)(1))
- S15. Non-Segregated Facilities (23 CFR 633, Subpart A)
- S16. Patented/Proprietary Products (23 CFR 635.411)
- S17. Prequalification (23 CFR 635.110)
- S18. Prison Produced Materials (23 CFR 635.417)
- S19. Publicly-Owned Equipment (23 CFR 635.106)
- S20. Safety: Accident Prevention (OSHA) (23 CFR 635.108)
- S21. State or Local Preference (23 CFR 635.409)
- S22. Subcontracting (23 CFR 635.116)
- S23. Termination of Contract (23 CFR 635.125)
- S24. Time Extensions (23 CFR 635.121)
- S25. Trench Safety (Health & Safety Code: 756.022, 756.023)
- S26. Contractor's Assurance
- S27. Warranties and Warranty Clauses (23 CFR 635.413)
- S28. Miscellaneous Forms for Federal Aid Construction Contracts To Be Submitted With Proposal
 - Child Support Statement
 - DBE Program Commitment Agreement Form
 - Certification Regarding Lobbying
 - Disclosure of Lobbying Activities
 - Affidavit of Non-Collusion
 - Certificate of Non-Segregated Facilities
 - Certification of Absence of Suspension, Debarment, Voluntary Exclusion or Determination of Ineligibility
 - Certification of Interest in Other Bid Proposal for This Work
 - Business Ownership (To Be Completed With Contracts)

S1. BUY AMERICA

Title 23 - Highways

§635.410 Buy America requirements.

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of §635.409(a) of this subpart.

(b) No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(1) The project either: (i) Includes no permanently incorporated steel or iron materials, or (ii) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied.

(2) The State has standard contract provisions that require the use of domestic materials and products, including steel and iron materials, to the same or greater extent as the provisions set forth in this section.

(3) The State elects to include alternate bid provisions for foreign and domestic steel and iron materials which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron materials which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and iron materials, and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron materials by more than 25 percent.

(4) When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

(c)(1) A State may request a waiver of the provisions of this section if;

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request. The RFHWA will have approval authority on the request.

(3) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(4) The denial of the request by the RFHWA may be appealed by the State to the Federal Highway Administrator (Administrator), whose action on the request shall be considered administratively final.

(5) A request for a waiver which involves nationwide public interest or availability issues or more than one FHWA region may be submitted by the RFHWA to the Administrator for action.

(6) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public upon request. Any request for a nationwide waiver and FHWA's action on such a request may be published in the FEDERAL REGISTER for public comment.

(7) In determining whether the waivers described in paragraph (c)(1) of this section will be granted, the FHWA will consider all appropriate factors including, but not limited to, cost, administrative burden, and delay that would be imposed if the provision were not waived.

(d) Standard State and Federal-aid contract procedures may be used to assure compliance with the requirements of this section.

[48 FR 53104, Nov. 25, 1983, as amended at 49 FR 18821, May 3, 1984; 58 FR 38975, July 21, 1993]

S2. CHANGE ORDERS

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.120 Changes and extra work.

(a) Following authorization to proceed with a project, all major changes in the plans and contract provisions and all major extra work shall have formal approval by the Division Administrator in advance of their effective dates. However, when emergency or unusual conditions justify, the Division Administrator may give tentative advance approval orally to such changes or extra work and ratify such approval with formal approval as soon thereafter as practicable.

(b) For non-major changes and non-major extra work, formal approval is necessary but such approval may be given retroactively at the discretion of the Division Administrator. The STD should establish and document with the Division Administrator's concurrence specific parameters as to what constitutes a non-major change and non-major extra work.

(c) Changes in contract time, as related to contract changes or extra work, should be submitted at the same time as the respective work change for approval by the Division Administrator.

(d) In establishing the method of payment for contract changes or extra work orders, force account procedures shall only be used when strictly necessary, such as when agreement cannot be reached with the contractor on the price of a new work item, or when the extent of work is unknown or is of such character that a price cannot be determined to a reasonable degree of accuracy. The reason or reasons for using force account procedures shall be documented.

(e) The STD shall perform and adequately document a cost analysis of each negotiated contract change or negotiated extra work order. The method and degree of the cost analysis shall be subject to the approval of the Division Administrator.

(f) Proposed changes and extra work involved in nonparticipating operations that may affect the design or participating construction features of a project, shall be subject to review and concurrence by the Division Administrator.

S3. CHILD SUPPORT DOCUMENTATION

Sec. 231.006. INELIGIBILITY TO RECEIVE STATE GRANTS OR LOANS OR RECEIVE PAYMENT ON STATE CONTRACTS.

(a) A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to:

- (1) receive payments from state funds under a contract to provide property, materials, or services; or
- (2) receive a state-funded grant or loan.

(a-1) Repealed by Acts 2007, 80th Leg., R.S., Ch. 972, Sec. 65(1), eff. September 1, 2007.

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) remains ineligible until:

- (1) all arrearages have been paid;
- (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or
- (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from Subsection (a) as part of a court-supervised effort to improve earnings and child support payments.

(c) A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application.

(d) A contract, bid, or application subject to the requirements of this section must include the following statement:

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

(e) If a state agency determines that an individual or business entity holding a state contract is ineligible to receive payment under Subsection (a), the contract may be terminated.

(f) If the certificate required under Subsection (d) is shown to be false, the vendor is liable to the state for attorney's fees, the costs necessary to complete the contract, including the cost of advertising and awarding a second contract, and any other damages provided by law or contract.

(g) This section does not create a cause of action to contest a bid or award of a state grant, loan, or contract. This section does not impose a duty on the Title IV-D agency to collect information to send to the comptroller to withhold a payment to a business entity. The Title IV-D agency and other affected agencies are encouraged to develop a system by which the Title IV-D agency may identify a business entity that is ineligible to receive a state payment under Subsection (a) and to ensure that a state

payment to the entity is not made. This system should be implemented using existing funds and only if the Title IV-D agency, comptroller, and other affected agencies determine that it will be cost-effective.

(h) This section does not apply to a contract between governmental entities.

(i) The Title IV-D agency may adopt rules or prescribe forms to implement any provision of this section.

(j) A state agency may accept a bid that does not include the information required under Subsection (c) if the state agency collects the information before the contract, grant, or loan is executed.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 82, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 28, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 437, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1015, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 972 (S.B. 228), Sec. 45, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 972 (S.B. 228), Sec. 65(1), eff. September 1, 2007.

S4. CLAIMS

Title 23 - Highways

PART 635 – CONSTRUCTION AND MAINTENANCE

Subpart A - Contract Procedures.

§635.124 Participation in contract claim awards and settlements.

(a) The eligibility for and extent of Federal-aid participation up to the Federal statutory share in a contract claim award made by a State to a Federal-aid contractor on the basis of an arbitration or mediation proceeding, administrative board determination, court judgment, negotiated settlement, or other contract claim settlement shall be determined on a case-by-case basis. Federal funds will participate to the extent that any contract adjustments made are supported, and have a basis in terms of the contract and applicable State law, as fairly construed. Further, the basis for the adjustment and contractor compensation shall be in accord with prevailing principles of public contract law.

(b) The FHWA shall be made aware by the STD of the details of the claim at an early stage so that coordination of efforts can be satisfactorily accomplished. It is expected that STDs will diligently pursue the satisfactory resolution of claims within a reasonable period of time. Claims arising on exempt non-NHS projects should be processed in accordance with the State's approved Stewardship Plan.

(c) When requesting Federal participation, the STD shall set forth in writing the legal and contractual basis for the claim, together with the cost data and other facts supporting the award or settlement. Federal-aid participation in such instances shall be supported by a STD audit of the actual costs incurred by the contractor unless waived by the FHWA as unwarranted. Where difficult, complex, or novel legal issues appear in the claim, such that evaluation of legal controversies is critical to consideration of the award or settlement, the STD shall include in its submission a legal opinion from its counsel setting forth the basis for determining the extent of the liability under local law, with a level of detail commensurate with the magnitude and complexity of the issues involved.

(d) In those cases where the STD receives an adverse decision in an amount more than the STD was able to support prior to the decision or settles a claim in an amount more than the STD can support, the FHWA will participate up to the appropriate Federal matching share, to the extent that it involves a Federal-aid participating portion of the contract, provided that:

(1) The FHWA was consulted and concurred in the proposed course of action;

(2) All appropriate courses of action had been considered; and

(3) The STD pursued the case diligently and in a professional manner.

(e) Federal funds will not participate:

(1) If it has been determined that STD employees, officers, or agents acted with gross negligence, or participated in intentional acts or omissions, fraud, or other acts not consistent with usual State practices in project design, plan preparation, contract administration, or other activities which gave rise to the claim;

(2) In such cost items as consequential or punitive damages, anticipated profit, or any award or payment of attorney's fees paid by a State to an opposing party in litigation; and

(3) In tort, inverse condemnation, or other claims erroneously styled as claims "under a contract."

(f) Payment of interest associated with a claim will be eligible for participation provided that the payment to the contractor for interest is allowable by State statute or specification and the costs are not a result of delays caused by dilatory action of the State or the contractor. The interest rates must not exceed the rate provided for by the State statute or specification.

(g) In cases where STD's affirmatively recover compensatory damages through contract claims, cross-claims, or counter claims from contractors, subcontractors, or their agents on projects on which there was Federal-aid participation, the Federal share of such recovery shall be equivalent to the Federal share of the project or projects involved. Such recovery shall be credited to the project or projects from which the claim or claims arose.

S5. DIFFERING SITE CONDITIONS

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.109 Standardized changed condition clauses.

(a) Except as provided in paragraph (b) of this section, the following changed conditions contract clauses shall be made part of, and incorporated in, each highway construction project approved under 23 U.S.C. 106:

(1) *Differing site conditions.* (i) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

(ii) Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.

(iv) No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the STD's at their option.)

(2) *Suspensions of work ordered by the engineer.* (i) If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

(ii) Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

(iv) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(3) *Significant changes in the character of work.* (i) The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are

necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

(ii) If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

(iii) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

(iv) The term "significant change" shall be construed to apply only to the following circumstances:

(A) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or

(B) When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

(b) The provisions of this section shall be governed by the following:

(1) Where State statute does not permit one or more of the contract clauses included in paragraph (a) of this section, the State statute shall prevail and such clause or clauses need not be made applicable to Federal-aid highway contracts.

(2) Where the State transportation department has developed and implemented one or more of the contract clauses included in paragraph (a) of this section, such clause or clauses, as developed by the State transportation department may be included in Federal-aid highway contracts in lieu of the corresponding clause or clauses in paragraph (a) of this section. The State's action must be pursuant to a specific State statute requiring differing contract conditions clauses. Such State developed clause or clauses, however, must be in conformance with 23 U.S.C., 23 CFR and other applicable Federal statutes and regulations as appropriate and shall be subject to the Division Administrator's approval as part of the PS&E.

(c) In the case of a design-build project, STDs are strongly encouraged to use "suspensions of work ordered by the engineer" clauses, and may consider "differing site condition" clauses and "significant changes in the character of work" clauses which are appropriate for the risk and responsibilities that are shared with the design-builder.

[56 FR 37004, Aug. 2, 1991; 57 FR 10062, Mar. 23, 1992, as amended at 67 FR 75925, Dec. 10, 2002]

23 U.S.C.
United States Code, 2011 Edition
Title 23 - HIGHWAYS
CHAPTER 1 - FEDERAL-AID HIGHWAYS
Sec. 112 - Letting of contracts

§112. Letting of contracts

(E) Prenotification; confidentiality of data.—A recipient of funds requesting or using the cost and rate data described in subparagraph (D) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

S7. TITLE VI and Nondiscrimination Programs

TITLE VI and Nondiscrimination Programs

The County, 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.

Pursuant to Title VI requirements, any entity or person that enters into a contract with Dallas County including, but not limited to prime contractors, sub-contractors, and sub-recipients, may not discriminate on the basis of race, color, national origin, age, sex, disability, or religion in their selection and retention of subcontractors (including consultants), in connection with any federally funded program or activity (including any program or activity undertaken/funded by a Dallas County Division/Department that receives federal funds).

This solicitation packet contains information concerning Dallas County's Title VI Assurances/Compliance Policy (Appendix A) and Bidders/Contractor responsibilities.

TITLE VI ASSURANCES/COMPLIANCE - APPENDIX A

A. Assurances

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor, with regard to the work performed by it during the contract, will 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 will 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.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will 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.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration 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 will so certify to the Recipient or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will 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 will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration 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.

B. Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:

Pertinent Nondiscrimination Authorities:

- 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 U.S.C. § 4 71, Section 4 7123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U .S.C. 1681 et seq).

C. Representations/Warranties

The Contractor also makes the following representations and warranties to Dallas County:

1. It has taken the steps necessary to effectuate Title VI requirements.
2. Disadvantaged business enterprises are afforded equal opportunity to submit bids/proposals as sub-contractors or sub-consultants and will not be discriminated against on the grounds of race, color, sex, age, disability, religion, veteran status, or national origin in consideration of a selection or award.
3. Neither contractor or any subcontractors or sub-recipients that will participate in activities to be funded as a result of this contract/bid/solicitation, are listed on the debarred list due to violations of Title VI or VII of the Civil Rights Act of 1964, nor are any proposed parties to this contract, or any subcontract resulting therefrom, aware of any pending action which might result in such debarment or disqualification.

D. Title VI Complaints

Any person, contractor, or subcontractor who believes that they have been subjected to an unlawful discriminatory practice under Title VI will be notified of their right to file a formal complaint within one hundred eighty (180) days following the alleged discriminatory action or the date the person(s) became aware of the alleged act(s) of discrimination. Any such complaint must be filed in writing or in person with the Dallas County Title VI Coordinator:

Dallas County Human Resources
 c/o: Dallas County Director of Human Resources and Title VI Coordinator
 500 Elm Street
 Dallas, TX 75202
 (214) 653-7638 (phone)
 (214) 653-7608 (fax)

A copy of Dallas County Title VI Non-Discrimination Plan and Documents, and complaint forms, may be obtained at http://www.dallascounty.org/department/HR/title_vi.html or at the address above.

