I-195 WASHINGTON BRIDGE PROVIDENCE

PROVIDENCE / EAST PROVIDENCE, RHODE ISLAND

Bid# 7603776

BEST VALUE DESIGN-BUILD PROCUREMENT FOR BRIDGE GROUP 57T-10: I-195 WASHINGTON NORTH PHASE 2

REQUEST FOR PROPOSALS

PART 1

INSTRUCTIONS TO PROPOSERS

April 10, 2020

RHODE ISLAND DEPARTMENT OF TRANSPORTATION

I-195 WASHINGTON NORTH PHASE 2

PROVIDENCE, RHODE ISLAND

DESIGN-BUILD PROCUREMENT

REQUEST FOR PROPOSALS

PART 1 - INSTRUCTIONS TO PROPOSERS

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Section 1. Request for Proposals, Clarifications, and Basic Terms

1.1. Introduction

This document comprises the Instructions to Proposers (ITP), Part 1 of the Request for Proposals (RFP) package, issued by the State of Rhode Island Department of Administration (RIDOA)/Division of Purchases in conjunction with the Rhode Island Department of Transportation (RIDOT), hereinafter referred to as "The State". The RFP solicits competitive Proposals from Design-Build (DB) entities to value engineer the design and construct the I-195 Washington North Phase 2 Project (the "Project") on a fixed term/firm price basis in accordance with 23 U.S.C. §112 and 220-RICR-30-00-8 Title 220 Chapter 30 §8.11 "Selection of Methods of Construction Contracting Management" of the State Procurement Regulations. The State intends to enter into a contract (the "Contract") with the selected Proposer in a form substantially similar to the Contract stipulations included in Part 3 of this RFP.

Bid# 7603776
BEST VALUE DESIGN/ BUILD Services for Bridge Group 57T-10: I-195 Washington North Phase 2, Providence, Rhode Island

DBE GOAL: CONSTRUCTION 12% / DESIGN 12%

TRAINEES: 2,700 HRS

1.2. Request for Proposal (RFP) to Proposers, and Clarifications of RFP

The State will post the electronic copy of the Request for Proposals (RFP) at RIDOT'S *"Bidding Opportunities"* web page accessible at: **http://www.ridop.ri.gov**. Such Proposers shall be responsible for diligently examining the RFP, including any addenda issued by the State in connection with it, and for informing themselves about any conditions that may affect the Proposer's creation of its Technical Proposal, Price Proposal, or its performance of Contract obligations (if it should obtain the Contract). The State shall not be liable for any consequences of a Proposer's failing to fulfill these responsibilities.

There will be no point of contact at RIDOT who will directly answer questions either in person, through email, or by telephone. Questions shall be posted at RIDOT'S "Bidding Opportunities" web page accessible at: http://www.dot.ri.gov/contracting/bids/index.php. Select the question mark "?" next to the applicable project to submit questions. Responses to questions will also be posted at this site. Questions will not be accepted after **NOON on June 3, 2020**. Upon the close of questions, all questions and answers will be posted as an addendum at the RIVIP website at https://www.ridop.ri.gov and will subsequently therefore be incorporated into the resulting contract.

If a Proposer believes that a particular question discloses such request contains proprietary information, trade secrets or confidential commercial and financial information that a Proposer believes should be exempted from disclosure, the Proposer shall specifically identify and mark as such and shall be submitted to the email address provided below in a manner, so it is easily identified. Blanket submittal of all questions identified as confidential shall not be permitted and shall be deemed invalid. The specific proprietary information, trade secrets or confidential commercial or financial information shall be clearly identified as such and shall be accompanied by a concise statement of reasons supporting the claim. The State cannot guarantee, however, that any courts or another governmental agency with jurisdiction over such matters will treat such documents and their content as confidential. Proposers must submit questions they consider to be of a confidential nature to the following email address:

The confidential mailbox to be used is: DOA.WashingtonQuestions@purchasing.ri.gov

The State will not respond to inquiries that it receives after the deadline for submission of questions.

If the State determines that a requested interpretation or clarification requires a change in the RFP, the State will issue an addendum ("Addendum") providing same. The State will not be bound by, and Proposers shall not rely on oral communication regarding the RFP. Proposers may not rely on any communication regarding these matters except written communications from the State of the kinds authorized in this RFP. If a Proposer has meetings or discussions with other agencies or entities during the Procurement process, the Proposer shall be responsible for verifying with the State in writing the accuracy of any information received from such non-State sources. (The Proposer is cautioned to bear in mind the constraints on such communications set forth in later sections of this text.)

Proposers are responsible for visiting the Project site (the "Site") in order to ascertain by inspection and inquiry any conditions of the Site or adjacent properties that may be pertinent to the Project, such as the location, accessibility, traffic conditions, and general character of the Site, the nature of any ongoing activities at or adjacent to the Site, the character and condition of existing structures or other objects within or adjacent to the Site, and the natural conditions in the area of the Site. No information about the Project itself, however, may be sought from or provided by State personnel during such site visits.

Proposers are responsible for ensuring that they are aware of all clarification notices and Addenda, and each Proposer must acknowledge, in its Proposal transmittal letter ("Transmittal Letter"), that it has received and read all such documents. Failure of a Proposer to provide that acknowledgement may cause and will entitle the State to reject the Proposer's Proposal.

1.3. Contact Information and Addresses for Communications during the Procurement Process

Each Proposer seeking award of the Contract shall designate a primary contact to whom the State may send e-mail communications relative to this procurement.

There will be no point of contact at RIDOT who will directly answer questions either in person, through email, or by telephone.

Failure by the Proposer to send to the State Contact Person the identity and addresses of the DB Contact Person may result in the Proposer's failing to receive addenda, notices, or other important communications from the State. The State will not be liable for any damage to the Proposer's interests that might occur as a result of the Proposer's failure to receive such information as a consequence of such an omission.

1.4. Basic Terms and Definitions

The following lists and defines certain key terms used in this document. A more complete listing of terms and definitions is included in the RFP document titled “Part 3 – Terms and Conditions.”

Alternative Technical Concept (ATC): A proposed modification to the Base Technical Concept by a Proposer during the development of Technical Proposals. Please note that there will be **no formal ATC process for this RFP.**

Base Technical Concept (BTC): The requirements included in the RFP (the text herein, plans, specifications, references codes and standards, etc.) for the design and construction of any roadway, bridge, traffic management, drainage, utilities, and other work that defines the scope of the Project. The BTC forms the basis of the Technical Proposal submissions.

Best Value Design Build (BVDB): A process of evaluating proposals and selecting a Design-Build Entity to perform the project based upon qualitative non-price and quantitative cost/price criteria.

Contractor: For the purposes of this solicitation, the term “Contractor”, “Design-Build Entity”, and “Proposer” are synonymous.

Design-Build Entity (DB Entity): An individual, sole proprietorship, firm, partnership, joint venture, corporation, or other entity that provides Design-Build services (may also be referred to in these solicitation documents as a "Contractor").

Instructions to Proposers (ITP): A document developed by the State that, in general, outlines the requirements that Proposers must satisfy and the process that they must follow during the selection process.

Qualifications Review Group: A group established by the State to review Statements of Qualifications.

Proposer: Design-Build Entity that is submitting proposals for this procurement.

RIDOT: The Rhode Island Department of Transportation

RIDOA: The Rhode Island Department of Administration

Request for Proposals (RFP): A solicitation by the State for Proposers to submit a Technical Proposal and Price Proposal for consideration by the State.

State: The State of Rhode Island and Providence Plantations including all agencies and departments.

Statement of Qualifications (SOQ): A section in the Proposal, developed by the Proposer that outlines the Proposer's qualifications to execute the final Project design and construct the Project.

Technical Provisions: A document developed by the State that, in general, outlines the technical requirements for the Project that Proposers must take into account and incorporate in generating their Technical Proposals.

Technical Review Group: A group established by the State to review Technical Proposals and score those Proposals based on pre-determined scoring criteria set forth in this RFP.

Technical Support Group: A group established by the State to develop the preliminary design that constitutes the BTC. This group also assists the other Design-Build groups with other technical issues during the evaluation process.

Terms and Conditions: A document developed by the State that, in general, outlines the legal Contract terms and other general terms, that will be included in the Contract between the State and the Proposer selected to receive that Contract.

Section 2. Design-Build Project and Process Overview

2.1. General Description of the Design-Build Contracting Process and Project

The State invites Design-Build Teams (Proposers) to submit proposals for the contract ("Contract") for a project (the "Project") that will include the design and rehabilitation of the RIDOT Bridge No. 700 Washington Bridge North, design and construction of RIDOT Bridge No. 126601Gano St. on-Ramp, design and construction of RIDOT Bridge No. 126701 Waterfront Drive off-ramp, and the design and construction of all associated highway interchanges in Providence and East Providence, Rhode Island. The award of the Contract will be made, and the performance of the Contract carried out in accordance with what is commonly known as DB method of contracting.

The Project will principally consist of the rehabilitation of I-195 Washington Bridge North Phase 2 and the associated new on and off ramps in Providence and East Providence. This rehabilitation shall include the staged construction of I-195 westbound, the associated ramps, impacted City Streets, along with construction of new bridges and other structures as necessary. Phase 1 of the project was the recently completed partial rehabilitation of the substructure of the bridge.

Other work will include and is not limited to: bridge rehabilitation, roadway reconstruction, new bridge construction, drainage construction, landscaping, utility relocation, noise mitigation, handling and disposing of contaminated materials.

The BTC identifies the bridges, and proposed treatment (Rehabilitation or New) shown in Table No. 1 as being required to support the proposed roadway layout. The Contractor shall determine the final location, layout, type, and dimensions of all elements of the bridges required to accommodate the roadways required to provide a final design that meets all of the requirements of the RFP and all design codes, guide and specifications applicable. All bridges, and other structures required to support the final design shall be included in this project as part of the Proposal and be included in the Price Proposal.

Table No. 1: Bridge Structures Anticipated to be Included in BTC (ID and Proposed Treatment)

Current Bridge #	New Bridge #	Bridge Name	Treatment
-	126601	Gano St. On-Ramp Bridge	New
-	126701	Waterfront Drive Off-Ramp Bridge	New
070001	070001	Washington Bridge North	Rehabilitation

Any necessary bridges may be built using Accelerated Bridge Construction Technologies as required to meet the construction schedule and traffic maintenance requirements. Accelerated Bridge Construction methodologies that are encouraged include use of Prefabricated Beam Units ("PBU's), prefabricated or precast concrete elements, Lateral Slide methods, Self-Propelled Modular Transporters (SPMTs) and other applicable methods.

Historical plans for the existing bridges are provided in Appendix B, along with the BTC plans.

Construction of the highway improvements and replacement/rehabilitation of the bridges will proceed in stages. In each stage, all traffic on Interstate I-195, entrance and exit ramps, and all other roadways shall be maintained as required in the BTC, unless specifically stated otherwise in this RFP.

2.2. Summary of the Design-Build Proposal Process

The Best Value Design-Build Procurement process will be a one-step simultaneous process. This RFP is now posted on the State's purchasing website soliciting Proposers to submit Technical and Cost Proposals. The qualified Proposer that presents the *Best Value* in the judgment of the State will be invited to enter into a contract with the State for design and construction of the Project.

Proposers should thoroughly review the definitions in Section 1.4 of this RFP.

Proposers must comply with the following, as well as the other requirements in this RFP:

1. Proposers will be required to submit a description of each DB Entitiy's relevant experience, particularly with respect to experience similar to this Project with a particular focus on the ability to deliver such on time and on budget. Identify and describe a maximum of 10 relevant projects (limited to one [1] page) with a minimum construction value of $20 million or more completed in the past ten (10) years which demonstrate adequate experience in the following:

   - Design-Build experience on bridge and highway projects of a similar scale and scope;
   - Bridge and highway projects performed for RIDOT;
   - Maintenance and Protection of Traffic on divided highways of comparable scale to this project;
   - Construction using Prefabricated Bridge Components;
   - Accelerated Bridge Construction;
   - Relevant and verifiable evidence of good performance and lessons learned from previous projects and how these will benefit this project.

   For each project, provide project name, owner's name, address, principal contact with current phone number and email address, dates of design/construction, construction value and description of the work involved.

2. Key Personnel that it has assigned or will assign to the Project, stating the specific role that each person would perform in Project work. Those identifications will be deemed a binding commitment that if the Proposer should receive the Contract, those identified "team members" will, in fact, play the designated roles in Project design and construction. Proposers are precluded from substituting, replacing, or removing any of the Key Personnel without the written consent of the State to do so. If a Proposer believes that a substitution for any identified Key Personnel is warranted at any time (due to an intervening event), the Proposer shall so notify the State in writing, providing details of the proposed change and the reasons for it. The State shall not withhold such consent unreasonably. Proposed substitutions for such identified Personnel shall have equal or better credentials than the Personnel that they would be replacing. Should the substituted Personnel, in the opinion of the State, prove to not meet or exceed the experience and training that the original team member possessed, the Technical Review Group may reevaluate the Proposer's Qualifications score accordingly, if the substitution is proposed before award of the Contract.

3. Proposers will be required to submit a price (and a schedule of values) for design and construction of the Project ("Price Proposal"), and the selected Proposer must place in escrow, as prescribed in Chapter 5 of this RFP, all of the documents ("Price Documents") that it used or consulted in the process of pricing the design and construction of the Project for purposes of making its Price Proposal.

4. Within the time frame dictated by this RFP, the Proposer must submit a detailed Technical Proposal, as prescribed herein, as to its plans for the design and construction of the Project, and, at the same time, a Price Proposal, each enclosed in a separate, sealed container, as more fully described elsewhere in this RFP. The State will establish a Technical Review Group that will evaluate and score the Technical Proposals according to a predetermined set of weighted criteria set forth in this RFP. The Price Proposals will remain sealed until after the evaluation and scoring of the Technical Proposals.

5. The scoring of the Technical Proposals and Price Proposals according to the criteria set forth in this RFP by the State, who will decide which Proposer's combination of Technical Proposal and Price Proposal offers the best value to the State and the public and will award the Contract to that Proposer.

2.3. Proposed Procurement Schedule

The current schedule for the PROJECT is for Substantial Completion by November 15, 2024. Substantial Completion includes all bridge and roadway ramp work complete, inspected, and open to traffic.

The State currently anticipates conducting this procurement in accordance with the following list of milestones. This schedule is subject to revision and the State reserves the right to modify this schedule as it finds necessary, in its sole discretion.

Request for Proposals Issued	April 10, 2020
Submit Declaration of Potential Conflict of Interest	May 1, 2020
Conflict of Interest Determinations by the State	May 8, 2020
Last Date to Submit Questions	June 3, 2020
Proposal Deadline	June 12, 2020
Apparent Best Value Determination	June 26, 2020
Tentative Award	June 30, 2020
Notice to Proceed	July 31, 2020

The State is currently completing work on the National Environmental Policy Act (NEPA) process for the Project. This process will continue in parallel with the procurement process.

At this time, the anticipated date for completion of the NEPA process is December 31, 2020. All schedules submitted as part of this procurement process shall be based on this assumption. If the process concludes later than Notice to Proceed, the State and the Proposer will adjust the project schedule accordingly. In this case, preliminary engineering can continue during this timeframe; however, under no circumstances will the Proposer be allowed to start final design or construction prior to the completion of the NEPA process.

2.4. Reference Documents and Standards Applicable to Design of the Project

The State will electronically provide Project-specific reference documents to each Proposer via the State Division of Purchases website http://www.ridop.ri.gov. The partial Project-related plans (the "BTC") included in those documents will be for the Proposers' reference use only. All Proposers will be deemed to acknowledge by their receiving of such plans that they understand that while those plans have been advanced to the level of detail shown, the selected Proposer will be required to develop and provide a final, complete Project design based on its Technical Proposal that has been stamped and sealed by its own Designer of record, after review and approval by the State and possibly by third parties. The Proposer must understand it will have to make revisions of or additions to the proposed Design in accordance with any comments received during the ongoing plan reviews from the State.

The State will warrant any documents that it provides; however, the State makes no representations as to the accuracy or completeness of information contained in any documents not obtained from the State, and it will not be responsible in any way for a Proposer’s reliance on or use of the contents of such third-party documents.

Published standards of AASHTO and the State, including, but not limited to those standards set forth in Parts 2 and 3, will apply to the final design and construction documents to be developed by each Proposer. State documents are available on the State's web site http://www.dot.ri.gov.

2.5. State's Rights Regarding Content of the RFP, Administration of the Procurement process, and Award of the Contract

The State may investigate the qualifications of any Proposer as long as its Proposal is under consideration, may require related confirmation of information from a Proposer, and may require the Proposer to produce additional evidence regarding its qualifications to perform the tasks required by the RFP. The State may exercise, in its sole discretion, any of the following rights:

1. Reject any or all Proposals at any time prior to execution of the Contract;
2. Consider any relevant information from any source in making evaluations within the Procurement process;
3. Issue a new RFP;
4. Amend, modify, or cancel and withdraw the RFP;
5. Modify the RFP, which shall include the right to extend submission deadlines as deemed appropriate, and it will be the responsibility of each Proposer to consult http://www.ridop.ri.gov;
6. Appoint and assign a Technical Review Group to evaluate Proposals, and appoint and assign a Technical Support Group, each of which may seek the assistance of legal or technical advisors in making their evaluations; and
7. Waive minor irregularities in Proposals; and,

The RFP does not commit the State to enter into the Contract, even after tentative notice of award of the Contract, nor does it obligate the State to reimburse a Proposer for any costs incurred in preparation and submission of a Proposal or in anticipation of an award or execution of the Contract. By submitting a Proposal, a Proposer disclaims any right to be paid by the State, unless and until the State executes a Contract with the Proposer.

2.6. Property of the State

All physical materials submitted by a Proposer to the State in response to this RFP shall become the property of the State and shall not be returned to the Proposer.

2.7. Conflict of Interest and Unfair Competitive Advantage

2.7.1. Conflict of Interest

1. Each Proposer shall require its proposed Team Members to identify potential conflicts of interest or a real or perceived competitive advantage relative to this procurement. Proposers are notified that prior or existing contractual obligations between a company and Federal or State Agency relative to the Project may present a conflict of interest or a competitive advantage. If a potential conflict of interest or competitive advantage is identified, the Proposer shall submit in writing the pertinent information by the date specified in Section 2.3 Proposed Procurement Schedule to the following:

   Rhode Island Department of Administration
   Division of Purchasing
   One Capitol Hill
   Providence, Rhode Island 02908
   Attn: Lisa Hill

2. The State, in its sole discretion, will make a determination relative to potential organizational conflicts of interest or a real or perceived competitive advantage, and its ability to mitigate such a conflict. An organization determined to have a conflict of interest or competitive advantage relative to this procurement that cannot be mitigated, shall not be allowed to participate as a Design-Build team member for the Project. Failure to abide by the State's determination in this matter may result in a proposal being declared non-responsive.
3. Conflicts of interest and a real or perceived competitive advantage are described in state and federal law, and, for example, may include, but are not limited to the following situations:
   a. An organization or individual hired by the State, or its Consultants, to provide assistance in the development of instructions to Potential vendors or evaluation criteria for the Project.
   b. An organization or individual with a present or former contract with the State, or its Consultants, to prepare planning, environmental, engineering, or technical work product for the Project, and has a

potential competitive advantage because such work product is not available to all potential vendors in a timely manner prior to the procurement process.

4. The State reserves the right, in its sole discretion, to make determinations relative to potential conflicts of interest on a project specific basis.
5. The State may, in its sole discretion, determine that a conflict of interest or a real or perceived competitive advantage may be mitigated by disclosing all or a portion of the work product produced by the organization or individual subject to review under this section. If documents have been designated as proprietary, the Proposer will be given the opportunity to waive this protection from disclosure. If a Proposer elects not to disclose, then the Proposer may be declared non-responsive.

