

# PROJECT MANUAL

FOR

## Bland County

**ROUND MOUNTAIN - WOLF CREEK INDIAN VILLAGE**

**CONNECTOR TRAIL**



**October 7, 2014**

*Revised: February 5, 2015*

**VDOT PROJECT NO. EN00-010-101, C501, UPC 56389**

Prepared for:

**Bland County  
P.O. Box 510  
Bland, VA 24315**

Prepared by:



**DAA Project No. B08160-01**

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**Bland County, Virginia**  
**Round Mountain - Wolf Creek Indian Village - Connector Trail**

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**Bland County, Virginia**  
**Round Mountain - Wolf Creek Indian Village - Connector Trail**

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# INVITATION TO BID

## BLAND COUNTY

### ROUND MOUNTAIN - WOLF CREEK INDIAN VILLAGE - CONNECTOR TRAIL

Bland County, Virginia (Owner) seeks BIDS for the construction of the Round Mountain Wolf Creek Indian Village Connector Trail. Sealed BIDS will be received at the Bland County Administrators Office, 612 Main Street, Bland, VA 24315; Attention: Eric Workman, County Administrator, **no later than 3:00 PM, local prevailing time, on March 5, 2015**. As this is a sealed formal Invitation to Bid, faxed bids will NOT be accepted. Bids not received by the date and time listed above will be returned to the Offeror unopened. Bids will also be opened and read aloud at this same time in Bland County Administrative Offices in Bland, Virginia.

The project generally consists of improvements to the Wolf Creek Indian Village Parking Lot and the construction of approximately 2545 LF of compacted stone trail connecting the improved parking lot to an existing National Forest Blazed Trail west of the Bland County Commerce Park. Included in the project is a pedestrian crossing of U.S. Route 52. Specifications are included in the bid package.

BIDDING DOCUMENTS may be viewed at:

Draper Aden Associates  
2206 South Main Street  
Blacksburg, VA 24060  
540-552-0444

Additionally, bid documents including Instructions to Bidders may be viewed Monday through Friday, 8:00AM - 5:00 PM at the County Administrators office (below) by phoning in advance (276) 688-4622 or emailing Eric Workman at [eworkman@bland.org](mailto:eworkman@bland.org).

Bland County Administrator's Office  
612 Main Street  
Bland, VA 24315

BIDDING DOCUMENTS may be obtained from the Draper Aden Associates website, <http://www.ebidexchange.com/daa>. From there you can click the "Register" tab when you are ready to register your company and view the project documents. Inquiries to obtain BIDDING DOCUMENTS should be directed to Rebecca Emery, Project Administrator, Draper Aden Associates, at [remery@daa.com](mailto:remery@daa.com). Inquiries regarding BIDDING DOCUMENTS (plans and specifications) should be directed to Blaine Keese, L.A., Senior Program Manager, Draper Aden Associates at [bkeese@daa.com](mailto:bkeese@daa.com).

**NON-MANDATORY PRE-BID CONFERENCE** will be held at **10:00 local prevailing time, on Wednesday, February 18, 2015** at the Bland County Administrative Offices in Bland, Virginia with an optional site visit to follow.

This project is federally funded. The Virginia Department of Transportation has established a 6% DBE (Disadvantaged Business Enterprise) requirement for the construction contract. Further information regarding DBE requirements, including required documentation forms and certifications, is included with the Bid Documents. Additional inquiries regarding DBE participation requirements should be directed to Mary Ann Altum, VDOT Bristol District Civil Rights Division, at (276) 645-1677 or by emailing [maryAnn.Altum@VDOT.virginia.gov](mailto:maryAnn.Altum@VDOT.virginia.gov).