A complainant may also contact the Federal Coordination and Compliance Office, Civil Rights Division at the Title VI Hotline: 888-TITLE-06 (888-848-5306) or send a letter to: U.S. Department of Justice Civil Rights Division Federal Coordination and Compliance Section, NWB 950 Pennsylvania Avenue, N.W. Washington, D.C. 20530. More information on Title VI is available from the Justice Department online at www.justice.gov.

Contractor shall comply with all reasonable requests made in the course of an investigation of Title VI and these assurances by Dallas County, the Texas Department of Transportation, the US Department of Transportation, the US Department of Justice, or any other federal or state agency. Failure to comply with such reasonable requests will be deemed a breach of this contract/bid/solicitation.

E. Enforcement

The contractor affirmatively acknowledges that it will be subject to Title VI, and implementing regulations, and any enforcement measures therein. In addition to any enforcement action by Dallas County, the contractor acknowledges that the United States and the State of Texas has a right to seek judicial enforcement with regard to any matter arising under Title VI, including the assurances herein.

Contractor's Full Name:

Signature, Authorized Representative of Contractor

Date _____

Title

S8. EQUIPMENT RENTAL RATES

Title 48: Federal Acquisition Regulations System

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205-36 Rental costs.

(a) This subsection is applicable to the cost of renting or leasing real or personal property acquired under "operating leases" as defined in Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 840, Leases. (See 31.205-11 for Capital Leases.)

(b) The following costs are allowable:

(1) Rental costs under operating leases, to the extent that the rates are reasonable at the time of the lease decision, after consideration of (i) rental costs of comparable property, if any; (ii) market conditions in the area; (iii) the type, life expectancy, condition, and value of the property leased; (iv) alternatives available; and (v) other provisions of the agreement.

(2) Rental costs under a sale and leaseback arrangement only up to the amount the contractor would be allowed if the contractor retained title, computed based on the net book value of the asset on the date the contractor becomes a lessee of the property adjusted for any gain or loss recognized in accordance with 31.205-16(b).

(3) Charges in the nature of rent for property between any divisions, subsidiaries, or organization under common control, to the extent that they do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, facilities capital cost of money, and maintenance (excluding interest or other unallowable costs pursuant to part 31), provided that no part of such costs shall duplicate any other allowed cost. Rental cost of personal property leased from any division, subsidiary, or affiliate of the contractor under common control, that has an established practice of leasing the same or similar property to unaffiliated lessees shall be allowed in accordance with subparagraph (b)(1) above.

(c) The allowability of rental costs under unexpired leases in connection with terminations is treated in 31.205-42(e).

[48 FR 42301, Sept. 19, 1983, as amended at 51 FR 2665, Jan. 17, 1986; 61 FR 69288, Dec. 31, 1996; 68 FR 69248, Dec. 11, 2003; 70 FR 33676, June 8, 2005; 77 FR 203, Jan. 3, 2012]

S9. FHWA FINAL RULE ON TEMPORARY TRAFFIC CONTROL DEVICES

Title 23: Highways

PART 630—PRECONSTRUCTION PROCEDURES

Subpart K—Temporary Traffic Control Devices

AUTHORITY: 23 U.S.C. 109(c) and 112; Sec. 1110 of Pub. L. 109-59; 23 CFR 1.32; and 49 CFR 1.48(b).

SOURCE: 72 FR 68489, Dec. 5, 2007, unless otherwise noted.

§630.1102 Purpose.

To decrease the likelihood of highway work zone fatalities and injuries to workers and road users by establishing minimum requirements and providing guidance for the use of positive protection devices between the work space and motorized traffic, installation and maintenance of temporary traffic control devices, and use of uniformed law enforcement officers during construction, utility, and maintenance operations, and by requiring contract pay items to ensure the availability of funds for these provisions. This subpart is applicable to all Federal-aid highway projects, and its application is encouraged on other highway projects as well.

§630.1104 Definitions.

For the purposes of this subpart, the following definitions apply:

Agency means a State or local highway agency or authority that receives Federal-aid highway funding.

Exposure Control Measures means traffic management strategies to avoid work zone crashes involving workers and motorized traffic by eliminating or reducing traffic through the work zone, or diverting traffic away from the work space.

Federal-aid Highway Project means highway construction, maintenance, and utility projects funded in whole or in part with Federal-aid funds.

Motorized Traffic means the motorized traveling public. This term does not include motorized construction or maintenance vehicles and equipment within the work space.

Other Traffic Control Measures means all strategies and temporary traffic controls other than Positive Protection Devices and Exposure Control Measures, but including uniformed law enforcement officers, used to reduce the risk of work zone crashes involving motorized traffic.

Positive Protection Devices means devices that contain and/or redirect vehicles and meet the crashworthiness evaluation criteria contained in National Cooperative Highway Research Program (NCHRP) Report 350, Recommended Procedures for the Safety Performance Evaluation of Highway Features, 1993, Transportation Research Board, National Research Council. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This document is available for inspection and copying at FHWA, 1200 New Jersey Avenue, SE., Washington, DC 20590, as provided in 49 CFR part 7. You may also inspect a copy at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741 6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Work Zone Safety Management means the entire range of traffic management and control and highway safety strategies and devices used to avoid crashes in work zones that can lead to worker and road user injuries and fatalities, including Positive Protection Devices, Exposure Control Measures, and Other Traffic Control Measures.

§630.1106 Policy and procedures for work zone safety management.

(a) Each agency's policy and processes, procedures, and/or guidance for the systematic consideration and management of work zone impacts, to be established in accordance with 23 CFR 630.1006, shall include the consideration and management of road user and worker safety on Federal-aid highway projects. These processes, procedures, and/or guidance, to be developed in partnership with the FHWA, shall address the use of Positive Protection Devices to prevent the intrusion of motorized traffic into the work space and other potentially hazardous areas in the work zone; Exposure Control Measures to avoid or minimize worker exposure to motorized traffic and road user exposure to work activities; Other Traffic Control Measures including uniformed law enforcement officers to minimize work zone crashes; and the safe entry/exit of work vehicles onto/from the travel lanes. Each of these strategies should be used to the extent that they are possible, practical, and adequate to manage work zone exposure and reduce the risks of crashes resulting in fatalities or injuries to workers and road users.

(b) Agency processes, procedures, and/or guidance should be based on consideration of standards and/or guidance contained in the Manual on Uniform Traffic Control Devices (MUTCD) and the AASHTO Roadside Design Guide, as well as project characteristics and factors. The strategies and devices to be used may be determined by a project-specific engineering study, or determined from agency guidelines that define strategies and approaches to be used based on project and highway characteristics and factors. The types of measures and strategies to be used are not mutually exclusive, and should be considered in combination as appropriate based on characteristics and factors such as those listed below:

- (1) Project scope and duration;
- (2) Anticipated traffic speeds through the work zone;
- (3) Anticipated traffic volume;
- (4) Vehicle mix;
- (5) Type of work (as related to worker exposure and crash risks);
- (6) Distance between traffic and workers, and extent of worker exposure;
- (7) Escape paths available for workers to avoid a vehicle intrusion into the work space;
- (8) Time of day (e.g., night work);
- (9) Work area restrictions (including impact on worker exposure);
- (10) Consequences from/to road users resulting from roadway departure;
- (11) Potential hazard to workers and road users presented by device itself and during device placement and removal;
- (12) Geometrics that may increase crash risks (e.g., poor sight distance, sharp curves);

- (13) Access to/from work space;
- (14) Roadway classification; and
- (15) Impacts on project cost and duration.

(c) Uniformed Law Enforcement Policy. Each agency, in partnership with the FHWA, shall develop a policy addressing the use of uniformed law enforcement on Federal-aid highway projects. The policy may consist of processes, procedures, and/or guidance. The processes, procedures, and/or guidance should address the following:

(1) Basic interagency agreements between the highway agency and appropriate law enforcement agencies to address work zone enforcement needs;

(2) Interaction between highway and law-enforcement agency during project planning and development;

(3) Conditions where law enforcement involvement in work zone traffic control may be needed or beneficial, and criteria to determine the project-specific need for law enforcement;

(4) General nature of law enforcement services to be provided, and procedures to determine project-specific services;

(5) Appropriate work zone safety and mobility training for the officers, consistent with the training requirements in 23 CFR 630.1008(d);

(6) Procedures for interagency and project-level communications between highway agency and law enforcement personnel; and

(7) Reimbursement agreements for law enforcement service.

§630.1108 Work zone safety management measures and strategies.

(a) *Positive Protection Devices.* The need for longitudinal traffic barrier and other positive protection devices shall be based on an engineering study. The engineering study may be used to develop positive protection guidelines for the agency, or to determine the measures to be applied on an individual project. The engineering study should be based on consideration of the factors and characteristics described in section 630.1106(b). At a minimum, positive protection devices shall be considered in work zone situations that place workers at increased risk from motorized traffic, and where positive protection devices offer the highest potential for increased safety for workers and road users, such as:

(1) Work zones that provide workers no means of escape from motorized traffic (e.g., tunnels, bridges, etc.);

(2) Long duration work zones (e.g., two weeks or more) resulting in substantial worker exposure to motorized traffic;

(3) Projects with high anticipated operating speeds (e.g., 45 mph or greater), especially when combined with high traffic volumes;

(4) Work operations that place workers close to travel lanes open to traffic; and

(5) Roadside hazards, such as drop-offs or unfinished bridge decks, that will remain in place overnight or longer.

(b) *Exposure Control Measures.* Exposure Control Measures should be considered where appropriate to avoid or minimize worker exposure to motorized traffic and exposure of road users to work activities, while also providing adequate consideration to the potential impacts on mobility. A wide range of measures may be appropriate for use on individual projects, such as:

- (1) Full road closures;
- (2) Ramp closures;
- (3) Median crossovers;
- (4) Full or partial detours or diversions;
- (5) Protection of work zone setup and removal operations using rolling road blocks;
- (6) Performing work at night or during off-peak periods when traffic volumes are lower; and
- (7) Accelerated construction techniques.

(c) *Other Traffic Control Measures.* Other Traffic Control Measures should be given appropriate consideration for use in work zones to reduce work zone crashes and risks and consequences of motorized traffic intrusion into the work space. These measures, which are not mutually exclusive and should be considered in combination as appropriate, include a wide range of other traffic control measures such as:

- (1) Effective, credible signing;
- (2) Changeable message signs;
- (3) Arrow panels;
- (4) Warning flags and lights on signs;
- (5) Longitudinal and lateral buffer space;
- (6) Trained flaggers and spotters;
- (7) Enhanced flagger station setups;
- (8) Intrusion alarms;
- (9) Rumble strips;
- (10) Pace or pilot vehicle;
- (11) High quality work zone pavement markings and removal of misleading markings;
- (12) Channelizing device spacing reduction;

(13) Longitudinal channelizing barricades;

(14) Work zone speed management (including changes to the regulatory speed and/or variable speed limits);

(15) Law enforcement;

(16) Automated speed enforcement (where permitted by State/local laws);

(17) Drone radar;

(18) Worker and work vehicle/equipment visibility;

(19) Worker training;

(20) Public information and traveler information; and

(21) Temporary traffic signals.

(d) *Uniformed Law Enforcement Officers.* (1) A number of conditions may indicate the need for or benefit of uniformed law enforcement in work zones. The presence of a uniformed law enforcement officer and marked law enforcement vehicle in view of motorized traffic on a highway project can affect driver behavior, helping to maintain appropriate speeds and improve driver alertness through the work zone. However, such law enforcement presence is not a substitute for the temporary traffic control devices required by Part 6 of the MUTCD. In general, the need for law enforcement is greatest on projects with high traffic speeds and volumes, and where the work zone is expected to result in substantial disruption to or changes in normal traffic flow patterns. Specific project conditions should be examined to determine the need for or potential benefit of law enforcement, such as the following:

(i) Frequent worker presence adjacent to high-speed traffic without positive protection devices;

(ii) Traffic control setup or removal that presents significant risks to workers and road users;

(iii) Complex or very short term changes in traffic patterns with significant potential for road user confusion or worker risk from traffic exposure;

(iv) Night work operations that create substantial traffic safety risks for workers and road users;

(v) Existing traffic conditions and crash histories that indicate a potential for substantial safety and congestion impacts related to the work zone activity, and that may be mitigated by improved driver behavior and awareness of the work zone;

(vi) Work zone operations that require brief stoppage of all traffic in one or both directions;

(vii) High-speed roadways where unexpected or sudden traffic queuing is anticipated, especially if the queue forms a considerable distance in advance of the work zone or immediately adjacent to the work space; and

(viii) Other work site conditions where traffic presents a high risk for workers and road users, such that the risk may be reduced by improving road user behavior and awareness.

(2) Costs associated with the provision of uniformed law enforcement to help protect workers and road users, and to maintain safe and efficient travel through highway work zones, are eligible for Federal-aid participation. Federal-aid eligibility excludes law enforcement activities that would normally be expected in and around highway problem areas requiring routine or ongoing law enforcement traffic control and enforcement activities. Payment for the services of uniformed law enforcement in work zones may be included in the construction contract, or be provided by direct reimbursement from the highway agency to the law enforcement agency. When payment is included through the construction contract, the contractor will be responsible for reimbursing the law enforcement agency, and in turn will recover those costs through contract pay items. Direct interagency reimbursement may be made on a project-specific basis, or on a program-wide basis that considers the overall level of services to be provided by the law enforcement agency. Contract pay items for law enforcement service may be either unit price or lump sum items. Unit price items should be utilized when the highway agency can estimate and control the quantity of law enforcement services required on the project. The use of lump sum payment should be limited to situations where the quantity of services is directly affected by the contractor's choice of project scheduling and chosen manner of staging and performing the work. Innovative payment items may also be considered when they offer an advantage to both the highway agency and the contractor. When reimbursement to the law enforcement agency is made by interagency transfer of funds, the highway agency should establish a program-level or project-level budget that is adequate to meet anticipated program or project needs, and include provisions to address unplanned needs and other contingencies.