2.7.2. **Proprietary Disclosure**

1. If a Proposer has special concerns about information which it desires to make available to the State but which it believes constitutes a trade secret, proprietary information, or other confidential information exempted from disclosure, such Proposer should specifically and conspicuously designate that information as such in its Proposal and state in writing why protection of that information is needed. The Proposer should make a written request to the State. The written request shall:
   a. Invoke such exemption upon the submission of the materials for which protection is sought.
   b. Identify the specific data or other materials for which the protection is sought.
   c. State the reasons why the protection is necessary.
2. Blanket designations that do not identify the specific information shall not be acceptable and may be cause for the State to treat the entire Proposal as public information. Nothing contained in this provision shall modify or amend requirements and obligations imposed on the State by applicable law, and the applicable law(s) shall control in the event of a conflict between the procedures described above and any applicable law(s).
3. In the event the State receives a request for public disclosure of all or any portion of a Proposal identified as confidential, the State will come to its own determination whether or not the requested materials are exempt from disclosure.
4. Because of the confidential nature of the evaluation and negotiation process associated with this Project, and to preserve the propriety of each Proposer's Proposal, it is the State's intention, subject to applicable law, not to consider a request for disclosure until after the State's selection of the Best Value Design Build (BVDB) Contractor.

2.7.3. **Program Fraud and False or Fraudulent Statements or Related Acts**

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq*. and US DOT regulations, "Program Fraud Civil Remedies" 49 CFR Part 31 apply to its actions pertaining to the Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or cause to be made, pertaining to the underlying contract or the FHWA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Proposer to the extent the Federal Government deems appropriate.

2. The Contractor also acknowledges that if it makes, or cause to be made, a false, fictitious or fraudulent claim, statement,, submission, or d certification to the Federal Government under a contract connected with a project that s financed in whole or in part with Federal assistance originally awarded by FHWA under the authority of 49 U. S. C. Chapter 53, the Government reserves the right to impose the penalties of 18 U S C § 1001 and 49 U S C § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal Assistance provided by FHWA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

2.7.4. **"Anti-Kickback" Prohibitions**

1. Certain employee protections apply to all FHWA funded contracts with particular emphasis on construction related contracts:
   a. Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874;
   b. Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 U.S.C. § 3145; and
   c. U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Financed in Whole or in Part by Loans or Grants for the United States," 29 CFR Part 3.

2.7.5. **Unfair Competitive Advantage**

The BVDB procurement will be conducted using a fair and impartial procurement process. It is essential that a level playing field be maintained during the procurement phase. The Proposers are advised that the following prohibitions, restrictions, and requirements will apply to this BVDB procurement:

1. Firms and individuals may not materially participate (defined as holding a financial interest, assisting in the preparation of a Proposal, or providing one or more of the Key Personnel described in Section 6.6 of the RFQ) in more than one Proposal in response to this RFP;
2. Firms and individuals may not solicit, review, or receive BVDB criteria weighting or evaluation materials prepared by the State or its consultants during the procurement phase, either directly or through an intermediary;
3. Proposers (including subcontractors, employees, or representatives) shall not communicate with or attempt to influence the Technical Review Group, or other State representatives involved in the BVDB selection process, except as allowed by this RFP;
4. Current or former employees of the State or its consultants directly involved in preparing this RFP shall not be engaged or employed on this project by proposers for 12 months after these employees have been under the employ of the State or its consultants directly involved in preparing this RFP.

An Unfair Competitive Advantage may exist if a Proposer is not in full compliance with Nos. 1 through 4 above.

2.7.6.**Instructions and Notifications to Offerors**

1. Potential vendors are advised to review all sections of this RFP carefully and to follow instructions completely, as failure to make a complete submission as described elsewhere herein may result in rejection of the proposal.

2. Alternative approaches and/or methodologies to accomplish the desired or intended results of this RFP are solicited. However, proposals which depart from or materially alter the terms, requirements, or scope of work defined by this RFP may be rejected as being non-responsive.
3. All costs associated with developing or submitting a proposal in response to this RFP or for providing oral or written clarification of its content, shall be borne by the vendor. The State assumes no responsibility for these costs even if the RFP is cancelled or continued.
4. Proposals are considered to be irrevocable for a period of not less than 180 days following the opening date, and may not be withdrawn, except with the express written permission of the State Purchasing Agent.
5. All pricing submitted will be considered to be firm and fixed unless otherwise indicated in the proposal.
6. It is intended that an award pursuant to this RFP will be made to a prime vendor, or prime vendors in the various categories, who will assume responsibility for all aspects of the work. Subcontracts are permitted, provided that their use is clearly indicated in the vendor's proposal and the subcontractor(s) to be used is identified in the proposal.
7. The purchase of goods and/or services under an award made pursuant to this RFP will be contingent on the availability of appropriated funds.
8. Vendors are advised that all materials submitted to the Division of Purchases for consideration in response to this RFP may be considered to be public records as defined in R. I. Gen. Laws § 38-2-1, et seq. and may be released for inspection upon request once an award has been made.

   Any information submitted in response to this RFP that a vendor believes are trade secrets or commercial or financial information which is of a privileged or confidential nature should be clearly marked as such. The vendor should provide a brief explanation as to why each portion of information that is marked should be withheld from public disclosure. Vendors are advised that the Division of Purchases may release records marked confidential by a vendor upon a public records request if the State determines the marked information does not fall within the category of trade secrets or commercial or financial information which is of a privileged or confidential nature.
9. Interested parties are instructed to peruse the Division of Purchases website on a regular basis, as additional information relating to this solicitation may be released in the form of an addendum to this RFP.
10. By submission of proposals in response to this RFP vendors agree to comply with R. I. General Laws § 28-5.1-10 which mandates that contractors/subcontractors doing business with the State of Rhode Island exercise the same commitment to equal opportunity as prevails under Federal contracts controlled by Federal Executive Orders 11246, 11625 and 11375.

    Vendors are required to ensure that they, and any subcontractors awarded a subcontract under this RFP, undertake or continue programs to ensure that minority group members, women, and persons with disabilities are afforded equal employment opportunities without discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability.

    Vendors and subcontractors who do more than $10,000 in government business in one year are prohibited from engaging in employment discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, national origin, or disability, and are required to submit an "Affirmative Action Policy Statement."

    Vendors with 50 or more employees and $50,000 or more in government contracts must prepare a written "Affirmative Action Plan" prior to issuance of a purchase order.

a. For these purposes, equal opportunity shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, and rates of pay or other forms of compensation.

b. Vendors further agree, where applicable, to complete the "Contract Compliance Report" (http://odeo.ri.gov/documents/odeo-eeo-contract-compliance-report.pdf), as well as the "Certificate of Compliance" (http://odeo.ri.gov/documents/odeo-eeo-certificate-of-compliance.pdf), and submit both documents, along with their Affirmative Action Plan or an Affirmative Action Policy Statement, prior to issuance of a purchase order. For public works projects vendors and all subcontractors must submit a "Monthly Utilization Report" (http://odeo.ri.gov/documents/monthly-employment-utilization-report-form.xlsx) to the ODEO/State Equal Opportunity Office, which identifies the workforce actually utilized on the project.

11. In accordance with R. I. Gen. Laws § 7-1.2-1401 no foreign corporation has the right to transact business in Rhode Island until it has procured a certificate of authority so to do from the Secretary of State. This is a requirement only of the successful vendor(s). For further information, contact the Secretary of State at (401-222-3040).

12. Bid Surety Bond – Vendors responding to this RFP must furnish, with their bid proposals, a bid bond from a surety licensed to conduct business in the State of Rhode Island in the amount of five (5%) percent of the vendor's cost proposal. An attorney-in-fact who executes a bond on behalf of the surety must provide a certified current copy of the power of attorney. A successful vendor who fails to submit the additional documentation required by the tentative letter of award and/or fails to commence and pursue the work in accordance with the contract awarded pursuant to this solicitation may forfeit, at the discretion of the State Purchasing Agent, the full amount of the bid surety as liquidated damages. The State will retain the bid surety of all vendors until the earliest of: (i) the issuance of the Purchase Order; (ii) the 61st day following the proposal submission deadline; or (iii) the rejection of all proposals

13. Payment and Performance Bond - The successful vendor must furnish a 100% payment and performance bond from a surety licensed to conduct business in the State of Rhode Island upon the tentative award of the contract pursuant to this solicitation

Section 3. Base Technical Concept

3.1. General Description of Base Technical Concept

The BTC includes but is not limited to: partial bridge demolition, bridge rehabilitation, bridge construction, roadway construction and reconstruction, retaining wall construction, drainage construction, landscaping construction, temporary and permanent utility relocation, handling and disposing of contaminated materials, and modification to and installation of traffic signals. The major features of the BTC design are as follows:

1. Construction of a new off-ramp from I-195 Westbound to Waterfront Drive.
2. Construction of a new bridge structure to carry traffic from the Taunton Avenue and Veterans Memorial Parkway on-ramps over the new off-ramp to Waterfront Drive. This will be RIDOT bridge number 126701 – Waterfront Drive off-ramp bridge.
3. Rehabilitation of the Washington Bridge No. 700 structure which carries I-195 westbound over the Seekonk River and local roadways. Work includes but is not limited to joint replacement, joint elimination, installation of link slabs, bridge rail replacement, partial and full depth bridge deck repairs, steel repairs, replacement of steel diaphragms, painting of steel, concrete superstructure and substructure repairs and jacking of girders to facilitate said repairs, beam strengthening (FRP), installation of deck-over-backwalls, replacement of sub-pavement drains and installation of waterproof membrane, repaving and restriping, concrete spandrel wall repairs, crack repair and sealing, pier strengthening (FRP), relocation of historically significant bridge pylon, modifications to and potential replacement of manholes, cleaning of drainage systems, concrete sealing and coating, rehabilitation of overhead sign supports and highway lighting, removal of contaminated debris (pigeon guano), installation of protective screening, and partial widening of spans 1 thru 4 to provide 5 continuous lanes of I-195 westbound traffic over the bridge. This partial widening will require the construction of new substructure units, including one in the Seekonk River.
4. Construction of a new bridge structure to carry traffic from Gano Street onto I-195 Westbound. This will be RIDOT bridge number 126601 – Gano St. on-ramp bridge.
5. Construction of new retaining walls to support the embankments around the two new bridge structures (126601 & 126701) and the new off-ramp to Waterfront Drive.
6. Construction of stormwater BMPs to meet permitting agency approvals.
7. Restriping of I-195 westbound from the Broadway overpass to the new Waterfront Drive off-ramp to allow four (4) lanes of through traffic on the mainline.

The documents submitted by a Proposer must be based on the BTC. Those documents shall include, but not be limited to, the preliminary design of all roadways, bridges, retaining walls, temporary structures, traffic management, drainage, lighting, utilities, landscape features, and other construction identified or described in the BTC, or required to construct the BTC. Preliminary calculations used by the Proposer in the development of a Technical Proposal based on the BTC shall be submitted as an appendix to the Proposal. All Proposals must incorporate the BTC without any exceptions to or deviations from the BTC and/or the requirements of the RFP.

Following award of the Contract, the BTC, any other Proposal presented and accepted, and any commitment made in a Proposer's Proposal will become Contractual obligations of the Proposer if it should obtain the Contract.

3.2. Technical Review Group

The State has established a Technical Review Group, consisting of RIDOT and/or RIDOA personnel responsible for evaluating and scoring the Technical Proposals by applying to them the relevant criteria set forth in this RFP. The Technical Review Group will be responsible, at the least, for reviewing Technical Proposals and determining a quantitative score for each Technical Proposal by applying to it said relevant criteria.

3.3. Technical Support Group(s)

The State may establish a Technical Support Group(s) for the Project procurement process. The group will consist of RIDOT personnel as well as the State's technical consultant. This Group(s) will provide technical assistance and recommendations to the Technical Review Group during the procurement process, if asked to do so by the State. This group will not be used to score technical proposals.

Section 4. Submission and Treatment of Proposals (Technical and Price Proposals)

4.1. General Format of Proposals

The Proposal, comprised of the separately sealed Technical Proposal and the Price Proposal, must contain sufficient substance and clarity to give the State a clear and ample understanding of the Proposer's qualifications, capabilities and resources and of the Proposal's particulars and potential benefits for the State. The Technical Proposal shall consist of text, drawings, graphs, photographs and tables, as required below or as needed in order to describe clearly the Proposer's intended approach to designing and constructing the Project. The Price Proposal shall consist of the Proposer's total price for designing and constructing the complete Project. Particular requirements for the form and contents of Technical and Price Proposals are set forth in Chapters 6 and 7 of this RFP, respectively.

The Proposal must be submitted in one submission containing separately sealed technical and price proposals. Both hard copy and electronic form (.PDF format) shall be submitted and marked accordingly. Each hard copy should be bound or held together in a secure and sequential fashion. On the outside of that container, the Proposer must print the following information, in letters and digits large and dark enough to be read easily:

PROPOSAL
Bid# 7603776
I-195 Washington North Phase 2
Providence/East Providence, Rhode Island
"Proposer Name"

The Proposer shall submit five (5) printed copies and five (5) digital copies of the Technical Proposal and the required submittals included in Appendix "A". The Bid Bond shall be submitted in a separate envelope marked:

BID BOND
Bid# 7603776
I-195 Washington North Phase 2
Providence/East Providence, Rhode Island
"Proposer Name"

The Proposer shall also submit an original and five (5) separately sealed hard copies and two (2) digital copies of the Price Proposal in a separate sealed envelope, sealed box, or other container. On the outside of that container holding of the Price Proposal, the Proposer must print the following information, in letters and digits large and dark enough to be read easily:

PRICE PROPOSAL
Bid# 7603776
I-195 Washington North Phase 2
Providence/East Providence, Rhode Island
"Proposer Name"

All Proposals must be accompanied by an original and one (1) copies of a signed Transmittal Letter. Said letter must be signed by an official authorized to legally bind the Proposer. The original letter shall be marked "ORIGINAL" and shall be placed inside the outermost container holding the smaller containers which hold, in turn, the copies of the Transmittal Letter with each copy of Technical Proposal, Bid Bond, and the copies of the Price Proposal. These copies and the separate envelopes or containers holding, respectively, (1) the copies of the Transmittal Letter and Technical Proposal, (2) the Bid Bond, and (3) copies of the Price Proposal and the required submittals, shall then be placed inside this outermost sealed envelope, box or other container. On that larger, outer container, the Proposer must print the following information, in letters and digits large, clear and dark enough to be read easily:

Bid# 7603776
I-195 Washington North Phase 2
Providence/East Providence, Rhode Island

"Proposer Name"

Any information or other material within a Proposal that the Proposer deems proprietary or otherwise confidential shall be handled as described in Section 4.3 hereof.

Proposers shall provide in their Proposals all information and materials required by or requested by the State pursuant to the terms of the RFP. The State may reject as nonresponsive any Proposal that does not provide all such information and materials.

4.2. Time, Place, and Method of Proposal Submissions

Proposals satisfying all of the requirements of this RFP in form and content must be submitted by the Proposer and received by the State no later than the Proposal Deadline stated below in this Section.

Proposals must be delivered to the State Department of Administration, Division of Purchases, 1 Capitol Hill, Providence, Rhode Island, 02908. Responses misdirected to other State locations, or which otherwise are not received by the State Division of Purchases by the established due date and time for any cause will be determined to be late and will not be considered. The official clock for the purpose of registering the arrival of a document is in the reception area of the Department of Administration, Division of Purchases, Providence, Rhode Island. The State shall reject without further consideration any Proposal that it receives after the Proposal Deadline.

The State also shall not be deemed responsible or liable for mislabeled Proposals. Any and all damage that may occur to the Proposal submission due to mishandling in the delivery of the Proposal to the State shall be the Proposer's responsibility, and the Proposer shall not be allowed to rectify, repair or replace any portion of the Proposal that is lost, erased, or damaged due to such mishandling.

The Proposal submission deadline is **June 12, 2020 at 11:30am.**

4.3. Confidentiality of Proposals; Legal Disclosure Requirements

Proposers are advised that all materials submitted to the State for consideration, will be considered to be public records as defined by RI General Laws 38-2, without exception, and will be released for inspection immediately upon request once an award is made.

4.4. Compensation (Stipends) for Proposal Preparation

The State will award two (2) stipends in the amount of $150,000 each, to the top two (2) scoring Proposers that do not obtain the Contract, but have submitted a responsive Technical Proposal and Price Proposal that conform to the requirements of the RFP, as determined solely by the State, subject to the terms and provisions of the Stipend Agreement in the form provided in Appendix A of Part 1 of this RFP.

To be eligible to receive such a stipend, the Proposer must execute the Stipend Agreement, enclose it with its Price Proposal in the manner required by this RFP, and submit the Price Proposal by the Proposal Deadline. No exceptions to this provision will be made. If the Proposer does not wish to be subject to the terms and conditions of the Stipend Agreement, it may decline the stipend.

If the Proposer is offered and accepts a stipend from the State for the development of the Technical Proposal, the State reserves the right to disclose the contents of any innovative ideas used therein in response to any request related to it that may be made following the award of the Contract under the provisions of the Rhode Island Access to Public Records Act or federal Freedom of Information Act. If the Contract should be re-advertised for some reason, the State will protect the confidentiality of the innovative idea materials and content until the Contract has been awarded and executed.

If the State does not offer a stipend to Proposers for their Project-related preliminary design work, the innovative ideas within the Technical Proposal(s) will be considered the intellectual property of the Proposer, and the State will deem them confidential and exempt from public disclosure under the provisions of the Rhode Island Access to Public Records Act. The State would, nonetheless, have to comply in that regard with any contrary decision under the Rhode

Island Access to Public Records Act or any courts or any other governmental agency having superior authority over such matters.

4.5. Withdrawal of Proposals

A Proposer may withdraw its Proposal from State consideration at any time prior to the Proposal Deadline, by sending its request to do so in a letter signed by a duly-authorized representative of the Proposer to the State Purchasing Agent. Such withdrawal will not prejudice the right of a Proposer to file a new Proposal for the D-B Project, provided that it is received by the State Contact Person before the Proposal Deadline. No Proposal may be withdrawn at or after the Proposal Deadline.

Section 5. Escrowed Proposal Documents

5.1. Purpose and Scope of Escrowed Proposal Documents

The main purpose of this Chapter is to preserve documents related to the selected Proposer's Proposal for possible later use in resolving any claims, extra work orders, or litigation between the State and the Contractor that may arise out of the Contract or its performance. This provision is intended to create a spirit of cooperation and an atmosphere of transparency between the State and the Contractor with respect to pricing matters and Contract disputes.

The preparation, delivery and escrowing of the required escrow bid documentation shall be in accordance with Section 103.8 of Part 3 of the RFP, as updated and amended by the Special Provision “103.8 Escrow of Bid Documentation” provided in Appendix B.01 of Part 2 of the RFP, and this section. The phrase “Bid Documentation” used in Section 103.8 shall mean any and all estimate calculations, quantity take-offs, material or subcontractor quotations, design assumptions, design constraints, or other pricing information used by the Proposer in order to estimate the cost of each detailed component of the Project work for purposes of formulating its Price Proposal.

The Price Documents need not include documents provided or created by the State.

5.2. Format and Content of Escrow Documents

The Proposer may submit Escrow Documents in its usual cost estimation format, provided that all information contained therein is legible, clearly presented, and plainly comprehensible. It is not the purpose of this provision to cause the Proposer extra work during the preparation of the Price Proposal, but to ensure that the Escrow Documents will be adequate to enable State personnel to understand them completely and interpret them properly if it should be necessary to consult them in order to make use of them in the intended ways described above. The Escrow Documents may also be provided on CD-ROMs or DVD-ROMs, provided that a printed hardcopy of the Documents is also submitted with the disc(s). The Documents must include an index that describes in a general fashion the organization of the documents that have been included. Documents need to be grouped in a reasonable way so that the cost data and supporting information are readily available to any State representative.