## **INSTRUCTIONS TO BIDDERS**

### **I. GENERAL**

- A. The intent of the drawings and specifications is that the Contractor shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the work in accordance with the Contract Documents and all incidental work necessary to complete the project in an acceptable manner, ready for use, occupancy or operation by the Owner.
- B. Any item that is shown on the plans but not mentioned in the specifications, or mentioned in the specifications but not shown on the plans, shall be considered as being both shown on the plans and mentioned in the specifications.
- C. The entire work provided for in the specifications and shown on the plans is to be accomplished even though every item and minor detail for the proper installation and successful operation of the entire work is not mentioned in the specifications or shown on the plans.
- D. The cost of any item whatsoever not listed in the Bid Form, yet, which is mentioned in the specifications or shown on the plans, shall be considered to be included in the cost of some other item of Bid in the Bid Form.
- E. "Contract Documents" shall include, but may not be limited to, the following:
- Invitation to Bid
  - Instructions to Bidders
  - Bid
  - Bid Forms
  - Addenda, if any
  - General and Special Conditions
  - Supplemental Conditions / VDOT Special Provisions
  - Contract
  - Contract Forms
  - Certificates of Insurance
  - Bonds
  - Technical Specifications
  - Drawings
  - Change Orders, if any
- F. Should there be any questions concerning the Contract Documents, the prospective Bidder shall bring the same to the attention of the Owner in writing.

Should the prospective Bidder fail to do so before submitting a bid, the Bidder shall accept the resolution of any question provided by the Owner.

- G. Any permits obtained by the Owner or contractor shall be made part of and attached to the Contract Documents.

## **II. QUALIFICATIONS OF BIDDERS**

- A. The County of Bland may conduct an investigation, as it deems necessary, to determine the ability of the lowest responsive and responsible Bidder to perform the work in accordance with the time schedule included in the Contract Documents, and, if such an investigation is performed, the Bidder shall furnish the County all information and data requested by the County. The County reserves the right to reject any bid if the evidence submitted by, or the investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligation of the Contract Documents and to complete the work contemplated therein in accordance with established completion schedule.
- B. Bidders shall, when requested by the County, be prepared to furnish, in writing, the following information within three (3) working days after receipt of such request:
1. The permanent business address of the Bidder.
  2. Whether the Bidder has plant and equipment adequate to perform the work properly and expeditiously, and if so, a list of the plant and equipment available for this work.
  3. Whether the Bidder has appropriate technical experience, and if so, a description of the projects which Bidder has carried out, together with the names and addresses of the engineers in charge of the work.
  4. A financial statement, under oath, showing the assets, obligations and net worth of the Bidder, and the name of banking connections, said statement to be current to the month within which the bid was submitted.
  5. Bidders otherwise qualified shall obtain a Virginia Contractors License within 90 days of receiving a Notice of Intent to Award a contract.

## **III. INTERPRETATION OF CONTRACT DOCUMENTS**

- A. All questions concerning the meaning or intent of the Contract Documents shall be submitted in writing to the Owner in care of the Bland County Administrator. Replies will be issued by addenda mailed or delivered to all parties recorded by the Purchasing Department as having received the Contract Documents.

Questions received less than 5 days prior to the date for opening of the Bids will not be answered. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

#### **IV. ADDENDA**

- A. Addenda will be mailed or delivered to all who are known by the Bland County Administrator to have received a complete set of Contract Documents.

#### **V. PREPARATION OF BIDS**

- A. Each Bidder is urged to examine carefully the Contract Documents for the work. The County will assume that the Bidder has considered the character, quality, and quantities of work to be performed, the materials to be furnished and the requirements of the Contract Documents. The submission of a Bid shall be considered evidence that the Bidder has made such examination.
- B. Bids must be submitted upon the blank Bid Form provided in the Contract Documents. Except as may be otherwise noted, the blank spaces in the Bid Form must be filled in and no changes shall be made in the phraseology of the Bid Form.
- C. A Bid Form that contains any omissions, erasures, alterations, items not called for or irregularities of any kind, at the discretion of the County, may be rejected as non-responsive.
- D. The Bid Form shall specify the Base Bid, written with ink or typed in both words and figures, for which the work will be performed according to the Contract Documents. In the event of discrepancy between the two expressed amounts of the Base Bid, the word amount shall govern. Any unit prices for separate items or any Alternates, if any, as called for in the Bid Form shall be written with ink or typed in figures in the appropriate blanks.
- E. Each Bidder shall comply with all applicable County Ordinances and Commonwealth of Virginia Laws. Each Bidder is required, under Chapter 7 of the Virginia Code of 1950, as amended, to show evidence of a Certificate of Registration before a Bid can be received and considered. Each Bidder will place Bidder's State Registration Number in the appropriate blank on the Bid Form.
- F. The following forms are included herewith as a part of the Contract Documents. Each Bidder shall complete, properly execute, and submit the following documents along with the Bid Form and the Bid Security:
- Form C-111      Minimum DBE Requirements
  - Form C-48      Subcontractor/Supplier Solicitation and Utilization