(e) *Work Vehicles and Equipment.* In addition to addressing risks to workers and road users from motorized traffic, the agency processes, procedures, and/or guidance established in accordance with 23 CFR 630.1006 should also address safe means for work vehicles and equipment to enter and exit traffic lanes and for delivery of construction materials to the work space, based on individual project characteristics and factors.

(f) *Payment for Traffic Control.* Consistent with the requirements of 23 CFR 630.1012, Project-level Procedures, project plans, specifications and estimates (PS&Es) shall include appropriate pay item provisions for implementing the project Transportation Management Plan (TMP), which includes a Temporary Traffic Control (TTC) plan, either through method or performance based specifications. Pay item provisions include, but are not limited to, the following:

(1) Payment for work zone traffic control features and operations shall not be incidental to the contract, or included in payment for other items of work not related to traffic control and safety;

(2) As a minimum, separate pay items shall be provided for major categories of traffic control devices, safety features, and work zone safety activities, including but not limited to positive protection devices, and uniformed law enforcement activities when funded through the project;

(3) For method based specifications, the specifications and other PS&E documents should provide sufficient details such that the quantity and types of devices and the overall effort required to implement and maintain the TMP can be determined;

(4) For method-based specifications, unit price pay items, lump sum pay items, or a combination thereof may be used;

(5) Lump sum payment should be limited to items for which an estimate of the actual quantity required is provided in the PS&E or for items where the actual quantity required is dependent upon the contractor's choice of work scheduling and methodology;

(6) For Lump Sum items, a contingency provision should be included such that additional payment is provided if the quantity or nature of the required work changes, either an increase or decrease, due to circumstances beyond the control of the contractor;

(7) Unit price payment should be provided for those items over which the contractor has little or no control over the quantity, and no firm estimate of quantities is provided in the PS&Es, but over which the highway agency has control of the actual quantity to be required during the project;

(8) Specifications should clearly indicate how placement, movement/relocation, and maintenance of traffic control devices and safety features will be compensated; and

(9) The specifications should include provisions to require and enforce contractor compliance with the contract provisions relative to implementation and maintenance of the project TMP and related traffic control items. Enforcement provisions may include remedies such as liquidated damages, work suspensions, or withholding payment for noncompliance.

§630.1110 Maintenance of temporary traffic control devices.

To provide for the continued effectiveness of temporary traffic control devices, each agency shall develop and implement quality guidelines to help maintain the quality and adequacy of the temporary traffic control devices for the duration of the project. Agencies may choose to adopt existing quality guidelines such as those developed by the American Traffic Safety Services Association (ATSSA) or other state highway agencies.¹ A level of inspection necessary to provide ongoing compliance with the quality guidelines shall be provided.

¹The American Traffic Safety Services Association's (ATSSA) Quality Guidelines for Work Zone Traffic Control Devices uses photos and written descriptions to help judge when a traffic control device has outlived its usefulness. These guidelines are available for purchase from ATSSA through the following URL: http://www.atssa.com/store/bc_item_detail.jsp?productId=1. Similar guidelines are available from various State highway agencies. The Illinois Department of Transportation "Quality Standards for Work Zone Traffic Control Devices" is available online at <http://dot.state.il.us/workzone/wztcd2004r.pdf>. The Minnesota Department of Transportation "Quality Standards—Methods to determine whether the various traffic control devices are Acceptable, Marginal, or Unacceptable" is available online at <http://www.dot.state.mn.us/trafficeng/otepubl/fieldmanual2007/FM-2007-QualityStandards.pdf>.

§630.1108 Work zone safety management measures and strategies.

(d) *Uniformed Law Enforcement Officers.* (1) A number of conditions may indicate the need for or benefit of uniformed law enforcement in work zones. The presence of a uniformed law enforcement officer and marked law enforcement vehicle in view of motorized traffic on a highway project can affect driver behavior, helping to maintain appropriate speeds and improve driver alertness through the work zone. However, such law enforcement presence is not a substitute for the temporary traffic control devices required by Part 6 of the MUTCD. In general, the need for law enforcement is greatest on projects with high traffic speeds and volumes, and where the work zone is expected to result in substantial disruption to or changes in normal traffic flow patterns. Specific project conditions should be examined to determine the need for or potential benefit of law enforcement, such as the following:

- (i) Frequent worker presence adjacent to high-speed traffic without positive protection devices;
- (ii) Traffic control setup or removal that presents significant risks to workers and road users;
- (iii) Complex or very short term changes in traffic patterns with significant potential for road user confusion or worker risk from traffic exposure;
- (iv) Night work operations that create substantial traffic safety risks for workers and road users;
- (v) Existing traffic conditions and crash histories that indicate a potential for substantial safety and congestion impacts related to the work zone activity, and that may be mitigated by improved driver behavior and awareness of the work zone;
- (vi) Work zone operations that require brief stoppage of all traffic in one or both directions;
- (vii) High-speed roadways where unexpected or sudden traffic queuing is anticipated, especially if the queue forms a considerable distance in advance of the work zone or immediately adjacent to the work space; and
- (viii) Other work site conditions where traffic presents a high risk for workers and road users, such that the risk may be reduced by improving road user behavior and awareness.

(2) Costs associated with the provision of uniformed law enforcement to help protect workers and road users, and to maintain safe and efficient travel through highway work zones, are eligible for Federal-aid participation. Federal-aid eligibility excludes law enforcement activities that would normally be expected in and around highway problem areas requiring routine or ongoing law enforcement traffic control and enforcement activities. Payment for the services of uniformed law enforcement in work zones may be included in the construction contract, or be provided by direct reimbursement from the highway agency to the law enforcement agency. When payment is included through the construction contract, the contractor will be responsible for reimbursing the law enforcement agency, and in turn will recover those costs through contract pay items. Direct interagency reimbursement may be made on a project-specific basis, or on a program-wide basis that considers the overall level of services to be provided by the law enforcement agency. Contract pay items for law enforcement service may be either unit price or lump sum items. Unit price items should be utilized when the highway agency can estimate and control the quantity of law enforcement services required on the project. The use of lump sum payment should be limited to situations where the quantity of services is directly affected by the contractor's choice of project scheduling and chosen manner of staging and performing the work. Innovative payment items may also be considered when they offer an advantage to both the highway agency and the contractor. When reimbursement to the law enforcement agency is made by interagency transfer of funds, the highway agency should establish a program-level or project-level budget that is adequate to meet anticipated program or project needs, and include provisions to address unplanned needs and other contingencies.

S10. LOBBYING CERTIFICATION

Title 49: Transportation

PART 20—NEW RESTRICTIONS ON LOBBYING

AUTHORITY: Sec. 319, Public Law 101-121 (31 U.S.C. 1352); 49 U.S.C. 322(a).

SOURCE: 55 FR 6737, 6756, Feb. 26, 1990, unless otherwise noted.

CROSS REFERENCE: See also Office of Management and Budget notice published at 54 FR 52306, December 20, 1989.

Subpart A—General

§20.100 Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: 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) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, set forth in appendix A, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form, set forth in appendix B, if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, set forth in appendix A, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form, set forth in appendix B, if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

§20.105 Definitions.

For purposes of this part:

(a) *Agency*, as defined in 5 U.S.C. 552(f), includes Federal executive departments and agencies as well as independent regulatory commissions and Government corporations, as defined in 31 U.S.C. 9101(1).

(b) *Covered Federal action* means any of the following Federal actions:

(1) The awarding of any Federal contract;

(2) The making of any Federal grant;

(3) The making of any Federal loan;

(4) The entering into of any cooperative agreement; and,

(5) The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Covered Federal action does not include receiving from an agency a commitment providing for the United States to insure or guarantee a loan. Loan guarantees and loan insurance are addressed independently within this part.

(c) *Federal contract* means an acquisition contract awarded by an agency, including those subject to the Federal Acquisition Regulation (FAR), and any other acquisition contract for real or personal property or services not subject to the FAR.

(d) *Federal cooperative agreement* means a cooperative agreement entered into by an agency.

(e) *Federal grant* means an award of financial assistance in the form of money, or property in lieu of money, by the Federal Government or a direct appropriation made by law to any person. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, loan insurance, interest subsidies, insurance, or direct United States cash assistance to an individual.

(f) *Federal loan* means a loan made by an agency. The term does not include loan guarantee or loan insurance.

(g) *Indian tribe* and *tribal organization* have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450B). Alaskan Natives are included under the definitions of Indian tribes in that Act.

(h) *Influencing or attempting to influence* means making, with the intent to influence, any communication to or appearance before an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

(i) *Loan guarantee* and *loan insurance* means an agency's guarantee or insurance of a loan made by a person.

(j) *Local government* means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

(k) *Officer or employee of an agency* includes the following individuals who are employed by an agency:

(1) An individual who is appointed to a position in the Government under title 5, U.S. Code, including a position under a temporary appointment;

(2) A member of the uniformed services as defined in section 101(3), title 37, U.S. Code;

(3) A special Government employee as defined in section 202, title 18, U.S. Code; and,

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, title 5, U.S. Code appendix 2.

(l) *Person* means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(m) *Reasonable compensation* means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

(n) *Reasonable payment* means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(o) *Recipient* includes all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.

(p) *Regularly employed* means, with respect to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or a commitment providing for the United States to insure or guarantee a loan, an officer or employee who is employed by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract, grant, loan, cooperative agreement, loan insurance commitment, or loan guarantee commitment. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

(q) *State* means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

§20.110 Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

(1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

(1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or

(2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

(1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

(2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

(1) A subcontract exceeding \$100,000 at any tier under a Federal contract;

(2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;

(3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,

(4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

Shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

Subpart B—Activities by Own Employees

§20.200 Agency and legislative liaison.

(a) The prohibition on the use of appropriated funds, in §20.100 (a), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.

(b) For purposes of paragraph (a) of this section, providing any information specifically requested by an agency or Congress is allowable at any time.

(c) For purposes of paragraph (a) of this section, the following agency and legislative liaison activities are allowable at any time only where they are not related to a specific solicitation for any covered Federal action:

(1) Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities; and,

(2) Technical discussions and other activities regarding the application or adaptation of the person's products or services for an agency's use.

(d) For purposes of paragraph (a) of this section, the following agencies and legislative liaison activities are allowable only where they are prior to formal solicitation of any covered Federal action:

(1) Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(2) Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,

(3) Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507 and other subsequent amendments.

(e) Only those activities expressly authorized by this section are allowable under this section.

§20.205 Professional and technical services.

(a) The prohibition on the use of appropriated funds, in §20.100 (a), does not apply in the case of a payment of reasonable compensation made to an officer or employee of a person requesting or receiving a Federal contract, grant, loan, or cooperative agreement or an extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any

bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(b) For purposes of paragraph (a) of this section, “professional and technical services” shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(c) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(d) Only those services expressly authorized by this section are allowable under this section.

§20.210 Reporting.

No reporting is required with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

Subpart C—Activities by Other Than Own Employees

§20.300 Professional and technical services.

(a) The prohibition on the use of appropriated funds, in §20.100 (a), does not apply in the case of any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action, if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal contract, grant, loan, or cooperative agreement or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal contract, grant, loan, or cooperative agreement.

(b) The reporting requirements in §20.110 (a) and (b) regarding filing a disclosure form by each person, if required, shall not apply with respect to professional or technical services rendered directly in the preparation, submission, or negotiation of any commitment providing for the United States to insure or guarantee a loan.

(c) For purposes of paragraph (a) of this section, “professional and technical services” shall be limited to advice and analysis directly applying any professional or technical discipline. For example, drafting or a legal document accompanying a bid or proposal by a lawyer is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed

accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission or negotiation of a covered Federal action.

(d) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation, or reasonably expected to be required by law or regulation, and any other requirements in the actual award documents.

(e) Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(f) Only those services expressly authorized by this section are allowable under this section.

Subpart D—Penalties and Enforcement

§20.400 Penalties.

(a) Any person who makes an expenditure prohibited herein shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

(b) Any person who fails to file or amend the disclosure form (see appendix B) to be filed or amended if required herein, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(c) A filing or amended filing on or after the date on which an administrative action for the imposition of a civil penalty is commenced does not prevent the imposition of such civil penalty for a failure occurring before that date. An administrative action is commenced with respect to a failure when an investigating official determines in writing to commence an investigation of an allegation of such failure.

(d) In determining whether to impose a civil penalty, and the amount of any such penalty, by reason of a violation by any person, the agency shall consider the nature, circumstances, extent, and gravity of the violation, the effect on the ability of such person to continue in business, any prior violations by such person, the degree of culpability of such person, the ability of the person to pay the penalty, and such other matters as may be appropriate.

(e) First offenders under paragraphs (a) or (b) of this section shall be subject to a civil penalty of \$10,000, absent aggravating circumstances. Second and subsequent offenses by persons shall be subject to an appropriate civil penalty between \$10,000 and \$100,000, as determined by the agency head or his or her designee.

(f) An imposition of a civil penalty under this section does not prevent the United States from seeking any other remedy that may apply to the same conduct that is the basis for the imposition of such civil penalty.

§20.405 Penalty procedures.

Agencies shall impose and collect civil penalties pursuant to the provisions of the Program Fraud and Civil Remedies Act, 31 U.S.C. sections 3803 (except subsection (c)), 3804, 3805, 3806, 3807, 3808, and 3812, insofar as these provisions are not inconsistent with the requirements herein.

§20.410 Enforcement.

The head of each agency shall take such actions as are necessary to ensure that the provisions herein are vigorously implemented and enforced in that agency.

Subpart E—Exemptions

§20.500 Secretary of Defense.

(a) The Secretary of Defense may exempt, on a case-by-case basis, a covered Federal action from the prohibition whenever the Secretary determines, in writing, that such an exemption is in the national interest. The Secretary shall transmit a copy of each such written exemption to Congress immediately after making such a determination.

(b) The Department of Defense may issue supplemental regulations to implement paragraph (a) of this section.

Subpart F—Agency Reports

§20.600 Semi-annual compilation.