5.3. Submission by Proposer of Escrow Documents

The State will choose an escrow agent (the "Escrow Agent") with which the Proposer and the State will meet to deposit the Escrow Documents. In the event that the selected Escrow Agent resigns or goes out of business, the State will select another Escrow Agent that meets the requirements of the previous Agent and afford the Contractor an opportunity to be present when the transfer of the Escrow Documents to the new Escrow Agent takes place. The Documents must be placed in escrow prior to execution of the Contract.

The State may assign a specific State Department to serve as the escrow agent. The State will inform the Proposer of the proposed agent prior to submission of the documents.

5.4. Confidentiality of Escrow Documents

The State will prevent the disclosure of the contents of the Escrow Documents to third parties to the extent that it may practicably and legally do so.

5.5. Payment of Costs for Gathering and Preparation of Escrow Documents

Refer to Section 103.8 of Part 3 of the RFP as amended.

5.6. Period for Which Documents Will Remain in Escrow

Refer to Section 103.8 of Part 3 of the RFP.

5.7. Restrictions on Examination and Copying of Escrow Documents

Refer to Section 103.8 of Part 3 of the RFP as amended.

5.8. Termination of Escrow and Final Disposition of Documents

The State will promptly authorize the return of the Escrow Documents to the Contractor by the Escrow Agent when all of the following have occurred: the Contract work (including all extra and remedial work) has been completed; all disputes with or claims against or by the State under the Contract or regarding the Project have been finally and conclusively resolved or legally barred; or, if no such disputes or claims exist, final payment to the Contractor under the Contract has been made and accepted. If these events occur, or if the State exercises its option to not execute the Contract, then the State will give the Escrow Agent a letter of instruction directing the immediate return of the Escrow Documents to the Proposer.

Section 6. Form and Content of Technical Proposals

6.1. Technical Proposal Contents

Technical Proposals shall contain concise written material and drawings to enable clear understanding and evaluation of both the capabilities of the Proposer and the characteristics and benefits of the Proposal. To assist Proposers in preparing the Technical Proposals, the required contents are listed below. The Technical Proposal contents shall be organized in the order listed below and shall be clearly indexed. Each component shall be clearly titled and identified. To facilitate review of the Proposals, Proposers shall follow the same order as set forth herein and provide a cross-referenced table or other means of easily identifying the specific sections which must be reviewed in order to verify a particular RFP requirement is met. Technical Proposals shall contain the following major sections:

1. Executive Summary
2. Relevant Firm Experience and References
3. Key Staff and Team Organization
4. Comprehensive Technical Approach
5. Proposal Preliminary Project Schedule
6. Management Overview
7. Required Forms & Documents

The Executive Summary should provide information to understand the basic substance of the Proposal. The technical approach submission should include preliminary design plans, preliminary specifications, technical reports and calculations to support the information presented. The Management Overview shall describe the organizational structure of the Proposer including: roles and responsibilities, reporting relationships, and a description of the manner in which the Proposer intends to integrate the required project oversight tools into the overall management plan and strategy. The Proposal Preliminary Project Schedule shall demonstrate the Proposer's ability to deliver the project within the allowable timeframes. The Technical Proposal requirements are defined more fully in Sections 6.3 through 6.11 below.

6.2. Physical Format of Technical Proposal

The Technical Proposal shall employ the following physical format:

1. The Technical Proposal shall be no longer than one hundred (100) pages (fifty [50] double-sided sheets). All portions of the Proposal must be formatted single-spaced with line spacing at exactly 14 point, in Arial 11-point font, on 8 ½ by 11-inch sheets of paper with top, bottom, right and left margins of at least one inch. 11x17 inch sheet may be used for the proposal with each page counting as two 8 ½ x 11-inch sheets. All drawings and other graphics in the Proposal must be formatted to 11 by 17-inch sheets of paper or other appropriate material, as necessary.
2. The textual portions, drawings and other graphic material of the Technical Proposal shall be formatted as specified in Section 4.1 hereof, with the additional requirements of this section.
3. Drawings and other graphic materials, including photos and renderings, shall be included in the Technical Proposal Appendix. Technical reports shall also be included in the Technical Proposal Appendix.
4. Any inserts or cover pages at the start of sections **will** not count toward the total page limit.
5. The Technical Proposal Appendix shall not count toward this page limit. The Proposal Preliminary Project Schedule (see below) may also be included in the Appendix.

6. The Transmittal Letter and other required documents whose forms are provided in Appendices of this RFP also will not count toward that page limit. The Required Forms & Documents listed above shall be included in the Technical Proposal Appendix. The Original RFP & All Addenda listed above shall be included on CD-ROM or DVD-ROM.
7. Each page of the Technical Proposal shall be numbered with the page's number and an indication of the total number of pages in the Technical Proposal (e.g., 5/28 or 5 of 28).
8. The Technical Proposal Appendix shall be limited to material requested in this RFP. It shall be accompanied by an index describing the information therein.
9. A digital copy of the Technical Proposal shall be placed on a CD-ROM or DVD-ROM, and the Proposal's content (including any appendix) shall be rendered in PDF files.

6.3. Required Transmittal Letter

The Technical Proposal shall be accompanied by a Proposal Letter (FORM A) (referenced in Section 6.11 and Section 7.1 below) signed by an individual authorized to bind the Proposer contractually. The Transmittal Letter shall state, among other things, that the Technical Proposal shall remain valid beyond the Proposal Deadline until the Contract is fully executed, or until the Contract is withdrawn and the Project cancelled by the State, whichever occurs first. The Transmittal Letter shall also state the name, title, address, email address, and telephone number of one individual who will respond to State requests for additional information, and, also, of one individual who is authorized to negotiate and execute the Contract on the Proposer’s behalf.

6.4. Executive Summary

The Proposer shall submit, as Section 1 of the Technical Proposal, an Executive Summary written in non-technical style and containing sufficient information for reviewers with a non-technical background to understand the basic substance of the Proposal and to judge whether or not it satisfies the general requirements of the Project. The Executive Summary shall not exceed two (2) double-sided pages and shall follow the format stated in Section 6.2 above.

The Executive Summary shall not include any pricing information and shall, at a minimum, include the following:

1. An identification of the Proposer's key Project personnel and a description of the management structure that the Proposer would use in the management, decision-making and day-to-day operations regarding the Project;
2. A summary of the design and technical approach(es) that the Proposer would employ for the Project in the implementation of the BTC, and in any respects in which they may be different from what is called for by the BTC;
3. A description of any aspects of the Technical Proposal to which the Proposer believes that the State ought to pay particular attention in evaluating the Proposal, because they are original or creative, or likely to be misconstrued or overlooked, or likely to result in significant benefit to the State, or noteworthy in some other regard;
4. If the Proposer is a Joint Venture, the Proposer must clearly identify in the Executive Summary which major parts of the work each member of the joint venture will be responsible for (*i.e.*, engineering, quality control, geotechnical, construction, etc.).

6.5. Relevant Firm Experience and References

The Proposer shall provide, as Section 2 of the Technical Proposal, a description of each DB Entity Member’s experience, particularly with respect to experience similar to this Project with a particular focus on the ability to deliver such on time and on budget. Identify and describe a maximum of 10 relevant projects (limited to one [1] page) with a

minimum construction value of $20 million or more completed in the past ten (10) years which demonstrate adequate experience in the following:

- Design-Build experience on bridge and highway projects;
- Bridge and highway projects performed for RIDOT;
- Construction using Prefabricated Bridge Components;
- Maintenance and Protection of Traffic on divided highways of comparable scale to this project;
- Relevant and verifiable evidence of good performance or lessons learned from previous projects and how these will benefit this project.

For each project, provide project name, owner's name, address, principal contact with current phone number and email address, dates of design/construction, construction value and description of the work involved.

6.6. Key Staff and Team Organization

The Proposer shall provide, as Section 3 of the Technical Proposal, an overview of proposed project staffing and furnish an organizational chart showing the "chain of command" and identifying major functions to be performed and their reporting relationships in managing, designing and constructing the project. Additionally, furnish a narrative describing the functional relationships among participants listed on the organizational chart.

At a minimum, the following key personnel performing the functions described below shall be identified and summary resumes provided. These personnel can be replaced following award, but any replacement, at the time they are assigned to the role, shall meet all the qualifications included herein and must be approved by RIDOT prior to the change taking place.

- **Design-Build Project Manager** – This individual shall be responsible for the overall Project design, construction, quality management and contract administration for the Project. Provide relevant licensing, registration(s), certification(s) and training for this individual.

- **Quality Control Administrator** – This individual shall be responsible for the overall QC system as established by the DB Entity's Quality Control Plan. The QC Administrator shall be a registered, licensed, Professional Engineer in the State of Rhode Island. The QC Administrator shall work directly with the Design and Construction QC Managers to ensure that all required QC procedures are being adhered to. The quality of the design and quality of all materials and construction workmanship is the responsibility of the QC Administrator. The QC Administrator shall coordinate all QC issues directly with RIDOT.

- **Design Manager** – This individual shall be responsible for coordinating the individual design disciplines and ensuring the overall Project design is in conformance with the Contract Documents and applicable design standards. <u>This individual must be a registered, licensed, Professional Engineer in the State of Rhode Island.</u>

- **Structural Lead** – This individual shall be responsible for the structural design including all structural calculations, bridge drawings and associated specifications. This person is also responsible for QC of the structural work. This individual shall have a minimum of 10 years of bridge design experience and be able to demonstrate knowledge of RIDOT policies and procedures. <u>This individual must be a registered, licensed, Professional Engineer in the State of Rhode Island.</u>

- **Civil/Highway Lead** – This individual shall be responsible for the civil/highway design including all highway calculations, civil plans and associated specifications. This person is also responsible for QC of the civil work. This individual shall have a minimum of 10 years of civil design experience and be able to demonstrate knowledge of RIDOT policies and procedures. <u>This individual must be a registered, licensed, Professional Engineer in the State of Rhode Island.</u>

- **Traffic Lead –** This individual shall be responsible for the development of maintenance and protection of traffic plans and specifications as well as any associated design calculations. This person is also responsible for QC of the traffic work. This individual shall have a minimum of 10 years of traffic design experience and be able to demonstrate knowledge of RIDOT policies and procedures. This individual must be a registered, licensed, Professional Engineer in the State of Rhode Island.

- **Design Quality Control Manager –** This individual shall be responsible for implementing all of the design quality control procedures and activities required by the DB-Team's Quality Control Plan. This includes overseeing the QC program for all pertinent disciplines involved in the design of the Project, including, review of design, working plans, specifications, and constructability for the Project. This individual shall report all design related findings to the Quality Control Administrator.

- **Construction Manager** – This individual, who shall be required to be on the Project site for the duration of construction operations, shall be responsible for managing the construction process including all Quality Control ("QC") activities to ensure that the materials used and work performed meet the contract requirements and are in accordance with the "approved for construction" plans and specifications. Provide relevant licensing, registration(s), certification(s) and training for this individual.

- **Construction Quality Control Manager** – This individual shall be responsible for implementation of all Construction QC procedures and activities as established by the DB-Team's Quality Control Plan. This individual must: 1) possess a B.S. degree in Civil Engineering; 2) have a minimum of FIVE (5) YEARS of direct oversight of materials sampling and testing activities; this individual must be on the project site on an as-needed basis to perform periodic inspections and formal QC checks throughout the construction operations period. This individual shall report all construction related findings to the Quality Control Administrator.

- **Construction Superintendent** – This individual shall be responsible for managing the day to day on-site activities, adhering to the project schedule, labor/equipment/material coordination for all operations, on-site subcontractor coordination and quality control.

- **Safety Manager** - This individual shall be in charge of developing a project safety plan for the Project, both inside and outside of the construction area including maintenance and protection of traffic traveling through and adjacent to the construction area. This individual must have a minimum of FIVE (5) YEARS experience in direct charge of project safety.

- **Scheduler** – This individual shall be in charge of developing a schedule for the project, monitoring milestones and ensuring that the project stays "on" or "ahead of" schedule. This individual must have a minimum of FIVE (5) YEARS experience in direct charge of schedule development, at least THREE (3) YEARS of which included design-build projects.

- **Environmental Manager** - This individual shall be responsible for ensuring compliance with any and all State and Federal environmental regulations, laws, commitments, requirements, permits, approvals and mitigation strategies during design and construction. This shall be inclusive of required inspections and reporting and coordination with the RIDOT Natural Resources Unit. This individual shall have experience working in the glaciated northeast, meet the requirements of a Wetland Professional in accordance with the RI Department of Environmental Managements Freshwater Wetlands Rules and Regulations (Rule 7.06). This individual shall have sufficient scientific experience regarding natural systems, wetland delineation, sediment and erosion control best management practices and features. It should be noted that certain permits require monitoring by qualified professionals; such qualifications may be subject to regulatory agency approval based on education and experience of individual.

The Environmental Manager shall also be responsible for coordination with the RIDOT Cultural Resources Unit (CRU) to ensure the PROJECT's compliance with all State and Federal Cultural Resource laws, regulations and procedures throughout the entire design/build process. This individual must be familiar with all stipulations that result from the cultural resource review process and ensure that all design changes arising after RI Historical Preservation & Heritage Commission approval of final design plans are coordinated through the CRU. In addition, this individual shall be responsible for coordinating the review of all required samples, shop drawings, etc. with the CRU.

The DB Entity may propose dual roles. However, quality control activities shall not be performed by personnel that are responsible for actual design/construction production.

Organizational Chart: Furnish an organizational chart showing the "chain of command" and identifying major functions to be performed and their reporting relationships in managing, designing and constructing the Project. Additionally, furnish a narrative describing the functional relationships among participants listed on the organizational chart (LIMITED TO ONE (1) PAGE).

The Proposer shall provide an affirmative statement that the resources shown or indicated in the Proposal will be available if awarded the Contract. The Proposer shall discuss the current backlog of the Primary Members and their capacity to perform the Project to achieve the Completion Date listed in Section 2.3.

The Proposer shall also explain the differing work locations, where key personnel will be located while working on this project, address how the coordination between the various Members and Subcontractors will be managed and explain how the engineering process will be integrated with the construction process.

6.7. Technical Approach

Section 4 of the Technical Proposal (the "Technical Approach") shall use the BTC as the basis for setting forth the technical approach(es) that the Proposer intends to use in order to complete the Project design and construct the Project.

The Technical Approach Section shall identify the quality and expected useful life of each of the facilities to be designed and constructed as part of the Project, and it shall identify the performance criteria by which each Project facility or component should be evaluated. Proposers are advised that the minimum service life for any proposed new bridges is expected to be seventy-five (75) years and the minimum service life for any proposed rehabilitated bridges is expected to be twenty-five (25) years. Design shall be in accordance with the specifications and criteria given in Part 2 – Technical Provisions.

The Proposer must include detailed information on the incorporation of any proposed modifications to the BTC's and its effect on items listed below.

The Technical Approach shall also include the following (meeting the requirements outlined in RFP Part 2):

1. <u>Highway/Traffic/Staging</u>
    a. General requirements that the Proposer anticipates would have to be met for intersection and roadway design and construction, including limits of work transitions.
    b. Plans for design, implementation, and monitoring of temporary traffic controls, including lane closures and detours and ways to efficiently use State and Municipal Police officers for traffic management during lane closure and detour periods for the duration of the project.
    c. Proposed Traffic Management Plan (TMP) approach and overview. Provide a DRAFT TMP including a detailed explanation of phases and closures with proposed mitigation to offset the impacts. The TMP shall include General Restrictions Charts in accordance with RIDOT TMP requirements for any temporary traffic phasing or final lane and configurations shown in the BTC and/or the Proposer's concept plans along with the appropriate VISSIM models, and Synchro analysis based on current traffic volumes.

The total duration of each proposed ramp closure (existing Gano St on-ramp, Gano St off-ramp, Taunton Ave on-ramp, and Vets Memorial Pkwy on-ramp) shall be clearly identified in the TMP and in the Schedule. Minimization and/or elimination of ramp closure durations will be scored more advantageously.

d. The Proposer's concept plans, including plans, elevations, proposed pedestrian facility improvements, traffic mitigation initiatives and typical sections may be included in the Technical Proposal Appendix for reference in the Technical Approach.

e. Description of the planned coordination of Project work with the overall Project construction staging and other Project constraints including coordination with the toll gantry installation project.

2. Bridge, Retaining Walls, and Other Structures

a. Approach to design and construction of the bridges and retaining walls shown in the BTC, and as required to support the roadway construction, with descriptions of any proposed bridge types, lengths, or heights.

b. Approach to design and construction of the bridges and for the partial bridge demolitions, with descriptions of the intended structure types, deck joint types and locations, and bearing systems.

c. Descriptions of accelerated bridge techniques to be used.

d. Description of the measures that will be taken in order to achieve a minimum seventy-five-year (75) service life for new bridge structures and a minimum twenty-five-year (25) service life for rehabilitated bridge structures.

e. Description of the planned coordination of Project work with the overall Project construction staging and other Project constraints including coordination with the toll gantry installation project.

f. The Proposer's concept plans, including plans, elevations, and typical sections may be included in the Technical Proposal Appendix for reference in the Technical Approach.

g. A geotechnical design plan and approach for the foundation types for all structures.

h. Materials plans for key elements (*e.g.*, specialized concrete for closure pours).

3. Schedule

a. Reference Section 6.8 below.

b. The total duration of each proposed ramp closure (Gano St off-ramp, Taunton Ave on-ramp, and Vets Memorial Pkwy on-ramp) shall be clearly identified in the TMP and in the Schedule. Shorter ramp closure durations will be scored more advantageously.

4. Environmental Controls and Approvals

a. Measures to be taken in order to ensure compliance with environmental laws, permits, and approvals.

b. Measures to be taken in order to control erosion, dust and to maintain allowable levels of noise.

c. Permanent erosion and sediment control measures to be taken that would remain in place after the Project has been constructed.

d. A description of potential sources of pollution and of measures that would be taken in order to reduce erosion, to minimize sedimentation, and to eliminate non-stormwater pollutants from the Site.

e. A description of potential plans or actions with the State and other measures for mitigating cost and Project delay or disruption if unknown subsurface contamination is encountered on the Project.

f. Description of the planned coordination of Project work with the overall Project construction staging and other Project constraints including coordination with the toll gantry installation project.

5. Innovation

   a. The Proposer shall identify areas in the design, other than those specified in RFP Part 2 Technical Provisions in which the use of alternative and innovative construction methods would result in time and/or cost savings, improved level of service, reduction in life-cycle cost, and quality changes beneficial to the State.

   b. The Proposer shall identify potential material substitutions that would result in a higher quality end product, including adequate justification that the proposed substitution is a higher quality end product.

   c. Description of the planned coordination of Project work with the overall Project construction staging and other Project constraints including coordination with the toll gantry installation project

6.8. Proposal Preliminary Project Schedule

In Section 5 of the Technical Proposal, the DB Team shall provide a Proposal Schedule. The Proposal Schedule shall be developed in accordance with the requirements detailed in Part 2 Section 8 PROJECT SCHEDULE REQUIREMENTS. RIDOT standard durations for reviews and minimum durations for third party work are defined in Section 8 and shall be used in the Proposal Schedule.

The Proposal Schedule shall meet the allowable timeframes specified in this RFP. If the DB Team submits a Proposal Schedule showing early completion of any date or duration stipulated in the RFP as part of its Technical Proposal, and the DB Team is awarded the Contract, the Contract terms shall be adjusted to incorporate the early dates/durations, and the State's Notice of Award letter to the DB Entity will reflect the new dates/durations submitted in the Technical Proposal. The adjusted dates/durations shall be incorporated into all pertinent sections of the Contract.

Submission of the Proposal Schedule does not constitute a request by the DB Team to increase the number of early release construction packages or revise any Contract requirements.