- Form C-49 DBE Good Faith Efforts Documentation
- Form C-104 Bidder's Affidavit – Sherman Act
- Form C-105 Bidder's Affidavit – Contractor Certifications
- Form C-112 Certification of Binding Agreement
- Bidder's Reference Form
- Standard Bid Bond

**VI. SPECIFIC INFORMATION REGARDING SOLICITATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBEs)**

- A. The Virginia Department of Transportation (VDOT or Department), as administrator of the Federal Highway Administration funds provided for this project, has established a goal for participation by Disadvantaged Business Enterprises (DBEs) of 6% of the total contract value. It is the prime Bidder's responsibility to ensure that DBEs have the maximum opportunity to participate in the performance of the Department's contracts and subcontracts. In this regard, the Bidder shall take all necessary and reasonable steps in accordance with the provisions detailed in "DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROVISIONS AND DOCUMENTATION INSTRUCTIONS" (Provisions) as provided with the Bid Documents to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Bidders are advised that only DBEs who meet the definitions contained in Section 3.0 of the Provisions and who have been certified by the Virginia Department of Minority Business Enterprise (DMBE) prior to contract award may be credited toward the goal.
- B. DBEs are certified in compliance with federal guidelines. DMBE administers two certification programs: the Small, Women- and Minority-owned Businesses under Virginia's "SWAM" Procurement Initiative, and the federal U.S. Department of Transportation's Disadvantaged Business Enterprise ("DBE") Program. The Department has advised that only those vendors and contractors certified as DBEs, not those certified as SWAM Businesses, meet the criteria established for the DBE program for VDOT Contracts. For additional technical assistance on the DBE goal for this project or the DBE certification process, Bidders are advised to contact Mary Ann Altum, VDOT Bristol District Civil Rights Division at (276) 645-1677 or by emailing [maryAnn.Altum@VDOT.virginia.gov](mailto:maryAnn.Altum@VDOT.virginia.gov).
- C. Bidders are advised to consult the DMBE website through the following link: <http://www.dmbestate.va.us> for further information regarding these requirements. Bidders are advised to use the DMBE website search section to solicit DBEs necessary to meet the goals established for this project, using the following direct link: [http://www.dmbestate.virginia.gov/cgi-bin/dbe\\_search.cgi](http://www.dmbestate.virginia.gov/cgi-bin/dbe_search.cgi)
- D. When using website to complete DBE solicitation and good faith efforts requirements, it is best to search by "Commodity Code Description." Upon determining the commodity code description to search, a more refined list of

certified DBE vendors can be generated. This list will include the DBE certification type, certification number, certification expiration date, contact information and descriptions of services for applicable commodity providers.

- E. Print this list and record all contacts made along with the means of contact (mail, fax, email, phone) and date of contact for each firm selected using the “Good Faith Efforts” forms provided in the Project Manual. For questions or more information about the federal Disadvantaged Business Enterprise Certification Program, contact DMBE’s Customer Care Specialist at (804) 786-1718.

## **VI. SUBMISSION OF BIDS**

- A. The Bid Form, the Bid Security, and all other documents required to be submitted with the Bid shall be enclosed in a sealed envelope and addressed as follows:

Mr. Eric Workman, County Administrator  
County of Bland  
P.O. Box 510  
Bland, VA 24315

- B. Place in the lower left-hand corner of the envelope the project title and VDOT Project Number as shown on the Invitation to Bid. Place in the upper left-hand corner of the envelope the Bidder's name and mailing address.
- C. The Bidder is responsible for the timely delivery at the location designated for receipt of Bids.
- D. Bids shall be delivered to the designated location prior to the time and date for receipt of Bids indicated in the Invitation to Bid. Bids received after that time and date will be returned unopened.
- E. Each Bid must be accompanied by a Bid Security in an amount equal to three percent (3%) of the Base Bid. The Bid Security shall be in the form of Cash, Letter of Credit issued by a Banking Institution, Certified Check or Bid Bond payable to Bland County. Bid Bonds shall be issued by a Corporate Surety authorized to do business in the Commonwealth of Virginia. The Bidder as Principal shall duly execute the Bid Bonds.