(a) The head of each agency shall collect and compile the disclosure reports (see appendix B) and, on May 31 and November 30 of each year, submit to the Secretary of the Senate and the Clerk of the House of Representatives a report containing a compilation of the information contained in the disclosure reports received during the six-month period ending on March 31 or September 30, respectively, of that year.

(b) The report, including the compilation, shall be available for public inspection 30 days after receipt of the report by the Secretary and the Clerk.

(c) Information that involves intelligence matters shall be reported only to the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.

(d) Information that is classified under Executive Order 12356 or any successor order shall be reported only to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives or the Committees on Armed Services of the Senate and the House of Representatives (whichever such committees have jurisdiction of matters involving such information) and to the Committees on Appropriations of the Senate and the House of Representatives in accordance with procedures agreed to by such committees. Such information shall not be available for public inspection.

(e) The first semi-annual compilation shall be submitted on May 31, 1990, and shall contain a compilation of the disclosure reports received from December 23, 1989 to March 31, 1990.

(f) Major agencies, designated by the Office of Management and Budget (OMB), are required to provide machine-readable compilations to the Secretary of the Senate and the Clerk of the House of

Representatives no later than with the compilations due on May 31, 1991. OMB shall provide detailed specifications in a memorandum to these agencies.

(g) Non-major agencies are requested to provide machine-readable compilations to the Secretary of the Senate and the Clerk of the House of Representatives.

(h) Agencies shall keep the originals of all disclosure reports in the official files of the agency.

§20.605 Inspector General report.

(a) The Inspector General, or other official as specified in paragraph (b) of this section, of each agency shall prepare and submit to Congress each year, commencing with submission of the President's Budget in 1991, an evaluation of the compliance of that agency with, and the effectiveness of, the requirements herein. The evaluation may include any recommended changes that may be necessary to strengthen or improve the requirements.

(b) In the case of an agency that does not have an Inspector General, the agency official comparable to an Inspector General shall prepare and submit the annual report, or, if there is no such comparable official, the head of the agency shall prepare and submit the annual report.

(c) The annual report shall be submitted at the same time the agency submits its annual budget justifications to Congress.

(d) The annual report shall include the following: All alleged violations relating to the agency's covered Federal actions during the year covered by the report, the actions taken by the head of the agency in the year covered by the report with respect to those alleged violations and alleged violations in previous years, and the amounts of civil penalties imposed by the agency in the year covered by the report.

Appendix A to Part 20—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any 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.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

S11. LOCAL HIRING PREFERENCE

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.117 Labor and employment.

(a) No construction work shall be performed by convict labor at the work site or within the limits of any Federal-aid highway construction project from the time of award of the contract or the start of work on force account until final acceptance of the work by the STD unless it is labor performed by convicts who are on parole, supervised release, or probation.

(b) No procedures or requirement shall be imposed by any State which will operate to discriminate against the employment of labor from any other State, possession or territory of the United States, in the construction of a Federal-aid project.

(c) The selection of labor to be employed by the contractor on any Federal-aid project shall be by the contractor without regard to race, color, religion, sex, national origin, age, or handicap and in accordance with 23 CFR part 230, 41 CFR part 60 and Exec. Order No. 11246 (Sept. 24, 1965), 3 CFR 339 (1964-1965), as amended.

(d) Pursuant to 23 U.S.C. 140(d), it is permissible for STD's to implement procedures or requirements which will extend preferential employment to Indians living on or near a reservation on eligible projects as defined in paragraph (e) of this section. Indian preference shall be applied without regard to tribal affiliation or place of enrollment. In no instance should a contractor be compelled to layoff or terminate a permanent core-crew employee to meet a preference goal.

(e) Projects eligible for Indian employment preference consideration are projects located on roads within or providing access to an Indian reservation or other Indian lands as defined under the term "Indian Reservation Roads" in 23 U.S.C. 101 and regulations issued thereunder. The terminus of a road "providing access to" is that point at which it intersects with a road functionally classified as a collector or higher classification (outside the reservation boundary) in both urban and rural areas. In the case of an Interstate highway, the terminus is the first interchange outside the reservation.

(f) The advertisement or call for bids on any contract for the construction of a project located on the Federal-aid system either shall include the minimum wage rates determined by the Secretary of Labor to be prevailing on the same type of work on similar construction in the immediate locality or shall provide that such rates are set out in the bidding documents and shall further specify that such rates are a part of the contract covering the project.

S12. NON-COLLUSION PROVISION

Title 23 - Highways

Volume: 1

Date: 2014-04-01

Original Date: 2014-04-01

Title: Section 635.112 - Advertising for bids and proposals.

Context: Title 23 - Highways. CHAPTER I - FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION. SUBCHAPTER G - ENGINEERING AND TRAFFIC OPERATIONS. PART 635 - CONSTRUCTION AND MAINTENANCE.

Subpart A - Contract Procedures.

§ 635.112 Advertising for bids and proposals.

- (a) No work shall be undertaken on any Federal-aid project, nor shall any project be advertised for bids, prior to authorization by the Division Administrator.
- (b) The advertisement and approved plans and specifications shall be available to bidders a minimum of 3 weeks prior to opening of bids except that shorter periods may be approved by the Division Administrator in special cases when justified.
- (c) The STD shall obtain the approval of the Division Administrator prior to issuing any addenda which contain a major change to the approved plans or specifications during the advertising period. Minor addenda need not receive prior approval but should be identified by the STD at the time of or prior to requesting FHWA concurrence in award. The STD shall provide assurance that all bidders have received all issued addenda.
- (d) Nondiscriminatory bidding procedures shall be afforded to all qualified bidders regardless of National, State or local boundaries and without regard to race, color, religion, sex, national origin, age, or handicap. If any provisions of State laws, specifications, regulations, or policies may operate in any manner contrary to Federal requirements, including title VI of the Civil Rights Act of 1964, to prevent submission of a bid, or prohibit consideration of a bid submitted by any responsible bidder appropriately qualified in accordance with § 635.110, such provisions shall not be applicable to Federal-aid projects. Where such nonapplicable provisions exist, notices of advertising, specifications, special provisions or other governing documents shall include a positive statement to advise prospective bidders of those provisions that are not applicable.
- (e) Except in the case of a concession agreement, as defined in section 710.703 of this title, no public agency shall be permitted to bid in competition or to enter into subcontracts with private contractors.
- (f) The STD shall include a noncollusion provision substantially as follows in the bidding documents:
- EACH BIDDER SHALL FILE A STATEMENT EXECUTED BY, OR ON BEHALF OF THE PERSON, FIRM, ASSOCIATION, OR CORPORATION SUBMITTING THE BID CERTIFYING THAT SUCH PERSON, FIRM, ASSOCIATION, OR CORPORATION HAS NOT, EITHER DIRECTLY OR INDIRECTLY, ENTERED INTO ANY AGREEMENT, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION, IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THE SUBMITTED BID. FAILURE TO SUBMIT THE EXECUTED STATEMENT AS PART OF THE BIDDING DOCUMENTS WILL MAKE THE BID NONRESPONSIVE AND NOT ELIGIBLE FOR AWARD CONSIDERATION.
- (1) The required form for the statement will be provided by the State to each prospective bidder.
- (2) The statement shall either be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

(g) The STD shall include the lobbying certification requirement pursuant to 49 CFR part 20 and the requirements of 49 CFR part 29 regarding suspension and debarment certification in the bidding documents.

(h) The STD shall clearly identify in the bidding documents those requirements which the bidder must assure are complied with to make the bid responsive. Failure to comply with these identified bidding requirements shall make the bid nonresponsive and not eligible for award consideration.

(i) In the case of a design-build project, the following requirements apply:

(1) When a Request for Proposals document is issued after the NEPA process is complete, the FHWA Division Administrator's approval of the Request for Proposals document will constitute the FHWA's project authorization and the FHWA's approval of the STD's request to release the document. This approval will carry the same significance as plan, specification and estimate approval on a design-bid-build Federal-aid project.

(2) Where a Request for Proposals document is issued prior to the completion of the NEPA process, the FHWA's approval of the document will only constitute the FHWA's approval of the STD's request to release the document.

(3) The STD may decide the appropriate solicitation schedule for all design-build requests. This includes all project advertising, the release of the Request for Qualifications document, the release of the Request for Proposals document and all deadlines for the receipt of qualification statements and proposals. Typical advertising periods range from six to ten weeks and can be longer for large, complicated projects.

(4) The STD must obtain the approval of the Division Administrator prior to issuing addenda which result in major changes to the Request for Proposals document. Minor addenda need not receive prior approval but may be identified by the STD at the time of or prior to requesting the FHWA's concurrence in award. The STD must provide assurance that all offerors have received all issued addenda.

[56 FR 37004, Aug. 2, 1991, as amended at 67 FR 75925, Dec. 10, 2002; 72 FR 45336, Aug. 14, 2007; 73 FR 77502, Dec. 19, 2008]

S13. NON-DISCRIMINATION AGAINST PERSONS WITH DISABILITIES

Title 49: Transportation

PART 27—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

§27.7 Discrimination prohibited.

(a) *General.* No qualified person with a disability shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance administered by the Department of Transportation.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability:

(i) Deny a qualified person with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified person with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not substantially equal to that afforded persons who are not disabled;

(iii) Provide a qualified person with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as persons who are not disabled;

(iv) Provide different or separate aid, benefits, or services to persons with a disability or to any class of persons with a disability unless such action is necessary to provide qualified persons with a disability with aid, benefits or services that are as effective as those provided to persons who are not disabled;

(v) Aid or perpetuate discrimination against a qualified person with a disability by providing financial or other assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the recipient's program or activity;

(vi) Deny a qualified person with a disability the opportunity to participate in conferences, in planning or advising recipients, applicants or would-be applicants, or

(vii) Otherwise limit a qualified person with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(2) For purposes of this part, aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for persons with and without a disability, but must afford persons with a disability equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting that is reasonably achievable.

(3) Even if separate or different aid, benefits, or services are available to persons with a disability, a recipient may not deny a qualified person with a disability the opportunity to participate in the programs or activities that are not separate or different.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified persons with a disability to discrimination on the basis of disability,

(ii) That have the purpose or effect of defeating or substantially reducing the likelihood that persons with a disability can benefit by the objectives of the recipient's program or activity, or

(iii) That yield or perpetuate discrimination against another recipient if both recipients are subject to common administrative control or are agencies of the same State.

(5) In determining the site or location of a facility, an applicant or a recipient may not make selections:

(i) That have the effect of excluding persons with a disability from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives Federal financial assistance, or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to persons with a disability.

(6) As used in this section, the aid benefit, or service provided under a program or activity receiving Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased or rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(c) *Communications.* Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(d) *Aid, benefits, or services limited by Federal law.* For aid, benefits, or services authorized by Federal statute or executive order that are designed especially for persons with a disability, or for a particular class of persons with a disability, the exclusion of persons without a disability or other classes of persons with a disability is not prohibited by this part.

[44 FR 31468, May 31, 1979, as amended at 68 FR 51390, Aug. 26, 2003; 79 FR 21405, Apr. 16, 2014]

S14. NON-RESIDENT BIDDER AND TEXAS PREFERENCE

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.110 Licensing and qualification of contractors.

(b) No procedure or requirement for bonding, insurance, prequalification, qualification, or licensing of contractors shall be approved which, in the judgment of the Division Administrator, may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed.

(f) In the case of a design-build project, the STDs may use their own bonding, insurance, licensing, qualification or prequalification procedure for any phase of design-build procurement.

(1) The STDs may not impose statutory or administrative requirements which provide an in-State or local geographical preference in the solicitation, licensing, qualification, pre-qualification, short listing or selection process. The geographic location of a firm's office may not be one of the selection criteria. However, the STDs may require the successful design-builder to establish a local office after the award of contract.

S15. NON-SEGREGATED FACILITIES

PART 633—REQUIRED CONTRACT PROVISIONS

Subpart A—Federal-Aid Construction Contracts (Other Than Appalachian Contracts)

AUTHORITY: 23 U.S.C. 114 and 315; 49 CFR 1.48.

SOURCE: 52 FR 36920, Oct. 2, 1987, unless otherwise noted.

§633.101 Purpose.

To prescribe for Federal-aid highway proposals and construction contracts the method for inclusion of required contract provisions of existing regulations which cover employment, nonsegregated facilities, record of materials and supplies, subletting or assigning the contract, safety, false statements concerning highway projects, termination of a contract, and implementation of the Clean Air Act and the Federal Water Pollution Control Act, and other provisions as shall from time-to-time be required by law and regulation as conditions of Federal assistance.

§633.102 Applicability.

(a) The required contract provisions and the required proposal notices apply to all Federal-aid construction contracts other than Appalachian construction contracts.

(b) Form FHWA-1273, "Required Contract Provisions, Federal-aid Construction Contracts," contains required contract provisions and required proposal notices that are required by regulations promulgated by the FHWA or other Federal agencies. The required contract provisions of Form FHWA-1273 shall be physically incorporated in each Federal-aid highway construction contract other than Appalachian construction contracts (see §633.104 for availability of form).

(c) [Reserved]

(d) The required contract provisions contained in Form FHWA-1273 shall apply to all work performed on the contract by the contractor's own organization and to all work performed on the contract by piecework, station work, or by subcontract.

(e) The contractor shall insert in each subcontract, except as excluded by law or regulation, the required contract provisions contained in Form FHWA-1273 and further require their inclusion in any lower tier subcontract that may in turn be made. The required contract provisions of Form FHWA-1273 shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the requirements contained in the provisions of Form FHWA-1273.

(f) The State highway agency (SHA) shall include the notices concerning certification of nonsegregated facilities and implementation of the Clean Air Act and Federal Water Pollution Control Act, pursuant to 40 CFR part 15, in all bidding proposals for Federal-aid highway construction projects. As the notices are reproduced in Form FHWA-1273, the SHA may include Form FHWA-1273 in its entirety to meet this requirement.

[52 FR 36920, Oct. 2, 1987, as amended at 69 FR 7118, Feb. 13, 2004]

§633.103 Regulatory authority.

All required contract provisions contained in Form FHWA-1273 are requirements of regulations promulgated by the FHWA or other Federal agencies. The authority for each provision will be cited in the text of Form FHWA-1273.