6.9. Management Overview

Section 6 of the Technical Proposal (the "Management Overview") shall describe the Proposer's management approach and its plan for Design-Build construction, both in general and for this particular Project. This section should make plain the Proposer's plan and capacity for controlling and coordinating the various subcontractors and other forces and resources on the Project. It should also explain how the Proposer plans to deal with the State and other federal, State, municipal and utility agencies, in a productive manner and with respect to particular aspects or potential problems on the Project. The Proposer shall also describe its approach for controlling in an optimal fashion the schedule and costs of the Project, as well as complying with applicable laws that may present difficulties or problems, or that are likely to have a substantial effect on the progress or costs of the Project. The Proposer must also explain the Proposer's plans for assigning identified personnel with relevant experience and knowledge, as well as critical equipment and other resources, to the tasks that are key to the success of the Project.

The Management Overview shall include, more specifically:

1. Administration and Coordination

   The Management Overview shall include a section describing the Proposer's intended plan for managing approvals from the State, from design, to construction, to potential issues and progress updates in the way of briefings, meetings and other acceptable methods. This section shall also address coordination with nearby construction projects, as well as neighboring communities and notification and coordination with local Police, Fire and Emergency agencies. It shall also outline the Proposer's plans and intended approach for providing information to the public regarding Project scope and progress, in order to inform project stakeholders during the design and construction of the Project.

2. Risk Management

The Management Overview shall include a section describing the Proposer's approach to risk management. The Proposer shall provide and explain its plans to identify possible risks that would adversely affect, whether in a major or minor way, the project progress, scope, schedule and or budget; and how it intends to mitigate these risks once identified. This section shall also outline the Proposer's intended plans for involving the State in the risk identification and mitigation processes and shall identified the potential owner of the risk.

3. Quality

The Management Overview shall describe the approach and methods and shall identify the personnel that the Proposer will employ in order to develop and implement a Quality Control ("QC") system and in order to create a Quality Management Plan ("QMP") and QC Plans for the Project, involving both Design QC ("Design QC") and Construction QC ("Construction QC"). This section of the Proposal shall include at least:

a. A description and chart of the organization and personnel that will be used to ensure QC on the Project as specified in the mandatory special provisions for "Quality Control Plans" and "Quality Management Plans" included in Appendix B.01.

b. A general, descriptive outline of the reports that will be produced and of the management of records procedures to be used for all QC documents and related records in achieving QC.

4. Design and Construction Management

The Management Overview shall contain a section that describes the Proposer's design and construction management organization and how it would relate and interact with the other elements of the Proposer's organization for the Project. Provide a brief narrative description of the proposed plan for designing and constructing the Project. This portion of the Proposal shall include at least:

a. An organization chart for the Project, showing the relationships between functions shown on the chart and functional relationships with subcontractors. The chart shall indicate how the Proposer intends to divide the Project into work segments in order to achieve optimum design and construction performance.

b. A description of the Proposer's intended plan to integrate the Design with the procurement and construction activities.

c. A description of the Proposer's plan, in terms of Project design, for balancing and coordinating stakeholder interests; structural and landscaping exigencies; concerns for utility operations and facilities; traffic, stormwater, and hazardous materials management; and requirements for the construction and maintenance of the Project.

d. A description of the Proposer's intended methods and procedures for resolving Project-related disputes with subcontractors, suppliers, or third parties.

e. A description of the Proposer's intended design program and process, including the internal process for design reviews. The description shall include the Proposer's plan for producing the design, including the internal process for design reviews to ensure design accuracy, including how designs developed by different firms and offices would be integrated and coordinated in order to ensure consistency and quality among them.

f. A description of the Proposer's intended safety and training program and of how it would be implemented.

g. A description of the Proposer's plan for maintenance of any waterways including water quality and minimizing environmental impacts including dust control areas in the vicinity of the Project during construction.

h. A description of how all contingency plans would be decided upon and implemented by the Proposer.

i. A sub-section on Project Controls that provides (i) an explanation of the Proposer's approach to quantity-estimating and how the Proposer intends to control its Project costs, how it would maximize and maintain quality, and how it would minimize its price adjustments for any Project changes ordered by the State; and (ii) a description of the Proposer's intended management system for controlling and coordinating the scheduling of the Project work, in both the short term and long term, as well for handling document control and change management. The Overview should also describe how the Proposer will integrate these functions into its proposed management structure and into its day-to-day Project activities.

j. A sub-section on Utilities Management which shall include at least:

   i. The intended approach and plan for coordinating utility work.

   ii. The intended approach and plan for dealing with third-party entities and for keeping utility owners informed of Project construction scheduling and changes that may affect their facilities, including:

      a) Problems that are likely to arise and to affect utility facilities or operations, and the planned approach for curing such problems.

      b) The Proposer's intended methods of design and construction for activities related to utility facilities' relocation and protection, and the role to be given to utility owners in planning and carrying out these activities.

      c) The Proposer's plan for design of a support system to keep all existing lighting and ITS/IMS conduits supported in place and active during Project construction.

   iii. Methods and schedule for verifying, locating, evaluating, and monitoring utilities prior to commencement of Project work; and for protecting utilities during the Project work.

   iv. A summary of the relocations required for each utility to be encountered, including the number of relocations required for each utility in order to complete the project using the Proposers' staging and sequence of construction.

   v. Description of the planned coordination of Project work with the overall Project construction staging and other Project constraints.

k. Description of the planned coordination of Project work with the overall Project construction staging and other Project constraints including coordination with the toll gantry installation project.

6.10. Bonding

In accordance with Rhode Island Code of Regulations 220-RICR-30-00-12, effective August 13, 2018 – the separately sealed TECHNICAL PROPOSAL will not be accepted or considered unless accompanied by a guaranty in the form of an original FIVE PERCENT (5%) BID BOND (**No Dollar Amount shall be stated**) made payable to the State of Rhode Island. Bid bonds must be provided by surety companies licensed and authorized to conduct business in the State of Rhode Island. All surety companies must be listed with the U.S. Department of the Treasury, Fiscal Service, Circular 570, (Latest Revision published by the Federal Register). The Bid Bond shall be submitted in a separate envelope marked "RFP# 7603776-BID BOND."

6.10.1. Defects in Bid Bonds

Any defect in a bid bond submitted with a Technical Proposal may result in the rejection of the related Technical Proposal. Any defect in the bid bond that the State deems to be material shall result in the automatic rejection of the entire Proposal. No such material defect may be cured once the Cost Proposal is opened.

6.11. Forms that Must Accompany the Technical Proposal

When a Proposer submits its Technical Proposal as per Sections 4.1 and 4.2 above, that Proposal shall be accompanied by the forms provided in Appendix A, completed as directed in the Schedule of Submission included therein.

All forms contained in Appendix A, including those establishing the legal authority of individuals signing such documents for the Proposer, not just the Transmittal Letter, must also be completed, executed and submitted in accordance with Table 2 & Submissions included in Appendix A. Failure to submit any of those forms, properly executed, may result in rejection of the Proposal by the State.

All Disadvantaged Business Enterprise (DBE) forms included in Appendix A, are to be submitted with the Technical Proposal for the "Design consultant qualifying work" goal. The defined cost of the DBE activity **shall not** be disclosed in the RFP Technical submission.

A W-9 Form must be completed and signed by an authorized agent of the Design Build Team. This form may be downloaded from: http://www.purchasing.ri.gov

All Proposers MUST register online at the RIVIP's Internet website at: http://www.purchasing.ri.gov

A fully completed, signed **RIVIP BIDDER CERTIFICATION COVER SHEET** – All three pages **MUST** accompany EACH response submitted. This document must be downloaded from the RIVIP website. Failure to make a complete submission inclusive of this three-page document may result in disqualification.

Proposals shall include complete responses to this RFP, with the properly completed forms and all required supporting documentation included. Failure to execute any required certification may result in a Proposer being deemed ineligible for award of the Contract. To assist Proposers in preparing the Technical Proposal, the required forms are listed in the table below.

Table 2: Required Forms for Technical Proposal (Required for D/B Contractor and not Designer)

Form	Form Designation	Form Location	ITP Section	Schedule of Submission
FHWA-1273 & FTA Federal Provision Clauses	NA	Appendix A	6.11	Provided For Reference
W-9			6.11	Technical Proposal
Bid Bond			6.10 & 9.10	Technical Proposal (submit at the same time as the Technical Proposal but in a separate envelope marked as such).
RIVIP Bidder Certification Cover Sheet			6.11	Technical Proposal
Proposal Letter	Form A	Appendix A	6.3	Technical & Price Proposal
Industrial Safety Record	Form B	Appendix A	6.11	Technical Proposal
Anti-Collusion Certificate for Contract and Force Account	Form C	Appendix A	9.3	Technical Proposal
Health and Safety Certification	Form D	Appendix A	6.11	Technical Proposal
Certification of Dumping Facilities	Form E	Appendix A	6.11	Technical Proposal
Right-to-Know Act Certification	Form F	Appendix A	6.11	Technical Proposal
Certification of Construction Equipment Standard Compliance	Form G	Appendix A	6.11	Technical Proposal
Guaranty Form	Form H	Appendix A	6.11	Technical Proposal
Buy America Certification	Form I	Appendix A	9.8	Technical Proposal
On-The-Job Training	Form J	Appendix A	6.15	Technical Proposal
DBE Utilization	Form K	Appendix A	6.14 & 9.12	Technical Proposal
DBE Letter of Intent to Perform	Form L	Appendix A		Technical Proposal
Escrow Agreement Form	Form M	Appendix A	Section 5	Technical Proposal
Cost Proposal Form	Form N	Appendix A		Technical Proposal
Design Build Stipend Agreement	Form O	Appendix A		Technical Proposal
Consultant Certifications, Disclosures, and Assurances	Form P	Appendix A		Technical Proposal

6.12. Prevailing Wage Rates

The Contractor must pay State and federal (29 CFR 5 Subpart B) prevailing wage rates for all on-site Project work and must comply with all related reporting and administrative requirements. Prevailing rates must be updated one year after the award of the Contract and each succeeding year after that until the completion of the Contract. Proposers are advised that no increase in Contract price will be granted because an updated prevailing rate proves to be higher than an earlier one for the same type of labor.

The Proposer is responsible for obtaining the current prevailing wage rates from the Rhode Island Department of Labor and Training website at: http://www.dlt.ri.gov/pw/

6.13. Federal Equal Employment Opportunity (EEO) Requirements

Requirements for EEO on this project include but are not limited to:

1. Nondiscrimination in Federal Public Transportation Programs: 41 CFR 60-4.3 prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
2. Prohibition against Employment Discrimination: Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246 "Equal Employment Opportunity", September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex or national origin.

6.14. DBE

Disadvantaged Business Enterprises (DBEs) shall be given the opportunity to participate in the performance of Design-Build contracts financed in whole or in part with federal funds.

This Project has been assigned a total of **TWELVE PERCENT** (12%) Disadvantaged Business Enterprise (DBE) participation goal for "construction qualifying work," and **TWELVE PERCENT** (12%) Disadvantaged Business Enterprise (DBE) participation goal for "consultant qualifying work" with Rhode Island certified firms during design and construction of the Project. DBE participation shall consist of concerted efforts by the Proposer as part of its affirmative action responsibilities to include DBE firms on Federal Aid transportation projects. Hereafter, DBE refers to businesses owned or controlled by socially and economically disadvantaged person(s) as certified by the RIDOA Office of Diversity, Equity and Opportunity (ODEO).

The goal should be accomplished by having DBE firms perform no less than the above stated goals as a percentage of the total work for the design and construction of the Project (other than work performed by the State, or by any consultant hired by the State, on the BTC). The goal percentage shall be calculated as the specified percentage by dollar value of work contained in the total Contract executed by the parties; that is, it will take into account work later added to the Contract by construction orders. Proposers are reminded that DBE participation to be counted toward the goal must be in the form of independent work and DBE firms must be certified by the RIDOA ODEO at the time that the Technical Proposal is submitted to the State.

The Proposer is required to complete the Schedule of Participation by Disadvantage Business Enterprise (DBE) Utilization FORM K for the Design Subconsultant qualifying work and provide complete DBE Letter(s) of Intent to Perform from each proposed DBE Design subconsultant along with a copy of the proposed Design subconsultant's current RI state certification letter(s) to be INCLUDED IN THE TECHNICAL PROPOSAL. DBE certifications must be approved at the time of the TECHNICAL proposal submission to ensure DBE compliance and availability. The DBE FORM K for "construction qualifying work" shall be submitted by the DB Entity 14-days prior to any construction activity. This also includes complete DBE Letter(s) of Intent to Perform for each proposed DBE subcontractor along with a copy of the proposed subcontractor's current RI state approved at such time.

A list of current Rhode Island State certified DBE firms may be obtained through the State's Disadvantaged Business Enterprise (DBE) Office website at www.odeo.ri.gov. Any questions should be directed to:

RIDOT Office of Business and Community Resources
Room 110, Two Capitol Hill
Providence, RI 02903
(401) 222-3260

DBE special provisions are included in RFP Part 3 – Terms and Conditions

6.15. Trainees

The Proposer must also provide a written statement in the RFP submission using Form J provided in Appendix A, by an authorized representative of the Proposer that the Proposer will develop and maintain a continuous on-the-job-training (OJT) program achieving the required Training hours. If the Proposer is selected for the PROJECT, they must possess a RIDOT approved OJT Program prior to award.

The total OJT trainee hours for this Project are established to be TWO THOUSAND SEVEN HUNDRED (2,700) Training Hours for OJT reimbursement. RFP documentation shall detail requirements for Trainee submission and review and payment.

6.16. Original RFP and Addenda

Proposers shall include with the TECHNICAL PROPOSAL written acknowledgement of the State's original RFP and all addenda.

Section 7. Form and Content of Price Proposals

Price Proposals shall be sealed in a separate envelope and held by the Division of Purchases until the Technical Evaluations are complete. The Technical Review Group will not have access to the Price Proposals during the evaluation of the Technical Proposals.

7.1. Forms that Must Accompany the Price Proposal

When a Proposer submits its Price Proposal as per Sections 4.1 and 4.2 above, that Proposal shall be accompanied by the forms provided in Appendix A, completed as directed in the Schedule of Submission included therein.

All forms contained in Appendix A, including those establishing the legal authority of individuals signing such documents for the Proposer, not just the Transmittal Letter, must also be completed, executed and submitted in accordance with the Schedule of Submissions included therein. Failure to submit any of those forms, properly executed, may result in rejection of the Proposal by the State. Failure to execute any required certification may result in a Proposer being deemed ineligible for award of the Contract. To assist Proposers in preparing the Price Proposal, the required forms are listed the table below.

Table 3: Price Proposal Required Forms

Forms	Form Designation	Form Location	ITP Section	Schedule of Submissions
Proposal Letter	Form A	Appendix A	6.3	Price & Technical Proposal
Price Proposal Form	Form N	Appendix A	7.3	Price Proposal
Bid Bond	-	-	6.10 & 9.10	Technical Proposal (submit at the same time as the Technical Proposal but in a separate envelope marked as such).

7.2. Payment Schedule

The Overall Contract Price will consist of a lump sum Design-Build price as well as other items as detailed in the RFP and listed in section 7.3 below and shown on the Price Proposal Form. Partial payments shall be derived from the lump sum price, a schedule of values and a Payment Request Form.

Part 2 of this RFP includes provisions for “Estimated Items.” The State has determined that the work shown in the BTC plans for these items have quantities that cannot be reasonably estimated prior to construction.

The sum of money shown on the Price Proposal Form as "Estimated Cost" for each of these Estimated items of work will be considered the bid price even though payment will be made as described in Part 2. The estimated cost figure is not to be altered in any manner by the Proposer. Should the Proposer alter the amount shown, the altered figures will be disregarded, and the original price will be used to determine the total amount for the contract.

7.3. Price Proposal Contents

The Price Proposal shall include:

1. The Lump Sum (L.S.) DB Price and the Estimated (EST.) items shall constitute the Proposal Price. This Price is to be the total amount that the State would pay for all work under the original Contract executed by the parties.
2. The breakdown of the Proposed Price is intended to assist the State in its evaluation of the price submitted. It will also be the starting point for the development of the schedule of values that will be used to cost load the Project schedule.

3. The Schedule of Value (S.V.) shown in Form N amounts shall be comprised of the sum of all the Minor Schedule of Value (m.s.v.) amounts shown below them.
4. In the event of a conflict between the DB Price (L.S.) and the total of the schedule of values (S.V.) amounts supplied, the Proposed DB Price shall take precedence.

Section 8. Selection Process and Evaluation Criteria

8.1. Weighted Criteria Algorithm

The selection of the Proposal deemed by the State to have the best value will be based in part on the results of applying the weighted criteria algorithm method to the Proposal. This method assigns a designated weight to each factor that the State deems to be a critical aspect of the Proposal and the Project. The individual weight factors will vary from project to project, depending on the State's assessment of the importance of each factor in the given project. The following is a general representation of the equations used to determine the best value:

Technical Score TS = $W_1S_1 + W_2S_2 + \ldots W_iS_i$

Where:

i = Qualitative Rating Factor (1, 2, 3,…i)

W_i = Weight Percentage for Factor i

S_i = Qualitative Rating Score for Factor i (on a scale of 1 to 100)

(**Note:** The highest technical score would be 100 points.)

Price Score = PS = W_p * (1-(B-LB)/LB)

Where:

W_p = Price Weight Factor

(Note: The Price Weight Factor for this project is set at 100)

B = Bid Value (Price Proposal)

LB = Low Bid Value (lowest Price Proposal)

(**Note:** The highest Price Score would be equal to the Price Weight Factor.)

Best Value = Largest Value of: TS + PS

8.2. Submission of Proposals to the Technical Review Group

Once a Technical Proposal has been found to be technically consistent with all RFP criteria, the Technical Proposal will be forwarded to the Technical Review Group for review and evaluation.

8.3. Initial Proposal Evaluation

The State will first determine whether or not the Technical Proposal meets the following criteria:

1. The Technical Proposal was submitted and organized in accordance with the requirements of this RFP.
2. The Transmittal Letter and other forms required to be submitted with the Technical Proposal were submitted with it and comply with the requirements of the RFP.

Proposers whose Proposals are not consistent with the RFP requirements may be deemed by the State to be ineligible for consideration for an award of the Contract.

8.4. Proposal Clarifications

The Technical Review Group shall determine if any clarifications of a Technical Proposal would be significantly helpful to the Group in understanding and evaluating the Technical Proposal, and whether or not such clarifications (for instance, where information provided is incomplete or ambiguous) should be sought from the Proposer. If the Technical Review Group decides to seek a clarification of a Technical Proposal, the State will request in writing from the Proposer, in accordance with the schedule and time constraints contained in this RFP, any such clarification(s) requested by the Technical Review Group. Clarifications requested at the oral interview should be confirmed in writing.

8.5. Numerical Scoring of the Technical Proposals by Designated Categories

Technical Review Group members will evaluate the components of the Technical Proposals by applying to them the pertinent criteria contained in this RFP and will submit the resulting scores to the Office of Contracts.

Each major category and subcategory (listed below within this Chapter) will be qualitatively evaluated by the Technical Review Group, which will assign it a numerical rating in accordance with the following guidelines:

1. **EXCEPTIONAL (10):** The Proposer has demonstrated qualifications and an approach to Project design or construction that significantly exceeds stated requirements and objectives of the RFP. That approach is of consistently outstanding quality. There is very little or no risk that this Proposer would fail to meet the requirements of the particular aspect of the Project work. There are essentially no weaknesses in the material provided regarding this item of the Technical Proposal.

2. **GOOD (8):** The Proposer has demonstrated qualifications and an approach to Project design or construction that exceeds stated requirements and objectives of the RFP. That approach is generally of better-than-acceptable quality. There is little risk that this Proposer would fail to meet the requirements of the particular aspect of the Project work. Weaknesses in the material provided regarding this item of the Technical Proposal, if any, are definitely minor.