## **VII. WITHDRAWAL OF BIDS**

- A. Bids may be withdrawn at any time prior to the time and date of the Opening of Bids.
- B. After the opening of the Bids, Bidders may only withdraw Bids that were substantially lower than other Bids because of clerical error. The Bidder must

give to Bland County notice in writing of Bidder's request to withdraw the Bid within two (2) business days after the conclusion of the Opening of Bids.

**VIII. OPENING OF BIDS**

- A. No responsibility will be attached to the County for the premature opening of Bids not properly addressed and identified, as stipulated in Paragraph VI.1.
- B. Bids will be opened and read aloud at the time, date and place stipulated in the Invitation to Bid and the contents made public for the information of the Bidders and other interested persons.

**IX. REJECTION OF BIDS**

- A. The County reserves the right to waive any informalities in the Bids and to reject any or all Bids, should it be deemed in the best interest of the County.
- B. Reasonable grounds for believing that any Bidder is interested in more than one Bid for the same Contract shall cause the rejection of all Bids in which that Bidder is interested.
- C. The Bid security will be promptly returned to all Bidders of rejected bids after the County and the Accepted Bidder have executed the Contract.
- D. Should no award or written "Notice of Bid Acceptance" have been made by the County ninety (90) consecutive calendar days after the Opening of Bids, the Bidder may obtain the Bid Security from the County Purchasing Department.

**X. ACCEPTANCE OF BIDS**

- A. Contract will be awarded upon determination of the lowest base Bid amount of responsive and responsible Bidder.
- B. Within ninety (90) consecutive calendar days after the Bid Opening date, the County may give written "Notice of Bid Acceptance." The successful Bidder shall be required to execute the Contract and furnish the County a Performance Bond and a Labor and Material Payment Bond each in the amount of One Hundred percent (100%) of the Contract amount, all of which shall be completed on blank forms provided in the Contract Documents, with a surety on each Bond provided by a Security Company authorized to transact business in the Commonwealth of Virginia. Attorneys-in-fact who execute Contract Bonds must file with each bond a certified copy of their Power of Attorney dated the same date as the Bonds are executed. (See Part II, Section 22 & 29)

- C. Within ten (10) consecutive calendar days from the receipt of written notice from the County, the successful Bidder shall execute the Contract with and furnish to the County the required bonds.
- D. Upon the execution of the Contract and approval of the Bonds, the Bid Security shall be returned to the successful Bidder. Should the successful Bidder fail or refuse to execute the Contract or furnish the required Bonds within the stipulated time, the Bid Security shall be forfeited to the County as liquidated damages.
- E. Work shall commence only upon the receipt of a written "Notice to Proceed" from the Owner. The consecutive calendar days for completion shall start from the date stipulated in the written "Notice to Proceed."
- F. The Contractor shall be required to furnish a schedule for the timely completion of the project prior to beginning work and from time to time during construction submit on the same schedule the actual work completed.

#### **XI. EVALUATION OF BIDS**

- A. County Staff will evaluate Bids received to determine the lowest responsive and responsible Bidder on the basis of the following criteria, which are listed in order of precedence:
  - price
  - responsiveness
  - experience
  - qualifications
  - past contracts with the County
  - financial status of Contractor

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**PREBID QUESTION SUBMITTAL FORM**

(Use separate form for each question submitted. Attach additional sheets if necessary.)

Date: \_\_\_\_\_

Project: Round Mountain - Wolf Creek Indian Village - Connector Trail  
Bland County, Virginia

VDOT Project No: EN00-010-101,C501, UPC 56389

The following question concerns Bid / Contract Document entitled \_\_\_\_\_:

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The following question concerns Drawing Sheet (number) \_\_\_\_\_:

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The following question concerns Specifications Section \_\_\_\_\_, Subsection \_\_\_\_\_,  
Paragraph \_\_\_\_\_:

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All questions regarding the Bid Documents, including Plans and Specifications, must be submitted in writing. No more than one (1) question shall be submitted on a single form. Responses to all questions so submitted shall be issued to all Bidders and Plan Holders via written Addenda. No verbal clarifications shall be relied upon for the purposes of the Bid submittal.