§633.104 Availability.

(a) Form FHWA-1273 will be maintained by the FHWA and as regulatory revisions occur, the form will be updated.

(b) Current copies of Form FHWA-1273, Required Contract Provisions, will be made available to the SHAs by the FHWA.

S16. PATENTED / PROPRIETARY PRODUCTS

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

§635.411 Material or product selection.

(a) Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the plans and specifications for a project, unless:

(1) Such patented or proprietary item is purchased or obtained through competitive bidding with equally suitable unpatented items; or

(2) The State transportation department certifies either that such patented or proprietary item is essential for synchronization with existing highway facilities, or that no equally suitable alternate exists; or

(3) Such patented or proprietary item is used for research or for a distinctive type of construction on relatively short sections of road for experimental purposes.

(b) When there is available for purchase more than one non-patented, nonproprietary material, semi-finished or finished article or product that will fulfill the requirements for an item of work of a project and these available materials or products are judged to be of satisfactory quality and equally acceptable on the basis of engineering analysis and the anticipated prices for the related item(s) of work are estimated to be approximately the same, the PS&E for the project shall either contain or include by reference the specifications for each such material or product that is considered acceptable for incorporation in the work. If the State transportation department wishes to substitute some other acceptable material or product for the material or product designated by the successful bidder or bid as the lowest alternate, and such substitution results in an increase in costs, there will not be Federal-aid participation in any increase in costs.

(c) A State transportation department may require a specific material or product when there are other acceptable materials and products, when such specific choice is approved by the Division Administrator as being in the public interest. When the Division Administrator's approval is not obtained, the item will be nonparticipating unless bidding procedures are used that establish the unit price of each acceptable alternative. In this case Federal-aid participation will be based on the lowest price so established.

(d) Reference in specifications and on plans to single trade name materials will not be approved on Federal-aid contracts.

(e) In the case of a design-build project, the following requirements apply: Federal funds shall not participate, directly or indirectly, in payment for any premium or royalty on any patented or proprietary material, specification, or process specifically set forth in the Request for Proposals document unless the conditions of paragraph (a) of this section are applicable.

(f) State transportation departments (State DOTs) shall have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.

[41 FR 36204, Aug. 27, 1976, as amended at 67 FR 75926, Dec. 10, 2002; 71 FR 66454, Nov. 15, 2006; 78 FR 5717, Jan. 28, 2013]

S17. PREQUALIFICATION

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

§635.110 Licensing and qualification of contractors.

(a) The procedures and requirements a STD proposes to use for qualifying and licensing contractors, who may bid for, be awarded, or perform Federal-aid highway contracts, shall be submitted to the Division Administrator for advance approval. Only those procedures and requirements so approved shall be effective with respect to Federal-aid highway projects. Any changes in approved procedures and requirements shall likewise be subject to approval by the Division Administrator.

(b) No procedure or requirement for bonding, insurance, prequalification, qualification, or licensing of contractors shall be approved which, in the judgment of the Division Administrator, may operate to restrict competition, to prevent submission of a bid by, or to prohibit the consideration of a bid submitted by, any responsible contractor, whether resident or nonresident of the State wherein the work is to be performed.

(c) No contractor shall be required by law, regulation, or practice to obtain a license before submission of a bid or before the bid may be considered for award of a contract. This, however, is not intended to preclude requirements for the licensing of a contractor upon or subsequent to the award of the contract if such requirements are consistent with competitive bidding. Prequalification of contractors may be required as a condition for submission of a bid or award of contract only if the period between the date of issuing a call for bids and the date of opening of bids affords sufficient time to enable a bidder to obtain the required prequalification rating.

(d) Requirements for the prequalification, qualification or licensing of contractors, that operate to govern the amount of work that may be bid upon by, or may be awarded to, a contractor, shall be approved only if based upon a full and appropriate evaluation of the contractor's capability to perform the work.

(e) Contractors who are currently suspended, debarred or voluntarily excluded under 49 CFR part 29 or otherwise determined to be ineligible, shall be prohibited from participating in the Federal-aid highway program.

(f) In the case of a design-build project, the STDs may use their own bonding, insurance, licensing, qualification or prequalification procedure for any phase of design-build procurement.

(1) The STDs may not impose statutory or administrative requirements which provide an in-State or local geographical preference in the solicitation, licensing, qualification, pre-qualification, short listing or selection process. The geographic location of a firm's office may not be one of the selection criteria. However, the STDs may require the successful design-builder to establish a local office after the award of contract.

(2) If required by State statute, local statute, or administrative policy, the STDs may require prequalification for construction contractors. The STDs may require offerors to demonstrate the ability of their engineering staff to become licensed in that State as a condition of responsiveness; however, licensing procedures may not serve as a barrier for the consideration of otherwise responsive proposals. The STDs may require compliance with appropriate State or local licensing practices as a condition of contract award.

[56 FR 37004, Aug. 2, 1991, as amended at 67 FR 75925, Dec. 10, 2002]

S18. PRISON PRODUCED MATERIALS

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

§635.417 Convict produced materials.

(a) Materials produced after July 1, 1991, by convict labor may only be incorporated in a Federal-aid highway construction project if such materials have been:

(1) Produced by convicts who are on parole, supervised release, or probation from a prison or

(2) Produced in a qualified prison facility and the cumulative annual production amount of such materials for use in Federal-aid highway construction does not exceed the amount of such materials produced in such facility for use in Federal-aid highway construction during the 12-month period ending July 1, 1987.

(b) *Qualified prison facility* means any prison facility in which convicts, during the 12-month period ending July 1, 1987, produced materials for use in Federal-aid highway construction projects.

[53 FR 1923, Jan. 25, 1988, as amended at 58 FR 38975, July 21, 1993]

S19. PUBLICLY OWNED EQUIPMENT

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.106 Use of publicly owned equipment.

(a) Publicly owned equipment should not normally compete with privately owned equipment on a project to be let to contract. There may be exceptional cases, however, in which the use of equipment of the State or local public agency for highway construction purposes may be warranted or justified. A proposal by any STD for the use of publicly owned equipment on such a project must be supported by a showing that it would clearly be cost effective to do so under the conditions peculiar to the individual project or locality.

(b) Where publicly owned equipment is to be made available in connection with construction work to be let to contract, Federal funds may participate in the cost of such work provided the following conditions are met:

(1) The proposed use of such equipment is clearly set forth in the Plans, Specifications and Estimate (PS&E) submitted to the Division Administrator for approval.

(2) The advertised specifications specify the items of publicly owned equipment available for use by the successful bidder, the rates to be charged, and the points of availability or delivery of the equipment; and

(3) The advertised specifications include a notification that the successful bidder has the option either of renting part or all of such equipment from the State or local public agency or otherwise providing the equipment necessary for the performance of the contract work.

(c) In the rental of publicly owned equipment to contractors, the State or local public agency shall not profit at the expense of Federal funds.

(d) Unforeseeable conditions may make it necessary to provide publicly owned equipment to the contractor at rental rates agreed to between the contractor and the State or local public agency after the work has started. Any such arrangement shall not form the basis for any increase in the cost of the project on which Federal funds are to participate.

(e) When publicly owned equipment is used on projects constructed on a force account basis, costs may be determined by agreed unit prices or on an actual cost basis. When agreed unit prices are applied the equipment need not be itemized nor rental rates shown in the estimate. However, if such work is to be performed on an actual cost basis, the STD shall submit to the Division Administrator for approval the schedule of rates proposed to be charged, exclusive of profit, for the publicly owned equipment made available for use.

S20. SAFETY: ACCIDENT PREVENTION (OSHA)

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.108 Health and safety.

Contracts for projects shall include provisions designed:

(a) To insure full compliance with all applicable Federal, State, and local laws governing safety, health and sanitation; and

(b) To require that the contractor shall provide all safeguards, safety devices, and protective equipment and shall take any other actions reasonably necessary to protect the life and health of persons working at the site of the project and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

S21. STATE OR LOCAL PREFERENCE

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.409 Restrictions upon materials.

No requirement shall be imposed and no procedure shall be enforced by any State transportation department in connection with a project which may operate:

(a) To require the use of or provide a price differential in favor of articles or materials produced within the State, or otherwise to prohibit, restrict or discriminate against the use of articles or materials shipped from or prepared, made or produced in any State, territory or possession of the United States; or

(b) To prohibit, restrict or otherwise discriminate against the use of articles or materials of foreign origin to any greater extent than is permissible under policies of the Department of Transportation as evidenced by requirements and procedures prescribed by the FHWA Administrator to carry out such policies.

S22. SUBCONTRACTING

Title 23: Highways

PART 635—CONSTRUCTION AND MAINTENANCE

Subpart A—Contract Procedures

§635.116 Subcontracting and contractor responsibilities.

(a) Contracts for projects shall specify the minimum percentage of work that a contractor must perform with its own organization. This percentage shall be not less than 30 percent of the total original contract price excluding any identified specialty items. Specialty items may be performed by subcontract and the amount of any such specialty items so performed may be deducted from the total original contract before computing the amount of work required to be performed by the contractor's own organization. The contract amount upon which the above requirement is computed includes the cost of materials and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

(b) The STD shall not permit any of the contract work to be performed under a subcontract, unless such arrangement has been authorized by the STD in writing. Prior to authorizing a subcontract, the STD shall assure that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. The Division Administrator may permit the STD to satisfy the subcontract assurance requirements by concurrence in a STD process which requires the contractor to certify that each subcontract arrangement will be in the form of a written agreement containing all the requirements and pertinent provisions of the prime contract. Prior to the Division Administrator's concurrence, the STD must demonstrate that it has an acceptable plan for monitoring such certifications.

(c) To assure that all work (including subcontract work) is performed in accordance with the contract requirements, the contractor shall be required to furnish:

(1) 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;

(2) Such other of its own organizational resources (supervision, management, and engineering services) as the STD contracting officer determines are necessary to assure the performance of the contract.

(d) In the case of a design-build project, the following requirements apply:

(1) The provisions of paragraph (a) of this section are not applicable to design-build contracts;

(2) At their discretion, the STDs may establish a minimum percentage of work that must be done by the design-builder. For the purpose of this section, the term design-builder may include any firms that are equity participants in the design-builder, their sister and parent companies, and their wholly owned subsidiaries;

(3) No procedure, requirement or preference shall be imposed which prescribes minimum subcontracting requirements or goals (other than those necessary to meet the Disadvantaged Business Enterprise program requirements of 49 CFR part 26).

S23. TERMINATION OF CONTRACT

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.125 Termination of contract.

(a) All contracts exceeding \$10,000 shall contain suitable provisions for termination by the State, including the manner by which the termination will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(b) The STD prior to termination of a Federal-aid contract shall consult with and receive the concurrence of the Division Administrator. The extent of Federal-aid participation in contract termination costs, including final settlement, will depend upon the merits of the individual case. However, under no circumstances shall Federal funds participate in anticipated profit on work not performed.

(c) Except as provided for in paragraph (e) of this section, normal Federal-aid plans, specifications, and estimates, advertising, and award procedures are to be followed when a STD awards the contract for completion of a terminated Federal-aid contract.

(d) When a STD awards the contract for completion of a Federal-aid contract previously terminated for default, the construction amount eligible for Federal participation on the project should not exceed whichever amount is the lesser, either:

(1) The amount representing the payments made under the original contract plus payments made under the new contract; or

(2) The amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.

(e) If the surety awards a contract for completion of a defaulted Federal-aid contract or completes it by some other acceptable means, the FHWA will consider the terms of the original contract to be in effect and that the work will be completed in accordance with the approved plans and specifications included therein. No further FHWA approval or concurrence action will therefore be needed in connection with any defaulted Federal-aid contract awarded by a surety. Under this procedure, the construction amount eligible for Federal participation on the project should not exceed the amount representing what the cost would have been if the construction had been completed as contemplated by the plans and specifications under the original contract.

S24. TIME EXTENSIONS

Title 23 - Highways

PART 635 – CONSTRUCTION AND MAINTENANCE

Subpart A - Contract Procedures.

§635.121 Contract time and contract time extensions.

(a) The STD should have adequate written procedures for the determination of contract time. These procedures should be submitted for approval to the Division Administrator within 6 months of the effective date of this Final Rule.

(b) Contract time extensions granted by a STD shall be subject to the concurrence of the Division Administrator and will be considered in determining the amount of Federal participation. Contract time extensions submitted for approval to the Division Administrator, shall be fully justified and adequately documented.

S25. TRENCH SAFETY

HEALTH AND SAFETY CODE

TITLE 9. SAFETY

SUBTITLE A. PUBLIC SAFETY

CHAPTER 756. MISCELLANEOUS HAZARDOUS CONDITIONS

SUBCHAPTER C. TRENCH SAFETY

Sec. 756.022. TRENCH EXCAVATION IN STATE.

(a) The bid documents, if bids are used, and the contract for a construction project in this state on which a contractor is employed and that includes a trench excavation exceeding a depth of five feet must include:

(1) a reference to the Occupational Safety and Health Administration standards for trench safety that will be in effect during the period of construction of the project;

(2) a copy of special shoring requirements, if any, of the state or of a political subdivision in which the construction project is located, with a separate pay item for the special shoring requirements;

(3) a copy of any geotechnical information that was obtained by the owner for use in the design of the trench safety system; and

(4) a separate pay item for trench excavation safety protection.

(b) The separate pay item for trench excavation safety protection must be based on the linear feet of trench excavated. The separate pay item for special shoring requirements, if any, of the state or of any political subdivision in which the construction project is located must be based on the square feet of shoring used.

(c) A municipality may adopt an ordinance that requires the refusal of a building permit to a person who fails to certify in writing that the requirement of Subsection (a) has been satisfied. A municipality, in lieu of or in addition to the written certification, may require an applicant for a building permit to produce for inspection or file with the municipality a copy of a contract that complies with Subsection (a) as a condition of issuance of a building permit.