3. **ACCEPTABLE (5):** The Proposer has demonstrated qualifications and an approach to Project design or construction that meets the stated requirements and objectives of the RFP. That approach is of acceptable quality. The Proposer demonstrates a reasonable probability of success in addressing this particular aspect of the Project. The material provided regarding this item of the Technical Proposal contains weaknesses, but they are minor and could readily be corrected.

4. **POOR (3):** The Proposer has demonstrated qualifications and an approach to Project design or construction that fails to meet stated requirements and objectives of the RFP with respect to the particular aspect of the Project. The material provided regarding this item of the Technical Proposal contains weaknesses or deficiencies, but they are susceptible to correction through oral presentations. The material provided is marginal in quality with respect to its basic content or the amount of information provided for evaluation. The Proposer should be capable of providing an acceptable or better response concerning this matter.

5. **UNACCEPTABLE (0):** The Proposer has demonstrated qualifications and an approach to Project design or construction that contains significant weaknesses or deficiencies and is unacceptable in quality. The material provided regarding this item of the Technical Proposal fails to meet the stated requirements and objectives of the RFP, lacking essential information, containing elements in conflict with each other, or suggesting that the Proposer's technical approach to the Project would likely prove unproductive. The Technical Proposal in this regard does not suggest that the Proposer, if awarded the Contract, would have a reasonable likelihood of success in treating this aspect of the Project. Weaknesses or deficiencies in the provided material are so significant or

extensive that a major revision of the Technical Proposal would be necessary with regard to this aspect of the Project.

The Group will use these guidelines in assigning numerical scores to their evaluations of the designated categories and subcategories listed in Section 8.6 below, making it possible then to apply the weighting factors enumerated in that section in order to arrive at a quantitative representation of the Group's judgment of each Technical Proposal.

8.6. Selection Criteria

The Technical Review Group will evaluate each Proposer's Technical Proposal and will score each Technical Proposal for all of the weighted categories (the "Selection Criteria") listed below:

1. Qualifications (20% of Technical Criteria)
    a. Firm Experience (10% of Technical Criteria)
    b. Staff Qualifications (10% of Technical Criteria)
2. Technical Approach (65% Of Technical Criteria)
    a. Highway/Traffic/Staging including impacts to Vehicular, Bicycle and Pedestrian Traffic (20% of Technical Criteria)
    b. Bridge, Retaining Walls, and other Structures (10% of Technical Criteria)
    c. Schedule (15% of Technical Criteria)
    d. Environmental Controls and Approvals (5% of Technical Criteria)
    e. Overall Innovation (15% of Technical Criteria)
3. Project Management (15% Of Technical Criteria)
    a. Administration, Project Controls, and Coordination (5% of Technical Criteria)
    b. Risk Management (5% of Technical Criteria)
    c. Quality (5% of Technical Criteria)

8.7. Determination of Overall Technical Score

The total Technical Proposal scores of each Proposer will be determined by the Technical Review Group and will then be submitted to the Department of Administration, Division of Purchases. Each set of scores for a Proposal will then be matched to the Proposer that submitted the given Proposal.

8.8. Price Proposal Opening

After the technical scores have been tabulated, the State will open the sealed Price Proposals according to the following procedure:

1. The sealed Price Proposals will be released by the Division of Purchases.
2. The Price score for each Proposer will be calculated by the State in accordance with the criteria set forth in this chapter of the RFP.
3. The Price Score will be added to the Technical Scores.
4. The State will notify the Proposer with the highest Best Value Score informing them that they are the Apparent Best Value Proposer.

Section 9. Pre and Post Selection Requirements

9.1. Schedule of Submissions

In addition to meeting the submission requirements outlined in Sections 6 and 7, the Proposer must ensure that all if its required documents are submitted in accordance with the schedule of submissions provided in Appendix A of this RFP. Proposers are reminded that, even though this schedule appears to be comprehensive in nature, the State may require additional submissions due to updates of contracting requirements for State Projects. The Proposer by submitting its Proposal agrees that it shall comply with the pre-award requirements set by the State and this RFP.

9.2. Pre-Award Project Schedule Requirements:

As per Regulation 12.108, there are minimum activities, submittals and approvals which must be completed prior to Award of the Contract.

9.3. Non-Collusion Affidavits

A statement of non-collusion on the form provided in Appendix A (which complies with the requirements of Title 23, CFR Part 635.112) shall be completed with original signatures and returned with the submitted Technical Proposal. Failure to complete and return this statement of non-collusion with the Technical Proposal may result in rejection of the bid as nonresponsive.

If the subject Technical Proposals is being submitted by a joint venture, a separate non-collusion statement must be submitted by each member of the joint venture.

9.4. Requirement to Keep Proposer Team Intact

The DB Team, including but not limited to the Lead Contractor, the Lead Designer, Key Personnel, and other individuals identified must remain on the DB Team for the duration of the procurement process and, if the DB Team is awarded the Design-Build Contract, the duration of the Design-Build Contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to the State. the State will determine whether to authorize a change. Unauthorized changes to the DB Team at any time during the procurement process may result in the elimination of the Proposer from further consideration.

9.5. Clean Air and Federal Water Pollution Control Act

The Proposer agrees:

1. It shall not use any violating facilities;
2. It shall report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities”;
3. It shall report violations of use of prohibited facilities to FTA and
4. It shall comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. § 7401 – 7671q); and the Federal Water Pollutant Control Act as amended (33 U.S.C. §§ 1251 –1387)

9.6. No Federal Government Obligation to Third Parties

The State and the Proposer, acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or ward of the underlying Contract, absent the express written consent of the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the State, Proposer or any other party (whether or not a party to that Contract) pertaining to any matters resulting from the underlying Contract. The Proposer agrees to include the above clause in each

subcontract financed in whole or in part with Federal Assistance provided by FHWA, it is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

9.7. ADA Access

In accordance with Section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal Transit Law at 49 U.S.C.§ 5332, the Proposer agrees that it shall not discriminate against individuals on the basis of disability. In addition, the Proposer agrees to comply with any implementing requirements FHWA may issue.

9.8. Buy America

The Contractor agrees to comply with 49 U.S.C. 5323 (j) and 49 CFR Part 661, which provides that Federal funds may not be obligated unless all steel, iron and manufactured products used in FHWA funded projects are produced in the United States, unless a waiver has been granted by FHWA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323 (j) (2) and 49 CFR § 661.11.

9.9. Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the State's energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

9.10. Bonding

See Section 6.10 Bonding.

9.11. Rejection of Proposals or Proposers

9.11.1. Nonresponsive Proposals

The State may reject a Proposal as nonresponsive if, for instance:

1. The bid bond or the non-collusion affidavit submitted with the Technical Proposal is defective or incomplete;
2. The Proposer has altered the Proposal without the written consent of the State to do so;
3. The Proposer has submitted a Proposal that in some way fails to make a full commitment to satisfy all requirements of the subject Contract, including all applicable plans and specifications (such failures would include, but is not limited to, any alteration by the Proposer of the terms of the Proposal, the submission of a defective or unenforceable bid bond, and the failure to provide pricing or other information required by the State's bid proposal form).

9.12. Disadvantaged Business Enterprises (DBE) Forms

The State is committed to the effective implementation of the Disadvantaged Business Enterprise (DBE) Program as defined in Title 49, Code of Federal Regulations (CFR) Part 26 and Part 23 for Airport Concessions. This program shall be executed in accordance with the regulations of the United States Department of Transportation (DOT) as a condition of receiving DOT funding.

The Proposer shall not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract or concession opportunity. The Proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of the contract or in the administration of its DBE and ACDBE Programs or the requirements of 49 CFR Part 26 and

23. The State shall take all necessary and reasonable steps, under 49 CFR Part 26 and 23, to ensure nondiscrimination in the award and administration of DOT-assisted contracts and concession opportunities. These forms are provided as part of Appendix A of this RFP.

Section 10. Requirements for Execution, Withdrawal or Protest of the Contract

10.1. Withdrawals of Contracts or Projects

As Proposers should understand, the State will also not award the Contract to an apparent Best Value Selection in those cases in which the State decides to reject all Proposals and solicit new Proposals for the Contract, or else to withdraw the Project with no current plans to re-advertise it.

Possible reasons for the State withdrawing a Project include, but are not limited to: loss of anticipated Project funding, failure to obtain a necessary permit prior to bid or Contract award, discovery of a mistake in estimated bid quantities or a defect in Project design, pre-bid or pre-award design changes that significantly change the Project, failure by the State to include a necessary Contract item in the bid proposal form, elimination of the first two or three apparent Best Value Selections, failure to receive a Price Proposal for a Price within the available funding limits, or failure to receive enough Proposals to assure the State that it has received a competitive or reasonable Proposal. In cases of such withdrawals for the best interests of the State or for purposes of maintaining the integrity of the bidding process, complaining Proposers may or may not be afforded a meeting with State representatives to discuss the State's decision.

In some instances, events may have occurred that delayed the award of the Contract so long that it would not make economic sense for the State to award the Contract; *i.e.*, to do so would almost certainly result eventually in the Proposer's filing a claim against the State for substantial delay damages. Such a situation may arise, for instance, because the State has had unexpected difficulty in obtaining a permit necessary for the Project. In such instances, as an alternative to its withdrawing and re-advertising the Project Contract, the State may offer a responsible apparent Best Value Selection the opportunity to sign an agreement waiving all possible claims that might be based in part on the delay of the Contract signing.

END OF PART 1
INSTRUCTIONS TO PROPOSERS

APPENDIX A

INDEX:

A.01 FORMS

A.02 FHWA-1273

A.03 49 CFR PART 20

Bid #7603776

Appendix A.01

Forms

THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF TRANSPORTATION
TWO CAPITOL HILL
PROVIDENCE, RI 02903

FORM A
PROPOSAL LETTER

The undersigned hereby declares to have carefully examined the annexed form of the Contract and exhibits therein and also the sites upon which the Work is to be performed.

The undersigned proposes to furnish all labor, materials, and equipment required for **Best Value Design-Build Services for Interstate Route 195 Washington North Phase 2; Bridge Group 57T-10** ("Project") for the Rhode Island Department of Transportation ("RIDOT"), at the fixed price specified in the Price Proposal, subject to additions and deductions according to the terms of the Contract.

The undersigned also hereby declares that it is the only person interested in this Proposal; that it is made without any connection with any other persons making any Proposal for the same Work; that no person acting for, or employed by RIDOT is directly or indirectly interested in this Proposal, or in any contract which may be made under it, or in expected profits to arise therefrom; and it is made without directly or indirectly influencing or attempting to influence any other person or corporation to submit or to refrain from submitting a Proposal or to influence the Proposal of any other person or corporation and that this Proposal is made in good faith, without collusion or connection with any person proposing to perform the same Work. The undersigned declares that, with regard to the conditions affecting the work to be done and the labor and materials needed, this Proposal is based solely on his own investigation and research and not on reliance upon any plans, surveys, measurements, dimensions, calculations, estimates or representations of any employee, officer, or agent of RIDOT.

If the undersigned is a foreign corporation it agrees, in case this Proposal is accepted, to comply with the applicable provisions of R.I.G.L. C. 7-1.2, before the time for execution of the Contract, as hereinafter provided, occurs.

The undersigned proposes and agrees that, if the Proposal is accepted by RIDOT, it shall execute the Contract and furnish a Performance Bond and also a Labor and Materials Payment Bond for the full amount of the Contract price, within ten (10) calendar days after the date of the Award.

The undersigned agrees to commence work within fifteen (15) calendar days from the issuance of the Notice to Proceed unless otherwise ordered in writing by RIDOT; and it shall complete the entire Work, fully and acceptably, within the time periods set forth in the Contract.

The undersigned covenants that it has not employed or retained any company or person (other than a full time bona fide employee working for the undersigned) to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person (other than such an employee) any gift, fee, contribution, percentage, or brokerage fee contingent upon or resulting from the award of this Contract.

The undersigned warrants, represents and agrees that during the time this Contract is in effect, neither it nor any affiliated company, as hereinafter defined, participates in or cooperates with an International boycott, as defined in Section 999(b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engages in conduct declared to be unlawful by R.I.G.L. s. 28-5-7. If there shall be a breach in the warranty representation and agreement contained in this paragraph, then without limiting such other rights as it may have, RIDOT shall be entitled to rescind this Contract. As used herein, an affiliated company shall be any business entity of which at least 51 percent of the ownership interests are directly or indirectly owned by the Contractor or by a person or persons or business entity or entities directly or indirectly owning at least 51 percent of the ownership interests of the undersigned, or which directly or indirectly owns at least 51 percent of the ownership interest of the undersigned.

This Proposal includes the following Addenda:

_____

Name of Proposer: _____

Type of Entity: _____

Proposer's Address: _____

Signature: _____

Print Name: _____

Title: _____

FORM B
INDUSTRIAL SAFETY RECORD

This information must include all construction work undertaken in the United States by the Proposer and each participant performing construction related work. Data shall be submitted for each partnership, joint venture, corporation, limited liability company or individual firm. The Proposer may be requested to submit additional information or explanation of data which RIDOT may require for evaluating the Safety Record.

1. Total Hours Worked By All Employees	**2019**	**2018**	**2017**	**2016**	**2015**	**TOTAL**
Nationwide						
Rhode Island						

2. Total Number of Deaths *						
Nationwide						
Rhode Island						

3. Total Number of Cases with Days away from Work						
Nationwide						
Rhode Island						

4. Total Number of Cases w/Job Transfer or Restriction						
Nationwide						
Rhode Island						

5. Total number of Other Recordable Cases						
Nationwide						
Rhode Island						

6. Total Number of Days Away From Work						
Nationwide						
Rhode Island						

7. Total Number of Days of Job Transfer or Restriction						
Nationwide						
Rhode Island						

8. Worker's Compensation Experience Modifier						
Nationwide						
Rhode Island						

The above information was compiled from the records that are available to me at this time. I declare under penalty that the information is true and accurate within the limits of those records.

Name of Company _____

Address _____

City/State/Zip Code _____

Signature _____

Name, Title _____

RI dOT
Driven to get you there

FORM C
ANTI-COLLUSION CERTIFICATE FOR CONTRACT AND FORCE ACCOUNT

Title 23, United States Code, Section 112(c), requires, as a condition precedent to approval by the Director of Public Roads of contract for this work, that there be filed an unsworn declaration executed by, on behalf of, the person, firm, association, 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. This unsworn statement shall be in the form of a declaration executed under penalty of perjury under laws of the United States.

To the: STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS - DEPARTMENT OF TRANSPORTATION, DIVISION OF PUBLIC WORKS

State of _____

County of _____

I, _____, _____, under penalty under the laws of the
Name Title

United States, do depose and say:

On half of _____, of _____ that said Contractor
Company name City and State

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 Rhode Island

Contract Number: **2020-DB-022** RIFAP: FAP NUMBER

County of **Providence**, Cities of **Providence & East Providence, Bridge Group 57T-10 Washington North Phase 2**

Signature_____ Date_____

FORM D

HEALTH AND SAFETY CERTIFICATION

I, _____, authorized signatory for _____

whose principal place of business is at _____ hereby agree that it is a condition of this Contract and shall be made a condition of each subcontract entered into pursuant to this Contract, that Laborers or Mechanics employed in performance of this contract will not be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to their health or safety, as determined under construction and health standards (29, CFR Part 1910 and Part 1926).

The undersigned also hereby certifies that they will comply with the applicable OSHA standards and Section 107 of the Contract Work Hours and Safety Standards Act.

_____

Signature Date

FORM E

CERTIFICATION FOR DUMPING FACILITIES

I, _____authorized representative of _____certify that it has adequate dumping facilities at the locations listed below. Such facilities will be used in connection with work undertaken on this contract and that such use will be in compliance with applicable Federal, State and local laws/regulations.

Category	Facility	Address		
In-State Unlined Landfill			$	/ton
In-State Lined Landfill			$	/ton
Non-RCRA Out of State Lined Landfill			$	/ton
RCRA Landfill			$	/ton
Out of State Landfill			$	/ton
In-State Recycling Facility			$	/ton
Stabilization Treatment			$	/ton

Signature:_____ Date:_____

Name of Bidder: _____

Address:_____

FORM F

RI HAZARDOUS SUBSTANCES RIGHT-TO-KNOW ACT (RIGL 28-21) CERTIFICATION

The undersigned hereby certifies that it will comply with the Rhode Island Hazardous Substances Act and shall:

1. Obtain Material Safety Data Sheets (MSDS) for all substances or mixtures of substances which appear on the Rhode Island Hazardous Substance List that it or any of its Subcontractors brings to or utilizes on the work site and will keep a copy of the MSDS on the project work site.

2. Label each container of a substance or mixture of substances on the Rhode Island Hazardous Substance List.

3. Provide the same required training and instruction to RIDOT employees who also may be exposed to the substances or mixture of substances. Training shall include instruction on the nature and effects of any substance or mixture of substances listed on the Rhode Island Hazardous Substance List which the undersigned or any of its Subcontractors brings to or uses on the project site.

4. Provide to RIDOT employees on the project site the same Personal Protective Equipment that the undersigned or any of its Subcontractors provides to its employees.

_____

Signature Date

FORM G

CERTIFICATION OF CONSTRUCTION EQUIPMENT STANDARD COMPLIANCE FORM

I, _____, authorized signatory for _____

whose principal place of business is at _____

do hereby certify that any and all large non-road (greater than 50 brake horsepower) diesel construction equipment (DCE) to be used in this contract meets the EPA particulate matter (PM) Tier emission standards in effect for non-road diesel engines for the applicable engine power group or has emission control devices such as oxidation catalysts or particulate filters installed on the exhaust system side of the diesel combustion engine equipment. Said equipment or devices meet the requirements of this specification.

I am submitting on behalf of _____ a list of said diesel construction equipment labeled 'Diesel Retrofit Data" that will be used in connection with this Contract. Said list includes but is not limited to the number of vehicles subject to this certification and the number of vehicles retrofitted by vehicle type. The said list shall also be signed and certified that the information is correct and accurate as of the date of this signature and is signed under penalty of perjury.

I acknowledge that this certificate is being furnished as a requirement under this contract, and is subject to applicable state and federal laws, both criminal and civil.

_____

Signature Date

FORM H
GUARANTY

This form has intentionally been left blank and will not be used

FORM I

BUY AMERICA CERTIFICATION

The bidder must submit the appropriate Buy America certification below with its Proposal. Proposals that do not include the completed certification will be deemed non-responsive.

In accordance with 49 C.F.R. § 661.6 Certification Requirements for procurement of steel, iron, or manufactured products, complete the certifications below:

Certification requirement for procurement of steel, iron, or manufactured products

Certificate of Compliance with Buy America Requirements [49 U.S.C. 5323(j)(1)]

The undersigned hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.

Company Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

OR

Certificate of Non-Compliance with Buy America Requirements [49 U.S.C. 5323(j)(1)]

The undersigned hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2) as amended, and the applicable regulations in 49 CFR 661.7

Company Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

On-The-Job Training Acknowledgement & Statement of Compliance

FORM J

Project ID#	2020-DB-022
Project's Name	Bridge Group 57T-10 I-195 Washington North Phase 2
Contractor's Name	
OJT Goal	2,700 hrs

We have reviewed the OJT training requirements (Training Special Provisions) stated in the contract for the above noted project. Based on these requirements we acknowledge the following:

- We are responsible for submitting a *Contractor's Training Proposal* form to the Office of Civil Rights for approval within 10 calendar days of project starting.
- We must submit a *Trainee Registration* Form to RIDOT Office of Civil Rights, for approval, prior to trainee(s) starting to work on site.
- We must include approved trainee's job classification in all contract payrolls.
- We must submit the *Trainee Status Change* form to inform project Resident Engineer and RIDOT OCR of any changes in trainee status within 10 days of event occurring.
- We must provide *Trainee **Weekly** Time Sheets* to project RE throughout the entire life of the project.
- We must notify RIDOT project personnel, **daily**, of the presence of trainees at the worksite.
- We must submit *Monthly OJT Hours* reports to OCR to qualify for training reimbursement.
- We must provide trainee(s) with a *Certificate of Completion* with the type and amount of training hours when completed.
- We must abide to corresponding journeyman/trainee ratio.
- We must provide trainee the skills corresponding to the approved training classification.
- We must fully abide to contract's Training Special Provision regulating project mentioned above.