Question submitted by: \_\_\_\_\_  
Name Organization

Prebid Question Form may be forwarded via:

- (1) Mail: Mr. Eric Workman, County Administrator  
County of Bland  
P.O. Box 510  
Bland, VA 24315
- (2) Email: [eworkman@bland.org](mailto:eworkman@bland.org)
- (3) FAX: (276) 688-4622

## BID FORM

DATE: \_\_\_\_\_

PROJECT TITLE: Round Mountain – Wolf Creek Indian Village Connector Trail

PROJECT LOCATION: BLAND COUNTY, VIRGINIA

VDOT PROJECT NO.: EN-010-101, C501, UPC 56389

TO: Mr. Eric Workman, County Administrator  
 County of Bland  
 P.O. Box 510  
 Bland, VA 24315

In compliance with your Advertisement for Bids, the undersigned proposes to furnish all labor and materials and perform all work necessary for construction of the referenced project, in strict accordance with all the contract documents, dated February 5, 2015, plans dated July 11, 2014, including any addenda noted below, as prepared by Bland County for the consideration of the following amounts:

	Estimated Quantity	Unit	Unit Cost	Total Cost
<b>A. General Site Work</b>				
Mobilization	1	LS	\$ _____	\$ _____
Construction Surveying	1	LS	\$ _____	\$ _____
Compaction Testing	1	LS	\$ _____	\$ _____
Clearing & Grubbing	1	LS	\$ _____	\$ _____
Miscellaneous Demolition	1	LS	\$ _____	\$ _____
Traffic Control	1	LS	\$ _____	\$ _____
Earthwork	1	LS	\$ _____	\$ _____
Silt Fence	3,000	LF	\$ _____	\$ _____
Temporary Stone Construction Entrance	2	EA	\$ _____	\$ _____
Permanent Seeding	1.1	AC	\$ _____	\$ _____
Erosion Control Mulch	1.1	AC	\$ _____	\$ _____
Soil Stabilization Mat EC-2	3,600	SY	\$ _____	\$ _____
Temporary Safety Fencing	265	LF	\$ _____	\$ _____
Riprap	160	SY	\$ _____	\$ _____
Dust Control	1	LS	\$ _____	\$ _____
Gate: Store & Reinstall	1	LS	\$ _____	\$ _____
Landscaping	1	LS	\$ _____	\$ _____
<b>Subtotal A</b>				<b>\$ _____</b>

	Estimated Quantity	Unit	Unit Cost	Total Cost
<b>B. Surface Preparation</b>				
#21A Aggregate Base	1,850	TN	\$ _____	\$ _____
Asphalt Concrete Surface Course SM-12.5A	300	TN	\$ _____	\$ _____
6" Concrete, 4000 PSI	90	SY	\$ _____	\$ _____
#7 Aggregate Base	45	TN	\$ _____	\$ _____
#10 Aggregate Base	225	TN	\$ _____	\$ _____
Portland Cement (94 lbs. Bag)	90	EA	\$ _____	\$ _____
Detectable Warning Surface	80	SF	\$ _____	\$ _____
Wheel Stops	26	EA	\$ _____	\$ _____
Landscape Timbers 8"x8"	170	LF	\$ _____	\$ _____
Hand Rail	425	LF	\$ _____	\$ _____
Lean Rail	10	LF	\$ _____	\$ _____
Permanent Markings	470	SF	\$ _____	\$ _____
Permanent Traffic Control Signs	8	EA	\$ _____	\$ _____
Remove & Relocate Light Pole and Pedestals	1	LS	\$ _____	\$ _____
Collapsible Bollard	2	EA	\$ _____	\$ _____
Interpretive Signage Installation	1	LS	\$ _____	\$ _____
			<b>Subtotal B</b>	<b>\$ _____</b>
<b>C. Drainage Structures</b>				
Timber Waterbar	16	EA	\$ _____	\$ _____
15-inch Pipe	15	LF	\$ _____	\$ _____
Pipe End Section (ES-1)	2	EA	\$ _____	\$ _____
			<b>Subtotal C</b>	<b>\$ _____</b>
<b>TOTAL BASE BID (A + B + C + )</b>				<b>\$ _____</b>

Quantities shown are estimates for the purposes of bidding only.  
 Final amounts shall be adjusted upward or downward based on actual quantities authorized.