(d) This section does not apply to a contract:

(1) governed by Section [756.023](#);

(2) governed by Subtitle D, Title 10, Government Code; or

(3) entered into by a person subject to the safety standards adopted under and the administrative penalty provisions of Subchapter E, Chapter 121, Utilities Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Redesignated from Health & Safety Code Sec. 756.021 and amended by Acts 1991, 72nd Leg., ch. 14, Sec. 237, eff. Sept. 1, 1991. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(4), eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 18.31, eff. Sept. 1, 1999.

Sec. 756.023. TRENCH EXCAVATION FOR POLITICAL SUBDIVISION.

(a) On a project for a political subdivision of the state in which trench excavation will exceed a depth of five feet, the bid documents provided to all bidders and the contract must include:

- (1) a reference to the Occupational Safety and Health Administration standards for trench safety in effect during the period of construction of the project;
- (2) a copy of special shoring requirements, if any, of the political subdivision, with a separate pay item for the special shoring requirements;
- (3) a copy of any geotechnical information that was obtained by the owner for use by the contractor in the design of the trench safety system; and
- (4) a separate pay item for trench excavation safety protection.

(b) The separate pay item for trench excavation safety protection must be based on the linear feet of trench excavated. The separate pay item for special shoring requirements, if any, of the political subdivision must be based on the square feet of shoring used.

(c) A political subdivision may require a bidder to attend a prebid conference to coordinate a geotechnical investigation of the project site by bidders. In awarding a contract, a political subdivision may not consider a bid from a bidder who failed to attend a required prebid conference.

(d) This section does not apply to a person subject to the safety standards adopted under and the administrative penalty provisions of Subchapter E, Chapter 121, Utilities Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Redesignated from Health & Safety Code Sec. 756.022 and amended by Acts 1991, 72nd Leg., ch. 14, Sec. 237, eff. Sept. 1, 1991. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 18.32, eff. Sept. 1, 1999.

S26. CONTRACTOR'S ASSURANCE

CONTRACTOR’S ASSURANCE
(Subcontracts – Federal Aid Projects)

By signing this Contract, the Contractor is giving assurances that all subcontract agreements of \$10,000 or more on this project will incorporate the following provisions:

- Special Provision “Certification of Nondiscrimination in Employment”

- Special Provision “Disadvantaged Business Enterprise in Federal-Aid Construction”

- Special Provision “Measurement and Payment” (Article 9.2)

- Special Provision “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity” (Executive Order 11246)

- Special Provision “Standard Federal Equal Employment Opportunity Construction Contract Specifications” (Executive Order 11246)

- Form FHWA 1273 “Required Contract Provisions Federal-aid Construction Contracts”
 (Form FHWA 1273 must also be physically attached to subcontracts and purchase orders of \$10,000 or more)

- Applicable “Wage Determination Decision”

- Special Provision “Buy America” (23 CFR 635.410)

S27. WARRANTIES AND WARRANTY CLAUSES

Title 23: Highways
PART 635—CONSTRUCTION AND MAINTENANCE
Subpart A—Contract Procedures

§635.413 Guaranty and warranty clauses.

The STD may include warranty provisions in National Highway System (NHS) construction contracts in accordance with the following:

(a) Warranty provisions shall be for a specific construction product or feature. Items of maintenance not eligible for Federal participation shall not be covered.

(b) All warranty requirements and subsequent revisions shall be submitted to the Division Administrator for advance approval.

(c) No warranty requirement shall be approved which, in the judgment of the Division Administrator, may place an undue obligation on the contractor for items over which the contractor has no control.

(d) A STD may follow its own procedures regarding the inclusion of warranty provisions in non-NHS Federal-aid contracts.

(e) In the case of a design-build project, the following requirements will apply instead of paragraphs (a) through (d) of this section.

(1) General project warranties may be used on NHS projects, provided:

(i) The term of the warranty is short (generally one to two years); however, projects developed under a public-private agreement may include warranties that are appropriate for the term of the contract or agreement.

(ii) The warranty is not the sole means of acceptance;

(iii) The warranty must not include items of routine maintenance which are not eligible for Federal participation; and,

(iv) The warranty may include the quality of workmanship, materials and other specific tasks identified in the contract.

(2) Performance warranties for specific products on NHS projects may be used at the STD's discretion. If performance warranties are used, detailed performance criteria must be provided in the Request for Proposal document.

(3) The STD may follow its own procedures regarding the inclusion of warranty provisions on non-NHS Federal-aid design-build contracts.

(4) For best value selections, the STD may allow proposers to submit alternate warranty proposals that improve upon the warranty terms in the RFP document. Such alternate warranty proposals must be in addition to the base proposal that responds to the RFP requirements.

**S28. MISCELLANEOUS FORMS FOR FEDERAL AID
CONSTRUCTION CONTRACTS TO BE SUBMITTED WITH
PROPOSAL**

CHILD SUPPORT STATEMENT

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



CHILD SUPPORT STATEMENT FOR THE TEXAS DEPARTMENT OF TRANSPORTATION FOR NEGOTIATED CONTRACTS AND GRANTS

Under Family Code, Section 231.006, _____ certifies that _____ as of _____ is eligible to receive a grant, loan, or payment and acknowledges that any contract may be terminated and payment may be withheld if this certification is inaccurate.

List below the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25% of the business entity submitting the bid or application. This form must be updated whenever any party obtains a 25% ownership interest in the business entity.

Name <i>(please print legibly, if handwritten)</i>	Social Security Number

Family Code, Section 231.006, specifies that a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25% percent is not eligible to receive payments from state funds under a contract to provide property, materials, or services; or receive a state-funded grant or loan.

A child support obligor or business entity ineligible to receive payments described above remains ineligible until all arrearage have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency.

Except as provided by Family Code, Section 231.302(d), a social security number is confidential and may be disclosed only for the purposes of responding to a request for information from an agency operating under the provisions of Subchapters A and D of Title IV of the federal Social Security Act (42 U.S.C. Sections 601 et seq. and 651 et seq.)

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

- ◆ Please send this form to Texas Department of Transportation, General Services Division (GSD).
- ◆ Contract Services Section, 125 E. 11th Street, Austin, Texas 78701-2483.

CERTIFICATION REGARDING LOBBYING

Certification For Contracts, Grants, Loans, And Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any 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.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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.

Signature/Authorized Certifying Official

Typed Name and Title

Applicant/Organization

Date Signed

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement 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 statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature/Authorized Certifying Official

Typed Name and Title

Applicant/Organization

Date Signed

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

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

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLLA Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

AFFIDAVIT OF NON-COLLUSION

The undersigned, as bidder, declares that the only person or parties interested in this proposal as principals are those named herein; that the contractor has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for the above-captioned work.

The undersigned affirms that truth and accuracy of this certification.

Legal Firm Name

Signature

Address: _____

Before me, the undersigned authority a Notary Public on this day personally appeared

_____ who, being by me duly sworn, upon oath says:

That he is qualified and authorized to make this affidavit for and on the behalf of

_____ County(s), Texas, and is fully cognizant of the facts herein set out and affirms to the truth and accuracy of the certification made herein by signing above.

Subscribed and sworn to before me by the said (1) _____

this _____ day of _____, 20____, to certify which witness my hand and seal of office.

Notary Public in and for

_____ County, Texas

CERTIFICATE OF NON-SEGREGATED FACILITIES

We, _____(Company)

Certify that we do not and will not maintain or provide for our employees any segregated facilities at any of our establishments, and that we do not and will not permit our employees to perform their services at any location, under our control, where segregated facilities are maintained. We understand and agree that breach of this certification is a violation of Equal Opportunity clause required by Executive Order 11246, amended.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom or otherwise.

We further agree that (except where we have obtained identical certifications from proposed Subcontractors for specific time periods) we will obtain identical certifications from proposed Subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that we will retain such certification in our files; and that we will forward the following notice to such proposed Subcontractors (except where the proposed Subcontractors have submitted identical certifications for specific time periods).

NOTICE TO PROSPECTIVE SUBBUILDERS OF REQUIREMENT FOR CERTIFICATION OF NON-SEGREGATED FACILITIES. A certification of Non-segregated facilities as required by the 9 May 1967 order on Elimination of Segregated Facilities, by the Secretary of Labor (32 Fed. Reg. 7439, 19 May 1967), must be submitted from the provisions either for each subcontract or for all subcontracts during a period (i.e. quarterly, semi-annually, or annually).

NOTE: Whoever knowingly and willfully makes any false, fictitious or fraudulent representation may be liable to criminal prosecution under 18 U.S.C. 1001.

(Name of Company)

By: _____

Date: _____

Title: _____

The State of _____
County of _____

Certification of Absence of Suspension, Debarment, Voluntary Exclusion or Determination of Ineligibility.

The undersigned bidder under penalty of perjury under the laws of the United States or the State of Texas, certifies that, except as noted herein the bidder's firm and all persons associated therewith in the capacity of the owner, partner, stockholder, director, officer, principal investigator, project director, manger, auditor, or any position involving the administration of any part of the firm's operations:

1. are not currently suspended, debarred, or voluntary excluded from or determined to be ineligible for bidding by any federal agency;
2. have not been suspended, debarred, voluntary excluded from of determined to be ineligible for bidding by any federal agency within the past 3 years;
3. do not have a proposed debarment pending with any federal agency, and
4. have not been indicted, convicted, or had a civil judgment rendered against it or any person indicated above by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

All exceptions to the above are recorded in the following space:

The undersigned bidder understands that all exceptions will not necessarily preclude the issuance of a bidding proposal or result in the denial of award of the contract for a federally-funded project. It also understood that exceptions will be carefully reviewed by the department and by the Federal Highway Administration and may result in rejection of the bid proposal and suspension and debarment of the contractor pursuant to 43 Texas Administrative Code (TAC) Section 9.6 Procedure for Debarment of a Contractor, to 43 TAC 9.7, Procedure for Suspension of a Contractor to 43 TAC Section 9.8 Supplemental Procedures for Suspension or Debarment of a Contractor, and/or Debarment and Suspension (Non-Procurement) 49 CFR part 29 (1987)

For any exception noted, the following information explains to whom it applies, the initiating agency, and the dates of the action.

The undersigned bidder understands that providing false information may result in criminal prosecution or administrative sanctions

Print Firm Name

Signature/Title

Before me, the undersigned authority, a Notary Public on this personally appeared _____
Who being by me duly sworn upon oath says that she/he is qualified and authorized to make affidavit for and on behalf
of _____

Bidder of _____ County, and is fully cognizant of the facts herein set
out and affirms to the truth and accuracy of the certifications made herein by signing the documents above.

Subscribed and sworn before me by the said _____
Name

this _____ day of _____, 20_____, to certify which witness my hand
and seal of office.

Notary Public in and for

_____ County

CERTIFICATION OF INTEREST IN OTHER BID PROPOSALS FOR THIS WORK

By signing this proposal, the bidding firm and signer certify that the following information , as indicated by checking "Yes" or "No" below, is true, accurate, and complete.

- A. Quotation(s) have been issued in this firm's name to other firm(s) interested in this work for consideration for performing a portion of the work.

_____ YES

_____ NO

- B. If this proposal is the low bid, the bidder agrees to provide the following information prior to award of the contract.

1. Identify firms which bid as a prime contractor and from which the bidder received quotations for the work on this project.
2. Identify all the firms which bid as a prime contractor to which the bidder gave quotations for the work on this project.

State of Texas Child Support Business Ownership Form

County: _____

Project Name: _____

TxDOT CSJ: _____

LG Project Number: _____

Business Entity Submitting Bid: _____

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

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

Name	Social Security Number
_____	_____
_____	_____
_____	_____
_____	_____

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

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

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

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

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

Signature

Date

Printed Name

IF THIS PROJECT IS A JOINT VENTURE,
ALL PARTIES TO THE JOINT VENTURE MUST PROVIDE A COMPLETED FORM.

SECTION U

STORMWATER POLLUTION PREVENTION PLAN

SPECIAL SPECIFICATION

ITEM 5900

STORMWATER POLLUTION PREVENTION PLAN GUIDELINES

Simonds Road Bridge at Hickory Creek

Bridge Rehabilitation Project 0002N

The following entities are permittees for this project:

- (1) Dallas County Public Works
Records Building,
500 Elm Street, Suite 5300
Dallas, TX 75202
214.653.7151
- (2) General Contractor

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- Exhibit F: Operator Certification Form

I. INTRODUCTION

The Storm Water Pollution Prevention Plan (herein referred to as SWPPP) provides guidelines for preventing soil pollutants originating from the construction site from flowing into natural or underground water systems. The SWPPP also serves to identify and address potential sources of pollution that are reasonably expected to affect the quality of discharge. Examples of these potential sources of pollution include, but are not limited to, off-site material storage areas, overburden, and stockpiles of dirt, borrow areas, equipment staging areas, as well as vehicle repair and fueling areas.

Federal and local regulations require construction contractors to implement plans, procedures, and inspections to reduce the negative impact construction activities have on surface water and to minimize erosion. Therefore, the SWPPP should include all the elements necessary for compliance with the latest requirements of the Texas Commission on Environmental Quality (TCEQ) Storm Water Program.

A. Project Location

The SWPPP included in this document is intended to be applied for the Simonds Road Bridge at Hickory Creek Bridge Project. The limits of the project are the Simonds Road Bridge at Hickory Creek. This creek is located approximately 1000 feet northeast of the intersection of Simonds Road and W Simonds Road. The project is located in Dallas County, Commissioner District 3.

B. Responsibilities of Operators

The Owner and the General Contractor shall be considered Operators, who are associated with the project.

1. The Operator with control over the construction plans and specifications is the County of Dallas. The Owner's responsibilities are the following:
 - a. The operational control over plans and specifications for all areas of the project.
 - b. To ensure that the project specifications will provide adequate best management practices (BMPs) to meet the requirements of the TPDES General Permit.
 - c. The Owner will notify the Contractor in a timely manner if any modifications are necessary to remain compliant with the general permit.
2. The Operator with day-to-day operational control of the construction activities shall be the General Contractor, with whom the County of Dallas contracts to construct the project. The Contractor's responsibilities are:
 - a. To ensure that this project meets the requirements of the TPDES General Permit.
 - b. To implement and maintain BMP's for the project.