Contractor's EEO Officer (Name & Signature) _____ Date _____

RIDOT OCR Representative (Name & Signature) _____ Date _____

FORM K

RIDOT DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION PLAN

	DBE Name	Address	Phone	Services to be Performed	DBE Construction Activity Percentage	DBE Design Activity Percentage
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						

Signature:

Proposer:

Date:

DBE Letter of Intent to Perform

Form L

PROJECT:

NAME OF PROPOSER: _____

FROM: _____
(Disadvantaged Business Enterprise)

TO: _____
(Name of Contractor)

1. My company is currently certified as a Disadvantaged Business Enterprise (DBE) by the state of Rhode Island. There have been no changes affecting the ownership, control or independence of my company since my last certification review.

2. If any such change occurs prior to my company's completion of this proposed work, I will give written notification to your firm and RIDOT.

3. My firm will provide to you, upon request, for the purpose of obtaining subcontractor approval: (a) a resume stating the qualifications and experience of the superintendent or foreperson who will supervise on-site work; (b) a list of equipment owned or leased by my firm for use on the project; and (c) a list of all projects (public or private) which my firm is currently performing, is committed to perform, or intends to make a commitment to perform. I shall include for each project the names and telephone number of a contact person for the contracting organization, the dollar value of the work, a description of the work, and my firm's work schedule for the project.

4. If you are awarded the contract, my company intends to enter into an agreement with your firm to perform the items of work or other activity described on the following sheet for the prices indicated.

5. My firm has the ability to manage, supervise and perform the activity described on the following page.

_____ _____
DBE Signature Date

FORM M

AGREEMENT FOR ESCROW OF PROPOSAL DOCUMENTS

I, _____, authorized signatory for _____ agree to abide by the requirements and provisions set forth in Section 103.8 *Escrow of the Bid Documentation* of RFP 7598876PH2 in order for the State to consider its Proposal in connection with the award of this Contract.

Company Name: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

FORM N

COST PROPOSAL FORM

Item No.	Description	Unit	m.s.v. Total	S.V. Total
1.1	Project Design (subtotal of m.s.v. 1.1.1 to 1.1.4)	S.V.		$ -
1.1.1	Roadway/Highway Design Services	m.s.v.	$ -	
1.1.2	Traffic Engineering Design Services	m.s.v.	$ -	
1.1.3	Bridge Design Services	m.s.v.	$ -	
1.1.4	All Other Design Services	m.s.v.	$ -	
1.2	Mobilization and Project Closeout	S.V.		$ -
1.3	Existing Structure and Partial Bridge Demolition	S.V.		$ -
1.4	Roadway Bridge Construction	S.V.		$ -
1.4.1	Washington Bridge Rehabilitation & Widening	m.s.v	$	
1.4.2	Gano Street On-Ramp Bridge No. 126601	m.s.v	$	
1.4.3	Waterfront Drive Off-Ramp Bridge No. 126701	m.s.v	$	
1.5	Retaining Wall Construction (including roadway fill and drainage)	S.V.		$ -
1.6	Roadway Construction (including intersections, local roads, and drainage)	S.V.		$ -
1.7	Signing and Paving Markings	S.V.		$ -
1.8	Maintenance and Protection of Traffic	S.V.		$ -
1.9	ITS System	S.V.		$ -
1.10	Owner Specified General Condition Items (subtotal of m.s.v. 1.10.1 to 1.10.5)	S.V.		$
1.10.1	Quality Management Plan	m.s.v.	$ -	
1.10.2	Quality Control Plans	m.s.v.	$ -	
1.10.3	Project Schedule	m.s.v.	$ -	
1.10.4	Construction Field Office	m.s.v.	$ -	
1.10.5	Training Hours (2,700)*	m.s.v.	$ 16,200.00	
1.11	Environmental Management	S.V.	$ -	$ -
1.12	Other Costs to be included in the LS not broken down above	S.V.	$ -	$ -

FORM N (cont'd)

COST PROPOSAL FORM

1.13	Estimated Cost Items (Subtotal of 1.13.1 to 1.13.4)	S.V.	$ -		$2,500,000.00
1.13.1	Management & Disposal of Regulated Soils**	m.s.v.	$1,000,000.00		
1.13.2	Bridge and Road Special Maintenance FHWA Participating**	m.s.v.	$500,000.00		
1.13.3	Bridge and Road Special Maintenance FHWA Non-Participating**	m.s.v.	$500,000.00		
1.13.4	Towing Services**	m.s.v.	$500,000.00		
			Only Bid Quantity	Unit Price	SV Total Price
1.14	Estimated Quantity Items (Subtotal of 1.14.1 to 1.14.6)	S.V.			$
1.14.1	Temporary Support and Jacking – Drop-In Beams (Spans 1-6 and 8-14)***	m.s.v.	120 EA	$	$
1.14.2	Temporary Jacking and Shoring of Bridge Ends Piers 14 through 17 and Abutment 2***	m.s.v.	60 EA	$	$
1.14.3	Repairs to Structural Concrete Masonry (Pneumatic Mortar); RIDOT Item 817.2100***	m.s.v.	1,150 CF	$	$
1.14.4	Repairs to Structural Concrete Masonry (Patching Mortar); RIDOT Item 817.2110***	m.s.v.	1,600 CF	$	$
1.14.5	Repairs to Structural Concrete Masonry (Form and Cast-In- Place); RIDOT Item 817.2140***	m.s.v.	1,650 CF	$	$
1.14.6	Chloride Extraction***	m.s.v	4 EA	$	$
	TOTAL D-B PRICE (Bidder shall specify price information in both words and numbers)				
Lump Sum (Written):					$

Proposer:

Owner/President Signature:

Date:

Address:

*Required Minimum Price (See RFP Part 2 Special Provisions for this item)

**Required Estimated Costs (See RFP Part 2 for this item)

***See RFP Part 2, Sections 3.7.3 & 3.13.7 for these items

FORM O

STATE OF RHODE ISLAND DEPARTMENT OF TRANSPORTATION
DESIGN-BUILD STIPEND AGREEMENT

THIS AGREEMENT is made by and between the State of Rhode Island Department of Transportation (the "RIDOT" or the "State"), an agency of the State of Rhode Island and Providence Plantations, and_____(the "Proposer"), a corporation authorized to conduct business in the State of Rhode Island and the Providence Plantations. Said parties (the "Parties") agree as follows:

Article 1 – Technical Proposals for the Design-Build Project

In connection with the State's Request for Proposals ("RFP"), **BID NUMBER** for **Best Value Design-Build Services for Interstate Route 195 Washington North Phase 2 Bridge Group 57T-10** under Rhode Island Contract No. **2020-DB-022** (the "Project"), the State has solicited a Request for Technical Proposals ("RFPs"), from qualified bidders in accordance with said solicitation. Said Technical Proposals are essentially detailed descriptions of a design and plan for constructing the Project; said Technical Proposals are to be based on a basic, partial Project design (the "Basic Technical Concept" ("BTC") prepared by the State and shared with the Proposers prior to their submission of Project Proposals.

Article 2 - Stipend Payment and Technical Elements

Subsequent to the award of the contract, if a Proposer is not awarded the Design-Build Contract by the State, and if the Proposer has submitted a Technical Proposal and a Price Proposal to the State that are fully responsive to the RFP, accompanied by a fully-executed copy of this Stipend Agreement, and if a Proposer is one of the top two (2) scored Technical Proposals, aside from the Proposer awarded the Design-Build Contract, the State shall pay the Proposer a lump sum amount of **One Hundred Fifty Thousand Dollars ($150,000.00)** (the "Stipend") as compensation for the Proposer's work in preparing the Technical Proposal and for certain rights to use the information, language, ideas, visual representations and designs (the "Tech Elements") contained in said Technical Proposal. Those rights will include: The right of the State to use any or all of the Tech Elements (1) for the Project; (2) for any other State construction project, a contract for which is let under either Rhode Island state law or statutes, or which is contracted for pursuant to an emergency declaration; and (3) for any portion of the Project that may be withdrawn from the Project and let separately to a contractor other than the recipient of the award for the Project Contract. Insofar as any part or parts of the Tech Elements may be subject to copyright protection, each such part shall be deemed a work made-for-hire under the U.S. Copyright Act, and the copyright rights applicable to that part shall be deemed to belong to the State.

The Stipend shall also serve as consideration for the provision by the Proposer of these rights and protections for the State in connection with uses of the Tech Elements: The Proposer agrees that it will indemnify, defend, and hold harmless the State, its Departments, its officers, agents, and employees from any claims, losses, causes of action, damages, costs, charges, or expenses, including attorney's fees incurred by the State in such connections, arising from any acts, actions, neglect, or omissions connected with the Proposer's duties or performance (including those of its agents, employees, and subcontractors) under this Agreement, or from the exercise by the State of its rights under this Agreement to make use of the Tech Elements. Should the State invoke its right hereunder to have the Proposer defend the State against a formal claim or proceeding in these connections, the State may, at its option, choose to participate with the Proposer in that defense.

The State's failure to notify a Proposer of a claim (formal or informal) against the State in connection with (1) the Proposers performance or failure to perform under this Agreement, or (2) the State's exercise of its rights thereunder to use the Tech Elements, shall not relieve the Proposer from its obligations under the preceding paragraph of this Agreement.

Any Proposer that does not want to cede to the State these rights and protections may elect not to sign and submit to the State a copy of this Stipend Agreement; as a consequence, such Proposer would not receive or be entitled to payment of the Stipend.

Article 3 - Waiver of Claims

Acceptance by the Proposer of payment of the Stipend Amount from the State shall constitute a waiver by the Proposer of any and all rights, equitable or otherwise, to bring any claim (including, without limitation, any protests) against either the State of Rhode Island and any of its departments, agencies, officers, directors, agents, employees, representatives or advisors and their successors and assigns, in connection with the procurement of the Project, including, without limitation, with respect to the procurement process, any award of the Contract or any cancellation of the procurement.

Article 4 - Potential Effect of State Budget Limitations

Proposers should be aware that the State, during any fiscal year, will not expend money, incur any liability, or enter into any contract which would place the State in the position of spending or being liable for money in excess of the amounts budgeted for its use by the State and federal legislatures during such fiscal year. Any agreement, verbal or written, that would cause the State to spend or be liable for money exceeding said budgeted amount would be null and void, and no money shall be paid under such an agreement. While the State's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the State and federal legislatures, it is unlikely that such appropriation would prove insufficient for the payment of Stipends in connection with this Project.

Article 5 - Effects of Early Withdrawal of the RFP or Early Termination of the Project

If the State withdraws the RFP, this Agreement shall be considered terminated effective as of the date of the withdrawal.

If this Agreement is terminated prior to the opening of the Price Proposals called for in the RFP, the Stipend will not be paid to the Proposer and the rights to use of the Tech Elements will not pass to the State.

If this Agreement is terminated after the aforementioned opening of Price Proposals and prior to execution of the Project Contract, the Proposer shall be entitled to the Stipend if it would otherwise have been entitled to it under the terms of this Agreement.

Article 6 – Limitation on Assignment of Rights Under this Agreement

The Proposer may not assign or transfer any rights under this Agreement to any party without the advance written consent thereto of the State.

Article 7 – Effective Period of the Agreement

The State shall retain their rights (described in Article 2 hereof) to use the Tech Elements for five (5) years from the date of the State's execution of this Agreement, or two (2) years after the State's acceptance of the Project (evidenced by a Certificate of Acceptance). The State shall retain their protections under this Agreement (described in the second and third paragraphs of said Article 2) for ten (10) years from the date of the State's execution of this Agreement, or until all appeal rights have run on any action or claims proceeding concerning the subjects of this Agreement that may have been commenced during said ten- (10) year period.

Article 8 – Miscellaneous Provisions

All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend and include the singular. All words used in any gender shall extend to and include all genders.

This Agreement embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties.

If any part, term or provision of this Agreement is held by the courts to be illegal or in conflict with any applicable laws, the validity of the remaining portions of the Agreement shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the portion of the Agreement held to be invalid.

This Agreement shall be governed by and construed in accordance with the laws of the State of Rhode Island and the Providence Plantations.

In any legal action related to this Agreement, the Proposer hereby waives any and all privileges and rights it may have under Rhode Island laws relating to venue, as they now exist or may hereafter be amended, and any such privileges and rights it may have under any other such statute, rule, or case law, including, but not limited to those grounded on convenience. Any such legal action may be brought in the appropriate court in any county chosen by the State, and in the event that the Proposer files any such legal action, the Proposer hereby consents to the transfer of venue to the county chosen by the State upon the State's filing a motion requesting the same.

PROPOSER

_____

Signed Date

Print Name: _____

Title: _____

RHODE ISLAND DEPARTMENT OF TRANSPORTATION

_____

Signed Date

Title: Peter Alviti Jr., P.E.

Director, Rhode Island Department of Transportation

FORM P

CONSULTANTS

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS PRIMARY COVERED TRANSACTIONS FOR PRIME CONSULTANTS AND LOWER TIER PARTICIPANTS (SUBCONSULTANTS ETC.)

Appendix B - - certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

INSTRUCTIONS FOR CERTIFICATION:

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. 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.

3. 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 when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. 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.

6. 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.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. 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 a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, ineligibility And Voluntary Exclusion - - Lower Tier Covered Participants

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS PRIMARY COVERED TRANSACTIONS

In accordance with the code of Federal Regulations, Part 49 CFR Section 29.510, the prospective primary participant _____ (name of Authorized Agent), _____ (Title), being duly sworn (or under penalty of perjury under the laws of the United States), certifies to the best of his/her knowledge and belief, that its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;

b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a pubic (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification;

d. 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.

Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall list exceptions below.

Exceptions will not necessarily result in denial of award, but, will be considered in determining contractor responsibility. For any exception noted, indicate below to whom it applies, the initiating agency, and the dates of the action. Providing false information may result in criminal prosecution or administrative sanctions. If an exception is noted the contractor must contact the Department to discuss the exception prior to award of the contract.

_____

_____

_____

_____ _____

Signature of Authorized Agent Date

Certification for Federal-Aid Construction/Consultant Contracts

IN ACCORDANCE WITH PUBLIC LAW 101-1210 SECTION 319 (DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES) THE PROSPECTIVE PARTICIPANT CERTIFIES, BY SIGNING AND SUBMITTING THIS BID OR PROPOSAL, TO THE BEST OF HIS/HER KNOWLEDGE AND BELIEF, THAT:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

(R.I.D.O.T. APPENDIX C)

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-LLL-A 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-LLL-A Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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 o her aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (03-48-00-46), Washington, D.C. 20503.

Approved by
03-48-0046

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 - 0348-0046
(see reverse for public burden disclosure)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application b. initial award c. post-award	3. Report Type: ☐ a. initial filing b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Report Entity: ☑ Prime ☐ Subawardee Tier ___, if known: Congressional District, if known:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: $	
10. a. Name and Address of Lobbying Entity: (if individual, last name, first name, mi):	10. b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, mi):	
11. Amount of Payment (check all that apply) $_____ ☐ actual ☐ planned	13. Type of Payment (check all that apply): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify:	
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contracted, for Payment indicated in Item 11 (Attach Continuation Sheet(s) SF-LLL-A, if necessary):		
15. Continuation Sheet(s) SF-LLL-A attached: ☐ yes ☑ no		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. this disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No: _____ Date: _____	
For Federal use Only:	Authorized for Local Reproduction Standard Form – LLL-A	

Approved by
03-48-0046

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction
Standard Form - LLL-A

RIDOT 12/27/07

CONFLICTS DISCLOSURE POLICY

To ensure that the Rhode Island Department of Transportation (RIDOT) maintains the continued confidence and trust of the people of Rhode Island in carrying out its mission, prospective vendors must disclose any family (or other personal) relationships, associations or connections that the vendor, its affiliates, or employees, may currently have with any RIDOT employee. A Conflicts Disclosure Statement shall be submitted to RIDOT from the following:

- Owners;
- Directors;
- Principals;
- Officers, board members, or individuals with corporate authority;
- If the vendor is a partnership, the applicant's partners;
- If the vendor is a limited liability company, its members and managers;
- Employees with decision-making authority, including executive directors, managers or individuals in a similar position with corporate authority; and
- Shareholders with a controlling interest.

RIDOT 12/27/07

CONFLICTS DISCLOSURE STATEMENT

RE: _____

_____

I, _____ **hereby certify as follows:**

I am employed as a _____ **of** _____
[TITLE] **[COMPANY]**
and to the best of my knowledge:

PLEASE CHECK THE APPROPRIATE BOX:

☐ **I have no family or personal relations currently employed either on a full-time or part-time basis at the Rhode Island Department of Transportation.**

☐ **I do have family or personal relations currently employed at the Rhode Island Department of Transportation. Please list their name(s), title(s), and RIDOT Division(s) (if known):**

NAME	TITLE	RIDOT DIVISION

If necessary, please add any additional names as attachments hereto.

FOR ILLUSTRATIVE PURPOSES, FAMILY RELATIONS SHALL INCLUDE, WHETHER BY BLOOD, ADOPTION OR MARRIAGE, ANY OF THE FOLLOWING RELATIONSHIPS:

Father, Mother, Son, Daughter, Brother, Sister, Grandfather, Grandmother, Grandson, Granddaughter, Father-In-Law, Mother-In-Law, Brother-In-Law, Sister-In-Law, Son-In-Law, Daughter-In-Law, Stepfather, Stepmother, Stepson, Stepdaughter, Stepbrother, Stepsister, Half-Brother Or Half-Sister, Niece, Nephew, And Cousin

❖ *If you are unsure whether a relationship, association, or connection you have may need to be disclosed, please consult with RIDOT's Legal Office at (401) 222-6510.*

_____

SIGNATURE **DATE**

By signing this form you: (1) certify that the information contained in this form is complete and accurate to the best of your knowledge; and (2) acknowledge your continuing obligation to complete and submit a new Disclosure form when there is any change in your family or personal relations during the course of this Contract.

This document is used for internal RIDOT purposes only in order to address and avoid any potential conflicts at the inception of the contract process and to avoid any impropriety or the appearance of impropriety during the contract process. Any disclosures made hereto will not prejudice prospective vendors from selection.

USDOT Standard Title VI/Nondiscrimination Assurances for Contractors DOT Order 1050.2A

I, _____ _____, _____, a duly
authorized representative of _____
do hereby certify that the organization affirmatively agrees to the provisions set forth by *U.S. DOT Order 1050.2A, DOT Standard Title VI Assurances and Non-Discrimination Provisions (April 11, 2013)*

_____
Signature

_____
Date

APPENDIX A

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, 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. **Non-discrimination:** 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 Non-discrimination 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 Non-discrimination 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.

APPENDIX E

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 non-discrimination statutes and authorities; including but not limited to:

<u>Pertinent Non-Discrimination Authorities:</u>

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq*.), (prohibits discrimination on

the basis of sex);

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq*.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-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*).

Last Update: November 2017

DBE SPECIAL PROVISION

DISADVANTAGED BUSINESS ENTERPRISE AFFIRMATIVE ACTION CERTIFICATION FOR CONTRACTORS AND CONSULTANTS

With respect to the above numbered project, I hereby certify that I am the _____ and duly authorized representative of _____ whose address is _____ _____.