**TOTAL BASE BID AMOUNT (A + B + C) is:**

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

This Base Bid Amount is for the entire work, complete, and in accordance with the contract documents.

Permits and all testing are the contractor's responsibility.

The undersigned understands that time is of the essence and agrees that, based on a notice authorizing Work to proceed received **on or before PENDING**, the date for Substantial Completion shall be **one hundred twenty (120) consecutive calendar days** from receipt of said "Notice to Proceed" and the date of Final Completion shall be achieved within **thirty (30) consecutive calendar days** after the date of Substantial Completion as noted in the Contract Documents.

The undersigned acknowledges that failure to complete the Work within the Contract Time, or extension of time granted by the Owner, will result in liquidated damages assessed in the amount of **three hundred fifty dollars (\$350)** per day for each and every calendar day that the Contractor shall be in default after the time stipulated in the Contract Documents.

The undersigned acknowledges receipt of the following addenda and dates received:

Addenda #	Date of Receipt
_____	_____
_____	_____
_____	_____

Bid guarantee in the sum of \$\_\_\_\_\_ in the form of \_\_\_\_\_ is submitted herewith in accordance with the Instructions to Bidders.

If notice of acceptance of this bid is given to the undersigned within 90 days after the date of opening of bids, or any time thereafter before this bid is withdrawn, the undersigned will execute and deliver an Agreement in the prescribed form within 15 days after the Agreement has been presented to him / her for signature. The required bonds and certificates of insurance shall be furnished to the Owner in accordance with the Instructions to Bidders.

**IMMIGRATION REFORM AND CONTROL ACT OF 1986:** The undersigned certifies that it does not and will not during the performance of the Contract for this project violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

**DISQUALIFICATION OF CONTRACTORS:** By signing this bid or proposal, the undersigned certifies that this Bidder or any officer, director, partner or owner is not currently barred from bidding on contracts by any Agency of the Commonwealth of Virginia, or any public body or agency of another state, or any agency of the federal government, nor is this Bidder a subsidiary or affiliate of any firm/corporation that is currently barred from bidding on contracts by any of the same. We have attached an explanation of any previous disbarment(s) and copies of notice(s) of reinstatement(s).

I certify that the firm signing this Bid and registered under that name is legally qualified to perform all Work included in the scope of the Contract as determined by the Commonwealth of Virginia, Department of Commerce, State Board for Contractors, in granting the registration.

Virginia License No. \_\_\_\_\_

Bidder \_\_\_\_\_  
(Name of Firm)

Contractor Class \_\_\_\_\_

By \_\_\_\_\_  
(Signature)

Specialty \_\_\_\_\_

\_\_\_\_\_  
(Typed Name)

Valid until \_\_\_\_\_

Title \_\_\_\_\_

FEIN/SSN: \_\_\_\_\_

If Partnership (List Partners' Names)

If Corporation affix Corporate Seal & list  
State of Incorporation:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

State: \_\_\_\_\_

(Affix Seal)

Business Address:

\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE \_\_\_\_\_

FAX \_\_\_\_\_

EMAIL \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**MINIMUM DBE REQUIREMENTS**

PROJECT NO. EN00-010-101,C501, UPC 56389

FHWA NO. \_\_\_\_\_

**\*\*\* INSTRUCTIONS \*\*\***

THIS FORM CAN BE USED BY THE CONTRACTOR TO SUBMIT THE NAMES OF DBE FIRMS TO BE UTILIZED ON THE PROJECT. THE CONTRACTOR SHALL INDICATE THE DESCRIPTION OF THE CATEGORY (S, M, SP or H) AND THE TYPE OF WORK THAT EACH DBE WILL PERFORM AND THE ALLOWABLE CREDIT PER ITEM(S). ADDITIONAL SHEETS TO SHOW THE ALLOWABLE CREDIT PER ITEM MAY BE ATTACHED IF NECESSARY. **PLEASE NOTE:** THE AMOUNT OF ALLOWABLE CREDIT FOR A DBE SUPPLIER IS 60% OF THE TOTAL COST OF THE MATERIALS OR SUPPLIES OBTAINED AND 100% FOR A DBE MANUFACTURER OF THE MATERIALS AND SUPPLIES OBTAINED. A CONTRACTOR MAY COUNT 100% OF THE FEES PAID TO A DBE HAULER FOR THE DELIVERY OF MATERIALS AND SUPPLIES TO THE PROJECT SITE, BUT NOT FOR THE COST OF THE MATERIALS AND SUPPLIES THEMSELVES.