- c. To provide construction inspection as outlined in Sec IV-A of this Plan.
- d. Post the signed and dated copy of the Construction Site Notice, prior to the start of construction, at the construction site in a location that is readily available for viewing by the general public and all inspectors from local and state agencies.
- e. A Signed copy of this SWPPP must be retained at the project site at all times.
- f. Maintain the Construction Site Notice in that location until completion of all construction activities.
- g. The contractor will provide qualified personnel to conduct inspections of the project as described previously to assure compliance with the SWPPP. Based on inspection results, the SWPPP and pollution prevention control techniques must be modified by the contractors if necessary to assure that storm water or the identified non-storm water discharges are the only discharges leaving the project site. Refer to TPDES general permit for specific requirements.
- h. This SWPPP must be updated each time there are significant modifications to major construction activities, contractors or pollutant control practices.
- i. Discharge of any hazardous substances or oil into storm water is subject to reporting requirements. Refer to TPDES general permit for specific guidelines. Each contractor is responsible for complying with these reporting requirements.

II. PROJECT DESCRIPTION

A. Nature of Construction Activities

The project consists of excavation around bridge pilings and concrete encasement of pilings. The existing pilings will be cleaned and painted.

B. Construction Phase Sequence

The anticipated sequences of construction activities are provided below.

- (1) Installation of sediment controls will begin at the time of mobilization for the equipment and materials. These activities will be the first activities at the site and will be completed prior to any work.
- (2) Prepare the right of way;
- (3) Install new drainage system
- (4) Grade and construct paving
- (5) When construction is complete, the site is stabilized and approved by the Engineer, remove all temporary sediment controls and stabilize any areas disturbed by their removal;

(6) Open road to traffic.

C. Area of Construction Activities

The total project area is approximately 1.00 acres; the total area to be disturbed is 0.5 acres.

D. Soil Type

The predominant existing soils within the limits of excavation are clay with limestone fragments and weathered limestone.

E. General Location Map

Refer to Exhibit A for a general location map.

F. Site Map

1. Area of Soil Disturbance

The area of soil disturbance for the project will occur within the existing Easements for the installation.

2. Location of Structural and Stabilization Practices

BMPs shall be implemented at various locations as shown in the SWPPP portion of the contract drawings. Where applicable, BMPs shall conform to the details provided in Exhibit C of this document and/or the contract drawings. Refer to Exhibit C for a list of all proposed structural and stabilization practices, both temporary and permanent.

3. On/Off-site Location (Storage/Staging)

Location for materials and equipment will be determined by the Contractor after the contract has been awarded. Upon completion of the construction, the Contractor will fully restore the storage/staging areas to their original conditions. The Contractor may also use available right of way for storage and staging purposes.

4. Surface Waters

Runoff is the only surface water that is anticipated on this project.

5. Discharge of Storm Water

Storm water enters into ditches, inlets and underground drain pipes within the street right of way, then discharges into the unnamed tributary to Ten Mile Creek, which drains to the Trinity River. The Trinity River's eventual discharge point is the Trinity Bay, located in southeast Texas.

G. Storage of Construction and Waste Materials

- i. Adequate practices related to the storage of construction and waste materials shall be implemented to limit the movement of pollutants. The Contractor shall provide (on the project site) a metal dumpster equipped with a secure cover for the collection of all solid, non-hazardous waste materials (including construction-related trash and debris). The dumpster shall meet all state and municipal solid waste management regulations. The dumpster shall be emptied as necessary, or as required by governing regulations, and hauled to an approved landfill site. The Contractor is not permitted to bury solid waste on the project site. The Contractor shall be solely responsible for the removal of the dumpster upon completion of construction activities.
- ii. Chemicals, paints, solvents, fertilizers and other toxic materials shall be stored in waterproof containers. Except during application, the containers shall be kept in trucks or within storage facilities. Runoff containing such materials shall be collected, removed from the site and disposed of at an approved solid waste or chemical disposal facility.

H. Copy of TPDES General Permit

The most current version of the TPDES Construction General Permit TXR150000 is incorporated into the SWPPP by reference. Refer to Exhibit B for the web address to download the general permit in its entirety.

III. STORM WATER POLLUTION MEASURES AND CONTROLS

A. Erosion Control Sequencing

- i. Where applicable, erosion control devices, such as construction exits, temporary sediment control fence, rock filter dams, storm inlet protections and erosion control logs shall be installed prior to any soil disturbing activities. An intermediate phase of curb inlet construction requires temporary sediment control fence to be installed around all sides of inlet structure until the inlet top is set to final grade. Thereafter, wire mesh and gravel devices shall replace temporary sediment control fence.
- ii. Where applicable, temporary erosion control devices shall remain in service until permanent stabilization activities are complete. The Contractor shall be responsible for the removal and disposal of all temporary erosion control devices and appurtenances after the Notice of Termination is issued. The Contractor shall be responsible for the maintenance of erosion control devices for the entire length of time the devices are in service, inclusive of removal of accumulated silt deposits from temporary sediment control fence. The Contractor shall be responsible for documenting this portion of the SWPPP.
- iii. Stripping of vegetation will be conducted in a manner that minimizes erosion. The contractor is responsible for planting vegetation (and establishing at least 70% coverage) on all ground disturbed during construction.

B. Erosion Control Devices and Structural Control Measures

Refer to Exhibit C for a list of erosion control devices and structural control measures.

For areas of the construction site that have not been finally stabilized, area used for storage of materials, structural control measures, and locations where vehicles enter or exit the site, personnel provided by the permittee and familiar with the SWPPP must inspect disturbed areas at least once every seven (7) calendar days and within twenty-four (24) hours of the end of a storm event 0.5 inches or greater. The Contractor shall repair or replace erosion control devices as deemed necessary by the Engineer.

C. Other Controls

1. Waste Disposal

- a. All solid waste materials, including disposable materials to major construction activities, will be collected in containers. The containers will be emptied periodically and hauled to a landfill. Each container must be covered to prevent the blowing of debris from the container. Each contractor is responsible for proper disposal of his own trash.
- b. Concrete waste from ready-mix transport trucks shall be deposited in a shallow pit lined with impervious plastic sheeting. Periodically, the Contractor shall break up, haul away, and properly dispose of the concrete waste material from this pit. The plastic sheeting shall be removed and the pit backfilled at the completion of concrete-related construction activities.
- c. Substances that have the potential to pollute surface and/or groundwater must be controlled by appropriate means to ensure that they do not discharge from the site. As an example, special care shall be exercised during equipment fueling and servicing operations. If a spill occurs, means of containment shall be implemented to avoid discharge from the project site and/or soil absorption. In this regard, potential pollutants shall be handled in a manner consistent with the impact represented.

As a minimum, any products in the following categories are considered hazardous: paints, acids for cleaning masonry surfaces, cleaning solvents, asphalt products, chemical additives for soil stabilization and concrete curing compounds or additives. In the event of a spill that is hazardous (or potentially hazardous as outlined herein), the Contractor shall without delay notify the Dallas County Fire Marshal's office at (214) 653-7000 or call 911,. The Engineer shall also be promptly notified.

2. Dust Control

Sprinkling by utilization of water trucks shall be performed as necessary to reduce dust.

3. Water Source

Water used to establish and maintain stands of grass, for dust control, and/or for other construction-related purposes must originate from a public water supply or private well approved by the State of Texas Department of Health.

4. Construction Phase BMPs

During the construction phase, the Contractor shall also implement the following measures:

Construction staging areas and vehicle maintenance areas shall be established by the Contractor in a manner that minimizes the potential of sediment and other pollutants to enter storm water runoff. All contractors and subcontractors shall utilize such areas for the intended purposes. These areas will be located in a manner such that harmful substances will not be allowed to leach or discharge from the site.

5. Sanitary Facilities

Sanitary facilities shall be provided at the site for the duration of construction activities. These facilities shall be utilized by construction personnel. The Contractor shall be solely responsible for ensuring that all sanitary waste is regularly collected from portable units by a licensed sanitary waste management contractor as necessary or as prescribed by local regulations.

D. Stabilization Practices

Vegetative cover (sod) at the completed construction site, as indicated in Exhibit C and detailed in the contract drawings, will provide some biofiltering of surface runoff. The SWPPP will be updated as necessary if there are any changes in the construction phase sequences.

E. Maintenance

- i. The Contractor is solely responsible for the maintenance of all erosion and sediment control devices (and other protective measures) identified in the SWPPP.
- ii. All sodded and seeded areas are to be checked to ensure that grass coverage is maintained. Areas where stands of grass are established shall be watered and fertilized as needed.
- iii. Temporary sediment control fence, inlet protection, erosion control logs and rock filter dams shall be checked regularly for the accumulation of silt deposits. Silt deposits shall be removed when the silt depth reaches $\frac{1}{2}$ the height of the fence.
- iv. Temporary sediment control fence posts shall be straightened, reset, and/or added as needed. Filter fabric that is ripped, damaged, or deteriorated shall be replaced.

F. Non-Storm Water Discharges

No non-storm water discharges are anticipated; however any non-storm water discharges shall be filtered or held in retention basins before being allowed to mix with storm water. These discharges include, but are not limited to, non-polluted groundwater, spring water, foundation and/or footing drain water, and water used for dust control, pavement washing, and/ vehicle wash water containing no detergents.

IV. INSPECTIONS AND RECORD-KEEPING PROCEDURES

A. Inspections

1. Inspections are to be performed every seven (7) calendar days and within 24 hours of a ½ inch rain event by qualified personnel provided by the Contractor. Inspections shall also be performed after major rain events.
2. Inspections should be provided for the following areas and situations:
 - a. Disturbed areas of the construction site and areas used for storage of materials should be inspected for evidence of pollutants entering the drainage system and/or the potential for pollutants to enter the drainage system.
 - b. Structural control measures
 - c. Sediment and erosion control measures identified in the SWPPP should be inspected to ensure they are functioning properly.
 - d. Where discharge locations or points are not accessible, they shall be inspected for the determination of whether erosion control measures are effectively preventing significant impacts to receiving waters.

B. Inspection Reports

Inspection reports summarizing the scope of the inspection shall be made part of the SWPPP for at least three (3) years from the date the entire site is permanently stabilized. The report should include the name(s) and qualifications of the personnel making the inspection, the date of the inspection and major observations relating to the implementation of the SWPPP. The inspection report shall also include the following:

1. Locations of discharges of sediment or other pollutants from the site.
2. Locations of BMPs that need maintenance or fail to operate as designed or proved inadequate for the location

3. Where additional BMPs are needed that did not exist at the time of the inspection.
4. Identification of any incidents of non-compliance.
5. If there are no incidents of non-compliance, certification of compliance with the SWPPP and this permit should be provided.
6. The report will be signed in accordance with Part VI.G of the TPDES General Permit TXR150000 by an owner or corporate officer or by a duly authorized representative.

A sample inspection report is provided in Exhibit D of this document.

C. Retention of Records

A current version of the SWPPP must be kept on the site (during periods of active construction). In association with construction, the Operator must also comply with the following requirements of the TPDES General Permit:

1. The Construction Site Notice (CSN) will be completed and signed. Normally, a copy of the CSN should be mailed to the MS4 Operator forty-eight (48) hours prior to the start of construction. A copy of the CSN and a brief description of the project must be posted in a prominent place for public viewing at the construction site at all times (if applicable).
2. This Plan must identify each contractor and subcontractor engaged in major construction activities.
3. The Operator must sign the appropriate certification statements in this Plan. A copy of the certification statement can be found in Exhibit F.
4. Updates to the SWPPP are required within seven (7) days following an inspection or if there is any change in construction activities that will result in soil disturbance by the contractor or his subcontractor(s).
5. Records of dates when major construction activities occur, when construction activities temporarily or permanently cease on a portion of the site, and when stabilization measures are initiated shall be maintained and attached to this Plan.
6. Each permittee must retain the records identified in this document for a minimum period of three (3) years from the date that a general permit is submitted.

V. CERTIFICATION

Both permittees, the Owner (Dallas County) and the General Contractor, shall sign the Operator Certification Form for this Plan. The form is located in the Exhibit F section of this document.

EXHIBIT A

GENERAL LOCATION MAP

EXHIBIT B

TPDES GENERAL PERMIT TXR150000 AND CONSTRUCTION SITE NOTICE

TPDES General Permit TXR150000 is made part of the Contract by reference for all purposes. A copy of the general permit may be downloaded from the following website:

[2023 Construction General Permit \(texas.gov\)](#)

EXHIBIT C

Structural & Stabilization Best Management Practices (BMPs)

1. SOIL STABILIZATION PRACTICES

(Select T = Temporary or P = Permanent, as applicable)

<i>Temporary</i>	<i>Permanent</i>	<i>N/A</i>	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Temporary Seeding
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Preservation of Nat'l Resources
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Mulching
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Flexible Channel Liner
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Buffer Zones
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Rigid Channel Liner
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Planting
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Soil Retention Blanket
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Seeding
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Topsoil (using on-site material)
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sodding
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Vertical Tracking
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OTHER

2. STRUCTURAL PRACTICES:

(Select T = Temporary or P = Permanent, as applicable)

<i>Temporary</i>	<i>Permanent</i>	<i>N/A</i>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Silt Fences
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Erosion Control Logs
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Erosion Control Compost Berms
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rock Filter Dams
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Diversion, Interceptor, or Perimeter Dikes
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Diversion, Interceptor, or Perimeter Swales
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Diversion Dike and Swale Combinations
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Pipe Slope Drains
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Paved Flumes
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rock Bedding at Construction Exit
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Timber Matting at Construction Exit
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Channel Liners
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sediment Traps

<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sediment Basin
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Storm Inlet Sediment Trap
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Stone Outlet Structures
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Curbs and Gutters
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Storm Sewers
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Velocity Control Devices
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OTHER

Governing Standards and Specifications for BMPs (where applicable):

Silt Fence – per TxDOT Std EC(1)-09; exhibit included in contract drawings.
 Rock Filter Dam – per TxDOT Std EC(2)-93; exhibit included in contract drawings.
 Construction Exits – per TxDOT Std EC(3)-93; exhibit included in contract drawings.