I do hereby certify that it is the intention of the above organization to affirmatively seek out and consider Disadvantaged Business Enterprises to participate in this contract as contractors, subcontractors and/or suppliers of materials and services. I agree to comply with the requirements of the U.S. Department of Transportation's regulations 49 CFR Part 26.

I understand and agree that any and all contracting in connection with this contract, whether undertaken prior to or subsequently to award of contract, will be in accordance with this provision. I also understand and agree that no contracting will be approved until the State Department of Transportation has reviewed and approved the affirmative actions taken by the above organization.

DEFINITIONS:

A "Broker," for purposes of this provision, is a DBE that has entered into a legally binding relationship to provide goods or services delivered or performed by a third party.

A "DBE Contractor" or "DBE Subcontractor," for purposes of this provision, is a DBE that has entered into a legally binding relationship with an obligation to furnish services, including the materials necessary to complete such services.

"Disadvantaged Business Enterprise" or "DBE," for purposes of this provision, means a for-profit small business concern certified by the Rhode Island Department of Administration, under U.S. Department of Transportation certification guidelines (a) that is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any corporation, in which 51 percent of the stock is owned by one or more such individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

A "Joint Venture," for purposes of this provision, is an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties 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.

A "Manufacturer," for purposes of this provision, is a DBE 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.

A "Regular Dealer" is a DBE 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. In the sale of bulk items, such as cement, asphalt, steel and stone, a DBE firm may be considered a "regular dealer" if it owns and operates the distribution equipment used to deliver its products. Any additional equipment used by a regular dealer shall be through long-term lease agreements rather than on an ad hoc or contract-by-contract basis.

"Race conscious" measures (goals) or programs are those that are focused specifically on assisting DBEs.

"Race neutral" measures (goals) or programs are those that are, or can be, used to assist all small businesses, including DBEs.

"Small Business Concern" means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121), and that does not also exceed the cap on average annual gross receipts specified in 49 CFR 26.65(b).

"Socially and economically disadvantaged individual" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a member of a group and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
    a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
    b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South America, or other Spanish or Portuguese culture or origin, regardless of race;
    c. "Native Americans," which includes persons who are enrolled members of a federally or State recognized Indian Tribe[1], Alaska Natives, or Native Hawaiians;
    d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
    e. "Subcontinent Asian Americans," this includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
    f. Women; and
    g. Any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such as time as the SBA designation becomes effective.
3. Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

[1] A "tribally-owned concern" means any concern at least 51 percent (51%) owned by an Indian tribe as defined in 49 CFR 26.5.

I. GENERAL REQUIREMENTS AND SANCTIONS:

A. Failure by the Contractor to demonstrate every good faith effort in fulfilling its DBE commitment during the construction period will result in the reduction in contract payments by the amount determined by multiplying the awarded contract value by the established DBE percentage (listed in Section II. A. below), and subtracting the dollar value of the work actually performed by DBE contractors. This action will not preclude RIDOT from imposing sanctions or other remedies available as specified in paragraphs below.

B. Contractors and subcontractors are advised that failure to carry out the requirements of this provision shall constitute a breach of contract and, after notification by the Department, may result in termination of the agreement or contract by the Department, or such remedy as the Department deems appropriate. Greater detail of the rules and regulations regarding DBE utilization can be found in the Rules and Regulations for RIDOT DBE Program.

C. Brokering of work by DBEs is not allowed and is a contract violation unless DBE is a certified DBE broker. A DBE firm involved in brokering of work may have their certification removed or suspended and shall be subject to the sanctions stated herein. Any firm that engages in willful falsification, distortion or misrepresentation with respect to any facts related to the project shall be subject to sanctions described in paragraph (B) above and referred to the U.S. Department of Transportation's Office of the Inspector General for prosecution under Title 18, USC Section 1001.

D. The Disadvantaged Business Enterprises Directory or other available resources may be obtained at the Rhode Island Department of Transportation Office of Civil Rights (OCR), 2 Capitol Hill, Providence, RI 02903, or at http://odeo.ri.gov/.

E. The utilization of Disadvantaged Business Enterprises is in addition to all other equal opportunity requirements of this contract. The Contractor shall keep such records as are necessary to determine compliance with its Disadvantaged Business Enterprises Utilization obligations. The records kept by the Contractor shall include:
   1. The number of DBE contractors, subcontractors and suppliers; and the type of work, materials or services being performed on or incorporated in this project.
   2. The progress and efforts being made in seeking out DBE contractor organizations and individual DBE contractors for work on this project.
   3. Documentation of all correspondence, contacts, telephone calls, etc. necessary to obtain the services of DBEs on this project.
   4. Copies of canceled checks or other documentation that substantiates payments to DBE firms.
   5. All such records must be maintained for a period of three (3) years following acceptance of final payment and will be available for inspection by RIDOT and the Federal Highway Administration.

F. A contractor for a construction contract will not be eligible for award of contract under this invitation for bids unless such contractor has submitted, at the time of the Bid Opening, this Certification. A Consultant will be required to sign this Certification at the time of the contract execution or the award of contract will be nullified.

II. PRE-AWARD REQUIREMENTS:

A. Prior to contract award and within five (5) days from the opening of bids, the contractor/consultant shall, at a minimum, take the following actions to meet the race-conscious goal established by OCR, hereinafter referred to as the 'contract goal,':
   1. Appoint an EEO Officer to administer the Contractor's DBE obligations.
   2. Submit to the RIDOT Construction Section for approval any subcontractor and/or supplier, and submit executed subcontract agreement(s)/purchase orders, including a detailed description of the

work and price, between the contractor and the qualified DBE to be utilized during the performance of work. In the case of consultant contracts, the consultant shall submit the above DBE obligation as stated in the Scope of Work. This DBE obligation shall be included in the proposal submission to the Design Section, and include the name of the DBE, scope of work, and the actual dollar value.

3. Each construction subcontract submitted shall be accompanied by a completed "DBE Utilization Plan" that specifies the items of work to be performed and the contractor's commitment to complete each subcontract entered into with a DBE pursuant to meeting the contract goal stated herein.
4. Any subcontract for materials or supplies provided by a DBE broker, or for other services not provided directly by a DBE firm, shall be accompanied by the RIDOT Broker Affidavit form.

B. In the event that the cumulative percentages submitted do not equal or exceed the contract goal, RIDOT will conduct a good faith effort (GFE) review to determine the extent of the prime contractor's efforts to seek out DBEs and afford adequate subcontracting opportunities to meet the contract goal. Evidence in support of the prime's actions must be submitted using RIDOT's Good Faith Effort Form (GFEF). This form contains examples of the types of evidence set forth in 49 CFR Part 26, Appendix A. RIDOT will consider this and other relevant evidence in making its GFE determination.

1. Where RIDOT has determined that the prime contractor made every good faith effort to meet the contract goal, the contract shall be awarded.
2. Where RIDOT has determined that the prime contractor failed to make every good faith effort in meeting the contract goal, the contract shall not be awarded, and an opportunity for administrative reconsideration shall be provided.

III. CONSTRUCTION PERIOD REQUIREMENTS:

A. Counting of Participation and Commercially Useful Function (CUF)

The total dollar value of a prime contract awarded to a DBE will be counted toward the DBE requirement. Likewise, all subcontract work performed by a DBE will count toward the DBE requirement.

The allowable value of a subcontract with DBE participation will be treated as the commitment of the prime contractor toward meeting the contract goal. The specific rules for crediting DBE participation toward contract goals are as follows:

1. When a DBE participates in a contract, RIDOT will consider only the value of the work actually performed by the DBE toward DBE goals. RIDOT includes the entire amount of that portion of a construction contract (or other contract not covered by paragraph (3) of this section) that is performed by the DBE's own forces. RIDOT credits the cost of supplies and materials purchased or leased by the DBE subcontractor for the work of the contract. However, supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate are not counted toward participation.
2. RIDOT credits the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a USDOT-assisted contract, toward DBE goals, provided the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. 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 DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
4. When a DBE performs as a participant in a *joint venture*, RIDOT will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

RIDOT will count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function (CUF) on that contract.

1. 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. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, RIDOT evaluates the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors. Even if a DBE is performing pursuant to normal industry practices, if those practices, in fact, erode the ability of the DBE to control its work and remain independent, the practice may affect how much can be credited toward the DBE goal and may raise questions about the DBE eligibility.
2. Suppliers: A supplier is considered to perform a CUF when it packages, i.e. takes quotes from several manufacturers, and/or sells from its own inventory in order to provide one or more items to a contractor. A supplier may own a franchise and/or may be a factory representative to one or more manufacturers. Consistent with a contractor's probable needs, a supplier, not a contractor, may place orders for production with manufacturers.
3. "Pass through" supply operations occur when the contractor decides what items shall be bought from what sources and/or agrees directly with the manufacturer, or other non-DBE party, to schedule delivery and/or directs adjustments and/or routes payments and purchase orders through the DBE. Pass through operations are not commercially useful functions and will not be counted toward contract goals.
4. Management: The DBE must manage the work that has been contracted to its firm. The DBE owner must supervise daily operations, either personally, or with a full-time, skilled and knowledgeable superintendent employed by and paid wages by the DBE. The superintendent must be present on the job site and under the DBE owner's direct supervision. The DBE owner must make all operational and managerial decisions for the firm. Mere performance of administrative duties is not considered supervision of daily operations.
5. Workforce: In order to be considered an independent business, a DBE must keep a regular workforce. DBEs cannot "share" employees with non-DBE contractors, particularly the prime contractor. The DBE shall perform its work with employees normally employed by and under the DBE's control, see paragraph 9 of this section. The DBE must be responsible for payroll and labor compliance requirements for all employees performing on the contract and is expected to prepare and finance the payrolls. Direct or indirect payments by any other contractor are not allowed.
6. Trucking: RIDOT will consider the following factors in determining whether a DBE trucking company is performing a CUF. The DBE must manage and supervise the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
    a. The DBE itself must own and operate at least one fully licensed, insured, and operational vehicle being used on the contract.
    b. The DBE must receive compensation for the total value of the services it provides on the contract using vehicles it owns, insures, and which are operated by drivers it employs.
    c. The DBE may lease vehicles from another DBE firm, including an owner-operator who is certified as a DBE. The DBE which leases vehicles from another DBE shall receive credit for the total value of the services the lessee DBE provides on the contract.
    d. The DBE may also lease vehicles from a non-DBE firm, including from an owner-operator. The DBE which leases vehicles from a non-DBE is entitled to credit for the total value of

services provided by non-DBE lessees not to exceed the value of services provided by DBE-owned vehicles on the contract. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.

Example to this subsection (6) (d): DBE firm X uses two of its own trucks on a contract. It leases two trucks from DBE firm Y and six trucks from non-DBE firm Z. DBE credit would be awarded for the total value of transportation services provided by firm X and firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by firm Z, DBE credit could be awarded only for the fees or commission pertaining to those trucks firm X receives as a result of the lease with firm Z.

e. For purposes of this subsection, a lease must indicate that the DBE has exclusive use of and control over vehicles used on the project. This does not preclude vehicles from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for the use of the leased vehicle. Leased vehicles must display the name and identification number of the DBE.

7. All expenditures with manufacturers and suppliers must be properly documented in writing in order to count toward a DBE obligation. RIDOT will count expenditures with DBEs for materials or supplies toward DBE goals as follows:
   a. For a DBE contractor (furnish and install) to receive credit for supplying materials, the DBE must perform the following four functions: (1) negotiate price; (2) determine quality and quantity; (3) order the materials; and (4) pay for the material itself. If the DBE does not perform all of these functions, it has not performed a CUF with respect to obtaining the materials, and the cost of the materials may not be counted toward the DBE goal. Invoices for the material should show the payor as the DBE.
   b. If the materials or supplies are purchased from a DBE manufacturer, RIDOT will count 100 percent of the cost of the materials or supplies.
   c. If the materials or supplies are purchased from a DBE regular dealer, RIDOT will count 60 percent of the cost of the materials or supplies toward DBE goals.
   d. With respect to flaggers, when flaggers are provided, RIDOT will count 60 percent of the labor. When traffic signs are included with flaggers, the work will be counted as 100 percent.
   e. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, RIDOT will 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 and supplies required on a job site, toward DBE goals, provided RIDOT determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. The fees will be evaluated by RIDOT after receiving the Broker's Affidavit Form from the DBE. RIDOT will not count any portion of the cost of the materials and supplies themselves toward DBE goals.
8. Subcontractor: A subcontractor arrangement exists when a person or firm has a contractual obligation to perform a defined portion of the contract work and the following conditions are present:
   a. Compensation is determined by the amount of work accomplished, rather than being paid on an hourly basis.
   b. The subcontractor exercises control over work methods (except as limited by project specifications), while furnishing and managing its own labor and equipment with only minimal, general supervision being exercised by the prime contractor.

c. The personnel involved in the DBE subcontractor's portion of the project are both under the subcontractor's direct supervision and identified on its payroll records. When warranted by unique circumstances of a project, a DBE subcontractor may be permitted to employ on a limited basis specialty trades personnel who are not normally employed by the DBE subcontractor.
d. Second tier DBE subcontracting will be approved only in accordance with normal industry practice and when the type of work differs from work which the DBE usually performs.

9. All factors pertaining to the unique conditions of a project shall be considered in determining whether a DBE subcontractor relationship actually exists on the project. A DBE subcontractor may need to lease/rent equipment, other than over-the-road trucks, and/or augment its workforce with additional skilled personnel in order to perform certain project-related work. The DBE subcontractor is required to arrange for the necessary equipment through rental/leasing agreements, as necessary. (Off-the-road equipment, such as "Euclids," may be rented/leased from the prime contractor even though the CUF guidelines prohibit rental/lease of over-the-road trucks from the prime contractor.) Likewise, in limited instances, the prime contractor may provide some, but not all, personnel to the DBE subcontractor when the following conditions are present:
   a. A DBE must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force.
   b. The DBE must not subcontract a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved.
   c. The personnel must have a specialized expertise which has not been mastered by the DBE's own skilled/supervising/managerial personnel.
   d. Such personnel must be placed on the DBE's payroll and come under the direct supervision of the DBE for the performance of the particular subcontract work.
   e. The deployment of such personnel must be accomplished within the framework of a mentor-protégé agreement; or for emergency purposes, by contract change order. All instances of combining personnel must be for developmental purposes in which teaching/demonstration/consulting to the DBE must occur.
   f. Long term, continual (e.g. from one contract to another) or chronic use by a DBE firm, of personnel normally employed by another specific firm, lacking a mentor-protégé agreement which is being carried out in good faith, is not consistent with the CUF guidelines.
   g. To place entire work crews on DBE's payrolls when such personnel are normally employed by another specific firm is not consistent with the CUF guidelines.
   h. A DBE may need to lease/rent equipment, except for over-the-road trucks, in order to be properly equipped to execute the work of a mentor-protégé agreement. In such cases where the DBE has investigated several possible sources of such equipment within a reasonable geographical area to the project, the DBE may find the best offer was made by the prime contractor or another subcontractor on the project. In such cases, the DBE may rent/lease such equipment from the prime or another subcontractor, provided that the use of such equipment is material to demonstrating/teaching objectives set forth in the mentor-protégé agreement. Thus, the DBE's regular employees, not those temporarily furnished by the prime contractor, or another subcontractor, shall operate such equipment for the majority of the time during which the equipment is used in the work of the DBE subcontractor under the mentor-protégé agreement.
   i. A DBE's use of equipment owned by a prime contractor or another subcontractor or without an appropriate mentor/protégé program is inconsistent with the CUF guidelines and will result in noncompliance.
10. If a contractor or subcontractor is not certified as a DBE by the Minority Business Enterprise Compliance Office under the specific NAICS code of line items identified in the contract, at the

time of the execution of the contract or issuance of the purchase order, RIDOT will not count that firm's participation toward any DBE goals, except as provided in 49 CFR 26.87(i).

11. RIDOT will not count toward the contract goal the dollar value of work performed by a contractor or subcontractor after it has ceased to be a certified DBE.
12. RIDOT will not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until all payments being credited have been fully paid to the DBE.

B. DBE Replacement and Termination:

The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains RIDOT's written consent as provided in this section; and unless RIDOT's consent is provided under this paragraph, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

1. Good Cause for Replacement or Termination

The prime contractor must provide the Department's OCR with a copy of its "Intent to Substitute /Terminate" notice to the DBE setting forth the reasons for the request. This notice must advise the DBE that it has five (5) days to respond (to prime and State) with objections and why the State should not approve the prime's proposed action.

After adequate notice by the Contractor, if any DBE is unable to perform work committed toward the goal, the DBE shall provide to the OCR a signed statement stating why it is unable to complete the work. The Contractor shall document its efforts to have another DBE perform the item or to have a DBE perform other items to replace the original DBE commitment amounts. In the event the Contractor is not able to find replacement DBE work, the Contractor must provide the OCR with documentation clearly evidencing its good faith efforts. Contractors are prohibited from terminating for convenience any DBE firm used to fulfill a commitment pursuant to meeting the contract goal stated herein.

Prior to substitution or termination of a DBE subcontractor, the contractor shall demonstrate good cause and obtain written approval from the OCR.

In accordance with 49 CFR Part 26.53 good cause includes the following circumstances:

a. The listed DBE subcontractor fails or refuses to execute a written contract;
b. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
c. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;
d. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
e. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law;
f. RIDOT determines that the listed DBE subcontractor is not a responsible contractor;
g. The listed DBE subcontractor voluntarily withdraws from the project and provides to RIDOT written notice of its withdrawal;
h. The listed DBE is ineligible to receive DBE credit for the type of work required;

i. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
j. Other documented good cause that RIDOT determines compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

Failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies that RIDOT deems appropriate.

2. Good Faith Efforts to Replace

When a DBE subcontractor is terminated as provided in paragraph (1) of this section, or fails to complete its work on the contract for any reason, RIDOT requires the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal RIDOT established for the procurement. The good faith efforts shall be documented by the contractor. If RIDOT requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and RIDOT shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated. The determination shall be made by the DBELO, under the criteria established below.

If there is a change order to a contract on which there is a DBE contract goal, then that contract goal applies to the change order as well as to the original contract. In the event of significant change orders, good faith efforts are required dependent upon the type of change order; RIDOT determines on a case-by-case basis what constitutes good faith efforts in the context of a particular change order. This could include modifying the contract goal amount applicable to the change order if circumstances warrant. When a change order decreases work, i.e. RIDOT determines specific line items are no longer necessary on a contract or there is a quantity change on an item, no good faith effort must be shown. However, when an increase of work occurs or there is a termination of a DBE, good faith efforts must be shown in accordance with the preceding requirements.

C. Monthly Payment Certifications:

All contractors on RIDOT projects are required to certify their payments to subcontractors by use of RIDOT's contractor compliance software on a minimum of a monthly basis (which, at time of publishing, is Prism). A project may not proceed to finalization without the input of this information. RIDOT's Prompt Payment Clause applies to both DBE and non-DBE subcontracts. The Contractor is responsible for the subcontractors' compliance with the submission of their payment reporting by way of this software.

D. Joint Check Procedure for DBEs:

A prime contractor must receive written approval by the Department's DBELO before using a joint check for materials/supplies called for under a subcontract with a DBE. Joint check requests shall be submitted by the prime contractor to the Department's OCR in writing along with a Joint Check Affidavit and the subcontract agreement. The following are general conditions that must be met regarding joint check use:

1. The use of the joint check shall only be allowed by exception and shall not compromise the independence of the DBE;
2. The second party (typically the prime contractor) acts solely as a guarantor;
3. The DBE must release the check to the supplier;
4. The subcontract agreement must reflect the total contract value, including the cost of materials and installation; actual payments for work performed by the DBE may reflect labor only; and
5. The DBE remains responsible for negotiation of price, determining quality and quantity, ordering materials and installing (where applicable) and paying for the material itself.