DBE REQUIREMENT 6 %

PERCENT ATTAINED BY BIDDER \_\_\_\_\_ %

NAMES(S) AND CERTIFICATION NO. OF DBE(S) TO BE USED	USED AS SUBCONTR. (S) MFG. (M) SUPPLIER (SP) HAULER (H)	TYPE OF WORK AND ITEM NO(S)	\$ AMOUNT OF ALLOWABLE CREDIT PER ITEM
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL \$ \_\_\_\_\_

TOTAL CONTRACT VALUE \$ \_\_\_\_\_ x REQUIRED DBE 6 % = \$ \_\_\_\_\_

I/WE CERTIFY THAT THE PROPOSED DBE(S) SUBMITTED WILL BE USED ON THIS CONTRACT AS STATED HEREON AND ASSURE THAT DURING THE LIFE OF THE CONTRACT. I/WE WILL MEET OR EXCEED THE PARTICIPATION ESTABLISHED HEREON BY THE DEPARTMENT.

\_\_\_\_\_  
BIDDER

BY

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

BY

\_\_\_\_\_  
DATE

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COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**

**--DO NOT DETACH--**

**THIS INFORMATION MUST BE SUBMITTED  
WITHIN 2 DAYS AFTER BID OPENING IF YOUR  
BID DOES NOT MEET THE PROJECT DBE  
REQUIREMENTS, OR  
WHEN REQUESTED BY VDOT**

CONTRACT I.D. NUMBER \_\_\_\_\_

PROJECT NUMBER EN00-010-101, C501, UPC 5638

FHWA NUMBER \_\_\_\_\_

DISTRICT Bristol

DATE BID SUBMITTED \_\_\_\_\_

BIDDER'S NAME \_\_\_\_\_

SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

VENDOR NUMBER \_\_\_\_\_

DBE GOAL FROM BID PROPOSAL \_\_\_\_\_

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR VDOT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**NAMES OF CERTIFIED DBEs AND THE DATES ON WHICH THEY WERE SOLICITED TO BID ON THIS PROJECT**

**INCLUDE THE ITEMS OF WORK OFFERED AND THE DATES AND METHODS USED FOR FOLLOWING UP INITIAL SOLICITATIONS TO DETERMINE WHETHER OR NOT DBEs WERE INTERESTED.**

NAMES AND VENDOR NUMBERS OF DBEs SOLICITED	DATE OF INITIAL SOLICITATION	ITEM(S) OF WORK	FOLLOW-UP METHODS AND DATES

**NOTE:** ATTACH ADDITIONAL PAGES IF NECESSARY

ATTACH COPIES OF SOLICITATIONS, TELEPHONE RECORDS, FAX CONFIRMATIONS, ELECTRONIC INFORMATION, ETC.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

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**THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.**

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**TELEPHONE LOG**

DBE(s) CALLED	TELEPHONE NUMBER	DATE CALLED	TIME CALLED	CONTACT PERSON OR VOICE MAIL STATUS

**NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY**

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

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**THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.**

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS**

**IDENTIFY THOSE ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS OR THOSE ITEM(S) THE BIDDER IDENTIFIED AND DETERMINED TO SUBDIVIDE INTO ECONOMICALLY FEASIBLE UNITS TO FACILITATE DBE PARTICIPATION. FOR EACH ITEM LISTED, SHOW THE DOLLAR VALUE AND PERCENTAGE OF THE TOTAL CONTRACT AMOUNT. IT IS THE BIDDER'S RESPONSIBILITY TO DEMONSTRATE THAT SUFFICIENT WORK TO MEET THE GOAL WAS MADE AVAILABLE TO DBE FIRMS.**

ITEM(S) OF WORK MADE AVAILABLE	BIDDER NORMALLY PERFORMS ITEM(S) (Y/N)	ITEM(S) BROKEN DOWN TO FACILITATE PARTICIPATION (Y/N)	AMOUNT IN DOLLARS	PERCENTAGE OF CONTRACT

**NOTE: INFORMATION REQUIRED FOR THIS SECTION CONTINUED ON SHEET 5  
ATTACH ADDITIONAL PAGES IF NECESSARY**

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

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BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**ADDITIONAL INFORMATION REGARDING ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS** (Continued From Sheet 4)

ITEM(S) OF WORK MADE AVAILABLE, NAMES OF SELECTED FIRMS AND DBE STATUS, DBEs THAT PROVIDED QUOTES, PRICE QUOTE FOR EACH FIRM, AND THE PRICE DIFFERENCE FOR EACH DBE IF THE SELECTED FIRM IS NOT A DBE.