EXHIBIT D

SAMPLE INSPECTION REPORT

SWPPP 7 DAY SITE INSPECTION REPORT

Project Name: **Simonds Road Bridge at Hickory Creek Rehabilitation Project**

Project Limits: _____

Contractor: _____

Inspector: _____

Permit No: _____

Site Conditions

BMPs	Installed	Effective	Notes/Locations of Maintenance Needs
Construction Entrance			
Sediment Traps			
Inlet Protection			
Stabilization			
Silt Fence			
Erosion Control Logs			
Rock Filter Dams			
Storage Area			
Discharge Areas			
Concrete Wash Area			
Fuel Berm			

Was a copy of the permit language with the SWPPP? Yes No

Is the National Pollutant Discharge Elimination System (“NPDES”) construction sign posted at the entrance? Yes No

Construction Schedule

The site is approximately in the following construction stage: _____

SWPPP Modifications

Describe any modifications necessary to the SWPPP: _____

Describe locations of any new BMPs necessary: _____

Any spills of reportable quantity? Yes No If “Yes” have proper authorities been notified and the SWPPP been noted accordingly?

Violations

Violations Noted: _____

Recommended Actions: _____

Comments: _____

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information. Submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Inspector's Signature: _____

Date: _____

EXHIBIT E

SAMPLE DELEGATION LETTER

STORMWATER POLLUTION PREVENTION PLAN

Date: _____

Executive Director
Texas Commission on Environmental Quality Storm Water and Pretreatment Team
P.O. Box 13087, MC-148
Austin, Texas 78711-3087

Dear Executive Director:

This letter serves to designate a Company who will have day-to-day operational controls of those activities at a construction site which are necessary to ensure compliance with the storm water pollution prevention plan that has been developed for this site.

Contractor Name: _____
Title: General Contractor/Primary Operator
Simonds Road Bridge at Hickory Creek
Project Name: Rehabilitation Project
Project Location: Dallas County, TX

By signing this authorization, I confirm that I meet the following requirements to make such a designation as set forth in the Texas Administrative Code Title 30 Part 1 Chapter 305 Subchapter C Rule 305.44 and Title 30 Part 1 Chapter 305 Subchapter F Rule 305.128.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designated to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are specific penalties for submitting false information, including the possibilities of fine and imprisonment for knowing violations. "

Owner: Dallas County

Signature: _____

Date: _____

Printed Name: _____

Title: _____

EXHIBIT F

OPERATOR CERTIFICATION FORM

STORMWATER POLLUTION PREVENTION PLAN

Operator Certification Form

Date: _____

Owner's Name:

The County of Dallas, Texas
Department of Public Works
500 Elm Street, Suite 5300
Dallas, TX 75202
214.653.7151

**General Contractor's Name, Mailing
Address, and Phone Number:**

RE: Simonds Road Bridge at Hickory Creek Rehabilitation Project

A duly authorized representative of the Owner and the General Contractor must be identified and must sign the following certification statement:

Certification Statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

The County of Dallas, Texas
Department of Public Works

Name of General Contractor

Alberta Blair – Director

Signature of Authorized Representative

Responsibility: Owner

Responsibility: General Contractor

Persons signing this certification must do so in compliance with the signatory requirements of the permit as found at CFR 122.22:

For a corporation: by a responsible corporation officer. This means a President, Vice-President, Secretary, Treasurer, Manager as defined by 40 CFR 122.22 (07-01-00 Edition) attached to this version.

For a partnership or sole proprietorship: by a general partner or the proprietor.

For a municipality, State, Federal or other public agency: a principal executive or ranking elected official.

SECTION V
GEOTECHNICAL REPORT



TCEQ Small Construction Site Notice

Small construction sites disturb at least one but less than five acres or are part of a larger common plan of development or sale that disturbs between one and five acres. Operators of small construction sites will fill out this notice. Operators will then post this notice at the construction site in a location where it is safely and readily available for viewing by the general public and local, state, and federal authorities. Additional information about the TCEQ Construction Stormwater General Permit may be found on TCEQ's webpage on [Assistance Tools for Construction Stormwater General Permits](#).

Note: You must also develop a Stormwater Pollution Prevention Plan prior to the commencement of construction.

Operator

Name: _____

Contact Name and Phone Number: _____

Project Description:

Physical Location/Description _____

Estimated Start Date _____

Projected End Date or Date Disturbed Soils Will Be Stabilized _____

Location of Stormwater Pollution Prevention Plan (SWP3): _____

For Small Construction Activities Authorized Under Part II.E.2. (Obtaining Authorization to Discharge) the following certification must be completed:

I _____ (*Typed or Printed Name Person Completing This Certification*) certify under penalty of law that I have read and understand the eligibility requirements for claiming an authorization under Part II.E.2. of TPDES General Permit TXR150000 and agree to comply with the terms of this permit. A stormwater pollution prevention plan has been developed and will be implemented prior to construction, according to permit requirements. A copy of this signed notice is supplied to the operator of the Municipal Separate Storm Sewer Systems (MS4) if discharges enter an MS4. I am aware there are significant penalties for providing false information or for conducting unauthorized discharges, including the possibility of fine and imprisonment for knowing violations.

Signature and Title _____ Date _____

Name of MS4 Operator notified: _____ and Date notified (per Part II.F.3.): _____

Date Site Notice Removed _____



Environmental Hazards Services, L.L.C.
 7469 Whitepine Rd
 Richmond, VA 23237
 Telephone: 800.347.4010

Lead Paint Chip Analysis Report

Report Number: 21-06-04402

Client: Terracon - Dallas
 8901 Carpenter Freeway, Ste. 100
 Dallas, TX 75247

Received Date: 06/28/2021
 Analyzed Date: 07/01/2021
 Reported Date: 07/01/2021

Project/Test Address: Simonds Bridge At Hickory Creek
 Collection Date: 06/25/2021

Client Number:
 45-5729

Laboratory Results

Fax Number:
 214-630-7070

Lab Sample Number	Client Sample Number	Collection Location	Pb (ug/g) ppm	% Pb by Wt.	Narrative ID
21-06-04402-001	PB-1	SIMOND BRIDGE SW	3600	0.36	
21-06-04402-002	PB-2	SIMOND BRIDGE SE	2400	0.24	
21-06-04402-003	PB-3	SIMOND BRIDGE CENTRAL	55000	5.5	

Environmental Hazards Services, L.L.C

Client Number: 45-5729

Report Number: 21-06-04402

Project/Test Address: Simonds Bridge At Hickory Creek

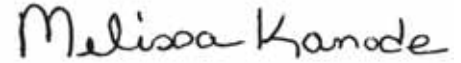
Lab Sample Number	Client Sample Number	Collection Location	Pb (ug/g) ppm	% Pb by Wt.	Narrative ID
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Preparation Method: ASTM E-1979-17

Analysis Method: EPA SW846 7000B

Accreditation #: TX T104704248-07TX

Reviewed By Authorized Signatory:



Missy Kanode
QA/QC Clerk

The HUD lead guidelines for lead paint chips are 0.50% by Weight, 5000 ppm, or 1.0 mg/cm². The Reporting Limit (RL) for samples prepared by ASTM E-1979-17 is 10.0 ug Total Pb. The RL for samples prepared by EPA SW846 3050B is 25.0 ug Total Pb. Paint chip area and results are calculated based on area measurements determined by the client. All internal quality control requirements associated with this batch were met, unless otherwise noted.

The condition of the samples analyzed was acceptable upon receipt per laboratory protocol unless otherwise noted on this report. Results represent the analysis of samples submitted by the client. Sample location, description, area, etc., was provided by the client. Results reported above in mg/cm³ are calculated based on area supplied by client. This report shall not be reproduced except in full, without the written consent of the Environmental Hazards Service, L.L.C.

ELLAP Accreditation through AIHA-LAP, LLC (100420), NY ELAP #11714.

LEGEND	Pb= lead	ug = microgram	ppm = parts per million
	ug/g = micrograms per gram	Wt. = weight	



Environmental Hazards Services, LLC

Lead Chain-of-Custody Form

SHIP TO: 7469 Whitepine Rd. Richmond, VA 23237
 Phone: (800) 347-4010 FAX: (804) 275-4907
 ONLINE CLIENT PORTAL AVAILABLE FOR ANALYSIS RESULTS AT:
 www.leadlab.com

21-06-04402



Due Date:
 07/01/2021
 (Thursday)
 AE

Company Name: Terraron/Dalley Account Number: 45-5729

Address: 8901 John Carpenter City/State/Zip: _____

Phone: _____ Email: _____ Fax: _____

Project Name / Testing Address: Simonds Bridge at Hickory Creek Project City/State (Required): _____

Collected By: Keith Ebner Certification Number: 2171036 P.O. #: 94217326 Do wipe samples submitted meet ASTM E1792 requirements? Yes No

Sample Type - Key For Grid	Sample Location Abbreviations - Key For Grid	Surface Type for Dust Wipes - Key For Grid
Single Dust Wipe = DW Air = A Paint Chip = PC Soil = S Composite Soil = CS	FR = Family Room F = Front 1 = 1 st FL BA = Bath BR = Bedroom LR = Living Room R = Rear 2 = 2 nd FL DR = Dining Room O = Basement DN = Den LT = Left RT = Right KT = Kitchen	FL = Floor SL = Window Sill CP = Carpet WW = Window Well

TURN AROUND TIMES: IF NO TAT IS SPECIFIED, SAMPLE(S) WILL BE PROCESSED AND CHARGED AS 3 DAY TAT.

No.	Client Sample ID	Collection		Sample Type	Collection Location (LR, KT, LTFBR, RTRBR, etc.)	Surface Type	Area		Paint Chip		Air			Comments
		Date	Time				Length X Width in inches (Provide paint chip area only if requesting mg/cm2)	mg/cm ²	% by weight	Total Time (minutes)	Flow Rate (L/min)	Volume Total (Liters)		
		1 Day	2 Day	X	3 Day									
1	Pb-1	6/25/21	AM / P.M.	PC	Simonds Bridge - SW		X	X						
2	Pb-2	↓	AM / P.M.	↓	SE		X	X						
3	Pb-3	↓	AM / P.M.	↓	Central		X	X						
4			AM / P.M.				X							
5			AM / P.M.				X							
6			AM / P.M.				X							
7			AM / P.M.				X							
8			AM / P.M.				X							
9			AM / P.M.				X							
10			AM / P.M.				X							

Released by: Keith Ebner Signature: Keith P. Ebner Date/Time: 6/25/21
 Received by: Aminda Lowery Signature: A Lowery Date/Time: 6/28/21 1:56 pm

PLM REPORT SUMMARY



Cates Laboratories
 1339 Motor Circle
 Dallas, Texas 75207 (214) 920-5006

NVLAP Lab No. 200569-0
 TDSHS License No. 30-0287

Client: Terracon Project (Line 1): Simonds Road at Hickory Creek Bridge Project (Line 2): Project No: 94217326 Identification: Asbestos, Bulk Sample Analysis Test Method: Polarized Light Microscopy/Dispersion Staining (PLM/DS) EPA Method 600/R-93/116	Lab Job No.: PLM-26420 Set No.: 38747 Report Date: 7/2/2021 Sample Date: 6/25/2021
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Page 1 of 2

On 6/25/2021, three (3) bulk samples were submitted by Mr. Keith Ebner of Terracon for asbestos analysis by PLM/DS. Copies of the lab data sheets are attached; additional information may be found therein. The results are summarized below:

Lab Sample No.	Client Field I.D.	Sample Description/Location	Asbestos Content
CL928959	1	Sealant (black) on Pavement - Simonds Bridge, Southeast	None Detected
CL928960	2	Sealant (black) on Pavement - Simonds Bridge, Southwest	None Detected
CL928961	3	Sealant (black) on Pavement - Simonds Bridge, Northwest	None Detected

These samples were analyzed by layers. The overall percent asbestos for the sample is reported when relevant. The EPA considers a material to be asbestos containing only if it contains greater than one percent asbestos by Calibrated Visual Area Estimation (CVAE). EPA regulations also indicate that Regulated Asbestos Containing Materials (RACM) – materials that are friable or may become friable – be further analyzed by point counting when the results indicate less than ten percent asbestos by CVAE. CatesLab utilizes CVAE on a routine basis and does not include point counting unless specifically requested by the client. The results may not be reproduced except in full.

PLM REPORT SUMMARY



Cates Laboratories
1339 Motor Circle
Dallas, Texas 75207 (214) 920-5006

NVLAP Lab No. 200569-0
TDSHS License No. 30-0287

Client: Terracon
Project (Line 1): Simonds Road at Hickory Creek Bridge
Project (Line 2):
Project No: 94217326
Identification: Asbestos, Bulk Sample Analysis
Test Method: Polarized Light Microscopy/Dispersion Staining (PLM/DS)
EPA Method 600/R-93/116

Lab Job No.: PLM-26420
Set No.: 38747
Report Date: 7/2/2021
Sample Date: 6/25/2021

Page 2 of 2

On 6/25/2021, three (3) bulk samples were submitted by Mr. Keith Ebner of Terracon for asbestos analysis by PLM/DS. Copies of the lab data sheets are attached; additional information may be found therein.

STATEMENT OF LABORATORY ACCREDITATION

The samples were analyzed in general accordance with the procedures outlined in the Method for the Determination of Asbestos in Bulk Building Materials, EPA/600/R-93/116 or the U.S. Environmental Protection Agency EPA 40 CFR Appendix E to Subpart E of Part 763, Interim Method of the Determination of Asbestos in Bulk Insulation Samples, by polarized light microscopy. The results of each bulk sample relate only to the material tested and the results shall not be used by the client to claim product certification, approval, or endorsement by NVLAP, NIST, or any agency of the Federal Government.

Specific questions concerning bulk sample results shall be directed to the Laboratory Director.

Analyst: Kathy Schosek

Laboratory Director: John R. Cates, P.G.

Approved Signatory:



NVLAP LAB CODE 200569-0