IV. FINAL SUBCONTRACTOR PAYMENTS AND RELEASE OF RETAINAGE

Prior to receiving final payment, the Contractor shall provide to the Resident Engineer certification of the dollars paid to each DBE firm using Form "DBE Request for Verification Payment." The certification shall be dated and signed by a responsible officer of the Contractor and by the DBE. Falsification of this certification will result in sanctions listed in Sections I. of this provision.

If this contract contains a DBE goal, the Contract Compliance Officer with the OCR will verify that the Contractor has attained the DBE goal specified on said project or has provided adequate documentation justifying a lesser amount. The final estimate will not be paid to the Contractor until proper certifications have been made.

When a subcontractor's work is satisfactorily complete (i.e., all the tasks called for in the subcontract have been accomplished and documented), and the Department has partially accepted the work and all payments have been certified by the Contractor and subcontractor on the "Certification of Progress Payment" form, the Prime Contractor shall release all retainage held by the Prime Contractor within thirty (30) days of satisfactory completion of the subcontractor's work. The subcontractor shall submit to the Prime Contractor the final executed form within ten (10) days of receipt of payment.

_____

Signature of Contractor or Consultant

_____

Date

Bid #7603776

Appendix A.02

FHWA-1273

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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

ATTACHMENTS

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

I. GENERAL

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

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

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

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

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

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

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

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

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

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

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

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

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

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

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

b. Trainees (programs of the USDOL).

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

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

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term “perform work with its own organization” refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

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

VII. SAFETY: ACCIDENT PREVENTION

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

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

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

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

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

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

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

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

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

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

1**. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

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

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. **Instructions for Certification - Lower Tier Participants:**

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

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. “First Tier Covered Transactions” refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). “Lower Tier Covered Transactions” refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). “First Tier Participant” refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). “Lower Tier Participant” refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS

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.

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Appendix A.03

49 CFR PART 20

This project is Federally funded with Title 23 funds. The Contractor shall confirm to all Federal laws and regulations including but not limited to those referenced herein. FHWA will conduct oversight reviews to ensure compliance with FHWA rules and requirements.

49 CFR Part 20 Certification Regarding Lobbying

1. Certification for Contracts, Grants, Loans, and Cooperative Agreements

The CONTRACTOR certifies, 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 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.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors 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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure or failure.]

2. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.
The RIDOT and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the RIDOT, CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. (2) The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

3. FALSE OR FRAUDULENT STATEMENTS OR CLAIMS

The CONTRACTOR acknowledges and agrees that:

a. Civil Fraud. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq*., and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to the CONTRACTOR's activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the CONTRACTOR certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the CONTRACTOR also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the CONTRACTOR the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

b. Criminal Fraud. If the CONTRACTOR makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a Project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the CONTRACTOR the penalties of 49 U.S.C. § 5323(l), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

4. ACCESS TO THIRD PARTY CONTRACT RECORDS

RIDOT agrees to require, and assures that its CONTRACTOR require, their third-party contractors and third- party subcontractors at each tier to provide to the U.S. Secretary of Transportation and the Comptroller General of the United States or their duly authorized representatives, access to all third-party contract records as required by 49 U.S.C. § 5325(g). The CONTRACTOR further agrees to require, and assures that its subcontractors require, their third-party contractors and third-party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and regulations or to assure proper Project management as determined by Federal regulation.

5. CHANGES TO FEDERAL REQUIREMENTS

The CONTRACTOR shall at all times comply with all applicable Federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreements as they may be amended or promulgated from time to time during the term of this contract. The CONTRACTOR's failure to so comply shall constitute a material breach of this contract in compliance with 49 CFR Part 18.

6. TERMINATION

a. Termination for Convenience (General Provision) The RIDOT may terminate this contract, in whole or in part, at any time by written notice to the CONTRACTOR when it is in the Government's best interest in compliance with 49 U.S.C. Part 18. The CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to RIDOT to be paid. If the CONTRACTOR has any property in its possession belonging to the RIDOT, the CONTRACTOR will account for the same, and
dispose of it in the manner the RIDOT directs.

b. Termination for Default [Breach or Cause] (General Provision) If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, RIDOT may terminate this contract for default. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and

accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the RIDOT that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the CONTRACTOR, the RIDOT, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The RIDOT in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If CONTRACTOR fails to remedy to RIDOT's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by CONTRACTOR of written notice from RIDOT setting forth the nature of said breach or default, RIDOT shall have the right to terminate the Contract without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude RIDOT from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that RIDOT elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this Contract, such waiver by RIDOT shall not limit RIDOT 's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) The RIDOT, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the RIDOT shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the CONTRACTOR fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this contract, the RIDOT may terminate this contract for default. The RIDOT shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the RIDOT.

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g. Termination for Default (Transportation Services) If the CONTRACTOR fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this contract, the RIDOT may terminate this contract for default. The RIDOT shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of default. The CONTRACTOR will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while the CONTRACTOR has possession of RIDOT goods, the CONTRACTOR shall, upon direction of the RIDOT, protect and preserve the goods until surrendered to the RIDOT or its agent. The CONTRACTOR and RIDOT shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the RIDOT.

h. Termination for Default (Construction) If the CONTRACTOR refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the CONTRACTOR fails to comply with any other provisions of this contract, the RIDOT may terminate this contract for default. The RIDOT shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. In this event, the RIDOT may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plans on the work site necessary for completing the work. The CONTRACTOR and its sureties shall be liable for any damage to the RIDOT resulting from the CONTRACTOR's refusal or failure to complete the work within specified time, whether or not the CONTRACTOR's right to proceed with the work is terminated. This liability includes any increased costs incurred by the RIDOT in completing the work. The CONTRACTOR's right to proceed shall not be terminated, nor the CONTRACTOR charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR. Examples of such causes include: acts of God, acts of the RIDOT, acts of another CONTRACTOR in the performance of a contract with the CONTRACTOR, epidemics, Quarantine restrictions, strikes, freight embargoes; and

2. The CONTRACTOR, within [10] days from the beginning of any delay, notifies the RIDOT in writing of the causes of delay. If in the judgment of the RIDOT, the delay is excusable, the time for completing the work shall be extended. The judgment of the RIDOT shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

   If, after termination of the CONTRACTOR's right to proceed, it is determined that the CONTRACTOR was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the RIDOT.

i. Termination for Convenience or Default (Architect and Engineering) The RIDOT may terminate this contract in whole or in part, for the RIDOT's convenience or because of the failure of the CONTRACTOR to fulfill the contract obligations. The RIDOT shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the CONTRACTOR shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If the termination is for the convenience of the CONTRACTOR, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the CONTRACTOR to fulfill the contract obligations, the RIDOT may complete the work by contract or otherwise and the CONTRACTOR shall be liable for any additional cost incurred by the RIDOT. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the RIDOT.

j. Termination for Convenience or Default (Cost-Type Contracts) The RIDOT may terminate this contract, or any portion of it, by serving a notice or termination on the CONTRACTOR. The notice shall state whether the termination is for convenience of the RIDOT or for the default of the CONTRACTOR. If the termination is for default, the notice shall state the manner in which the CONTRACTOR has failed to perform the requirements of the contract. The CONTRACTOR shall account for any property in its possession paid for from funds received from the RIDOT, or property supplied to the CONTRACTOR by the RIDOT. If the termination is for default, the RIDOT may fix the fee, if the contract provides for a fee, to be paid the CONTRACTOR in proportion to the value, if any, of work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to the RIDOT and the parties shall negotiate the termination settlement to be paid the CONTRACTOR. If the termination is for the convenience of the RIDOT, the CONTRACTOR shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the RIDOT determines that the CONTRACTOR has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the

CONTRACTOR, the RIDOT, after setting up a new work schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

7. CIVIL RIGHTS

The CONTRACTOR agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

a. **Nondiscrimination in Federal Public Transportation Programs**. The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. **Nondiscrimination – Title VI of the Civil Rights Act**. The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d *et seq*., and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21.

c. **Equal Employment Opportunity**. The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq*., and implementing Federal regulations and any later amendments thereto. The CONTRACTOR also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

1. The CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

2. Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the CONTRACTOR agrees to comply and assures the compliance of each subcontractor, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*; with implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

d. **Nondiscrimination on the Basis of Sex**. The CONTRACTOR agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

e. **Nondiscrimination on the Basis of Age**. The CONTRACTOR agrees to comply with all applicable requirements of:

1. The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq., and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which

prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance.

2. The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

f. **Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections**. To the extent applicable, the CONTRACTOR agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq*., the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq*., and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

g. **Access to Services for Persons with Limited English Proficiency**. The CONTRACTOR agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg*. 74087, December 14, 2005.

h. **Environmental Justice**. The CONTRACTOR agrees to facilitate compliance with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

i. **Other Nondiscrimination Laws**. The CONTRACTOR agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

8. DISADVANTAGED BUSINESS ENTERPRISE

To the extent authorized by Federal law, the CONTRACTOR agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subcontractor, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable as follows:

1. The CONTRACTOR agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

2. The CONTRACTOR agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any sub-agreement, lease, third party contract, or other arrangement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26.

The CONTRACTOR agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all sub-agreements, derived from U.S. DOT. As required by 49 C.F.R. Part 26, the CONTRACTOR's DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative agreement for the Project. The CONTRACTOR agrees that it has a legal obligation to implement its approved DBE program, and that its failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and this Master Agreement. Upon notification by U.S. DOT to the CONTRACTOR of the CONTRACTOR's failure to implement its approved DBE program, U.S. DOT may impose the sanctions as set forth in 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter to the appropriate Federal authorities for enforcement under 18 U.S.C. § 1001, or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq*., or both.

9. DEBARMENT AND SUSPENSION

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. Part 180. The CONTRACTOR agrees to, and assures that its subcontractors, lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at https://sam.gov/SAM/ before entering into any Sub-agreement, lease, third party contract, or other arrangement in connection with the Project.

10. BREACHES AND DISPUTE RESOLUTION

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of RIDOT. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the CONTRACTOR mails or otherwise furnishes a written appeal to the RIDOT. In connection with any such appeal, the CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the RIDOT shall be binding upon the CONTRACTOR and the CONTRACTOR shall abide be the decision.

Performance During Dispute - Unless otherwise directed by RIDOT, CONTRACTOR shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the RIDOT and the CONTRACTOR arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the RIDOT is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the RIDOT or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

***11.* CLEAN AIR**

(1) The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq/40 CFR 15.61/49 CFR Part 18. The CONTRACTOR agrees to report each violation to the RIDOT and understands and agrees that the RIDOT will, in turn, report each violation as required to assure notification to FHWA and the appropriate EPA Regional Office.

(2) The CONTRACTOR also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FHWA.

***12.* CLEAN WATER REQUIREMENTS**

(1) The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the

Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The CONTRACTOR agrees to report each violation to the RIDOT and understands and agrees that the RIDOT will, in turn, report each violation as required to assure notification to FHWA and the appropriate EPA Regional Office.

(2) The CONTRACTOR also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance.

13. **DAVIS-BACON AND COPELAND "ANTI-KICKBACK" ACTS**

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n) (4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the

Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a) (1) (ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program. The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
2. The classification is utilized in the area by the construction industry; and
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a) (1) (v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The RIDOT shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the

construction or development of the project), all or part of the wages required by the contract, the RIDOT may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2) (B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the RIDOT for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.
(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and

Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a) (1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis- Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a) (1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

14. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

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

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

15. **BONDING**

The CONTRACTOR agrees to comply with the following bonding provisions, as applicable:
(1) Construction Activities. The CONTRACTOR agrees to provide bid guarantee, contract performance, and payment bonds as provided by Federal regulations.

(2) Activities Not Involving Construction. The CONTRACTOR agrees to follow Federal regulations on bonding restrictions for projects not involving construction.

16. SEISMIC SAFETY

The CONTRACTOR agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 *et seq*., in accordance with Executive Order No. 12699, "Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction," 42 U.S.C. § 7704 note, and comply with implementing U.S. DOT regulations, "Seismic Safety," 49 C.F.R. Part 41 (specifically, 49 C.F.R. § 41.117).

17. SUBSTANCE ABUSE

To the extent applicable, the CONTRACTOR agrees to comply with the following Federal regulations and guidance:

a. **Drug-Free Workplace**. U.S. OMB Guidance, "Government-wide Requirements for Drug-Free Workplace (Financial Assistance)," 2 C.F.R. Part 182, and U.S. DOT regulations, " - Requirements for Drug-Free Workplace (Financial Assistance)," 49 C.F.R. Part 32, that implement the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 *et seq*., including any amendments to these U.S. DOT regulations when they are promulgated. *[U.S. OMB published final Drug-Free Workplace guidance in 74 Fed. Reg. 28149 et seq. on June 15, 2009.]*

b. **Alcohol Misuse and Prohibited Drug Use**. "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 655, that implement 49 U.S.C. § 5331.

18. PATENT RIGHTS

a. General. If any invention, improvement, or discovery of the CONTRACTOR or of any subcontractor, lessee, third party contractor, or other participant at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the CONTRACTOR agrees to notify FHWA immediately and provide a detailed report in a format satisfactory to FHWA.
b. Federal Rights. The CONTRACTOR agrees that its rights and responsibilities, and those of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, pertaining to that invention, improvement, or discovery will be determined in accordance with applicable Federal laws and regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the CONTRACTOR agrees to transmit to FHWA those rights due the Federal Government in any invention, improvement, or discovery resulting from that sub-agreement, third party contract, third party subcontract, or arrangement, as specified in 35 U.S.C. §§ 200 *et seq*., and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401, irrespective of the status of the CONTRACTOR, subcontractor, lessee, third party contractor or other participant in the Project (*i.e.*, a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual). c. License Fees and Royalties. FHWA considers income earned from license fees and royalties for patents, patent applications, and inventions produced under the Project to be program income. Except to the extent FHWA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the CONTRACTOR has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq*., which applies to patent rights developed under a research project.

19. RIGHTS IN DATA AND COPYRIGHTS

a. Definition. The term "subject data," means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Grant Agreement or Cooperative Agreement for the Project. Examples include, but are not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. "Subject data," as used in this Section 18, does not include financial reports, cost analyses, or other similar information used

for Project administration.

b. General. The following restrictions apply to all subject data first produced in the performance of the Grant Agreement or Cooperative Agreement for the Project: (1) Except for its own internal use, the CONTRACTOR may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the CONTRACTOR authorize others to do so, without the prior written consent of the Federal Government, unless the Federal Government has previously released or approved the release of such data to the public. (2) The restrictions on publication of Subsection 18.b(1) of this Master Agreement, however, do not apply to a Grant Agreement or Cooperative Agreement with an institution of higher learning.

c. Federal Rights in Data and Copyrights. The CONTRACTOR agrees to provide to the Federal Government a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in this Subsection 18.c of this Master Agreement. As used herein, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not provide or otherwise extend to other parties the Federal Government's license to:

> (1) Any subject data developed under the Grant Agreement or Cooperative Agreement for the Project, or under a sub-agreement, lease, third party contract or other arrangement at any tier of the Project, supported with Federal assistance derived from the Grant Agreement or Cooperative Agreement for the Project, whether or not a copyright has been obtained; and (2) Any rights of copyright to which a CONTRACTOR, subcontractor, lessee, third party contractor, or other participant at any tier of the Project purchases ownership using Federal assistance.

d. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies Projects. In general, FTA's purpose in providing Federal assistance for a research, development, demonstration, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to Project participants. Therefore, when the Project is completed, the CONTRACTOR agrees to provide a Project report that FTA may publish or make available for publication on the Internet. In addition, the CONTRACTOR agrees to provide other reports pertaining to the Project that FTA may request. The CONTRACTOR agrees to identify clearly any specific confidential, privileged, or proprietary information it submits to FTA. In addition, except to the extent that FTA determines otherwise in writing, the CONTRACTOR of Federal assistance to support a research, development, demonstration, or a special studies Project agrees that, in addition to the rights in data and copyrights that it must provide to the Federal Government as set forth in Subsection 18.c of this Master Agreement, FTA may make available to any FTA CONTRACTOR, subcontractor, third party contractor, third party subcontractor or other participant at any tier of the Project, either FTA's license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under the Project shall become subject data as defined in Subsection 18.a of this Master Agreement and shall be delivered as the Federal Government may direct. This Subsection 18.d, however, does not apply to adaptations of automatic data processing equipment or programs for the CONTRACTOR's use when the costs thereof are financed with Federal assistance through an FTA capital program.

e. License Fees and Royalties. FTA considers income earned from license fees and royalties for copyrighted material, or trademarks produced under the Project to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the CONTRACTOR has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq*., which applies to patent rights developed under a research project.

f. Hold Harmless. Except as prohibited or otherwise limited by State law or except to the extent that FTA determines otherwise in writing, upon request by the Federal Government, the CONTRACTOR agrees to indemnify, save, and hold harmless the Federal Government and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the CONTRACTOR of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under the Project. The CONTRACTOR

shall not be required to indemnify the Federal Government for any such liability caused by the wrongful acts of Federal employees or agents.

g. Restrictions on Access to Patent Rights. Nothing in Section 18 of this Master Agreement pertaining to rights in data shall either imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent

h. Data Developed Without Federal Funding or Support. In connection with the Project, the CONTRACTOR may find it necessary to provide data to FTA developed without any Federal funding or support by the Federal Government. The requirements of Subsections 18.b, 18.c, and 18.d of this Master Agreement do not apply to data developed without Federal funding or support by the Federal Government, even though that data may have been used in connection with the Project. Nevertheless, the CONTRACTOR understands and agrees that the Federal Government will not be able to protect data from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential."

i. Requirements to Release Data. To the extent required by U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non- Profit Organizations," at 49 C.F.R. § 19.36(d), or other applicable Federal laws or Federal regulations, the CONTRACTOR understands and agrees that the data and information it submits to the Federal Government may be required to be released in accordance with the Freedom of Information Act (or another Federal law or Federal regulation providing access to such records).

20. <u>ENERGY CONSERVATION</u>

The CONTRACTOR agrees to comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 *et seq.,* except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the CONTRACTOR agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

21. <u>PREFERENCE FOR RECYCLED PRODUCTS</u>

To the extent applicable, the CONTRACTOR agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the CONTRACTOR agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

22. <u>NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE AND STANDARDS (*For all ITS projects*)</u>

To the extent applicable, the CONTRACTOR agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 *Fed. Reg.* 1455 *et seq*., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing. <u>ACCESS FOR INDIVIDUALS WITH DISABILITIES</u>

The CONTRACTOR agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The CONTRACTOR also agrees to comply with all applicable provisions of section 04 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of

programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq*., which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq*., which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the CONTRACTOR agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

(1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

(2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

(3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;

(4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

(5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

(6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;

(7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

(8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;

(9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;

(10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

(11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

23. STATE, TERRITORIAL, AND LOCAL LAW

Should a Federal law pre-empt a State, territorial, or local law, regulation, or ordinance, the CONTRACTOR must comply with the Federal law and implementing regulations. Nevertheless, no provision of the Grant Agreement or Cooperative Agreement for this Project, or Master Agreement requires the CONTRACTOR to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of State, territorial, or local law, regulation, or ordinance. Thus, if compliance with any provision of the Grant Agreement or Cooperative Agreement for the Project, or the Master Agreement violates or would require the CONTRACTOR to violate any State, territorial, or local law, regulation, or ordinance, the CONTRACTOR agrees to notify FTA immediately in writing. Should this occur, FTA and the CONTRACTOR agree that they will make appropriate arrangements to proceed with or, if necessary, terminate the Project expeditiously.

24. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by U.S. DOT, as set forth in the Federal Transit Administration (FTA) Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any RIDOT requests which would cause RIDOT to be in violation of the FTA terms and conditions