ITEM(S) OF WORK MADE AVAILABLE(CONT.)	NAME OF SELECTED FIRM AND VENDOR NUMBER	DBE OR NON-DBE	NAME OF REJECTED FIRM(S)	QUOTE IN DOLLARS	PRICE DIFFERENCE IN DOLLARS

**NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.**

IF THE FIRM SELECTED FOR THE ITEM IS NOT A DBE, PROVIDE THE REASON(S) FOR THE SELECTION ON A SEPARATE PAGE AND ATTACH.

PROVIDE NAMES, ADDRESSES, AND TELEPHONE NUMBERS FOR THE FIRMS LISTED ABOVE.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

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BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**ADVERTISEMENTS OR PROOFS OF PUBLICATION.**

NAMES AND DATES OF EACH PUBLICATION IN WHICH A REQUEST FOR DBE PARTICIPATION FOR THE PROJECT WAS PLACED BY THE BIDDER. ATTACH COPIES OF PUBLISHED ADVERTISEMENTS OR PROOFS OF PUBLICATION.

PUBLICATIONS	DATES OF ADVERTISEMENT

**NOTE:** ATTACH ADDITIONAL PAGES IF NECESSARY

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

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BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**NAMES OF AGENCIES CONTACTED TO PROVIDE ASSISTANCE**

NAMES OF AGENCIES (SEE SPECIAL PROVISION FOR 107.15) AND THE DATES THESE AGENCIES WERE CONTACTED TO PROVIDE ASSISTANCE IN CONTACTING, RECRUITING, AND USING DBE FIRMS. IF THE AGENCIES WERE CONTACTED IN WRITING, ATTACH COPIES OF SUPPORTING DOCUMENTS.

NAME OF AGENCY	METHOD AND DATE OF CONTACT	RESULTS

**NOTE:** ATTACH ADDITIONAL PAGES IF NECESSARY.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

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BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**TECHNICAL ASSISTANCE AND INFORMATION PROVIDED TO DBEs**

EFFORTS MADE TO PROVIDE INTERESTED DBEs WITH ADEQUATE INFORMATION ABOUT THE PLANS, SPECIFICATIONS, AND REQUIREMENTS OF THE BID DOCUMENTS TO ASSIST THE DBEs IN RESPONDING TO A SOLICITATION.

IDENTIFY THE DBEs ASSISTED, THE INFORMATION PROVIDED, AND THE DATE OF CONTACT. ATTACH COPIES OF SUPPORTING DOCUMENTS.

DBEs ASSISTED	INFORMATION PROVIDED	DATE OF CONTACT

**NOTE:** ATTACH ADDITIONAL PAGES IF NECESSARY.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**EFFORTS MADE TO ASSIST DBEs OBTAIN BONDING, LINES OF CREDIT, INSURANCE, ETC.**

EFFORTS MADE TO PROVIDE INTERESTED DBEs IN OBTAINING BONDING, LINES OF CREDIT, INSURANCE, NECESSARY EQUIPMENT, SUPPLIES, MATERIALS, OR RELATED ASSISTANCE OR SERVICES, EXCLUDING SUPPLIES AND EQUIPMENT THE SUBCONTRACTOR PURCHASES OR LEASES FROM THE PRIME CONTRACTOR OR ITS AFFILIATES.

IDENTIFY THE DBEs ASSISTED, THE ASSISTANCE OFFERED, AND THE DATES OF SERVICES OFFERED AND PROVIDED. ATTACH COPIES OF SUPPORTING DOCUMENTS.

DBEs ASSISTED	ASSISTANCE OFFERED	DATES SERVICES OFFERED AND/OR PROVIDED

**NOTE:** ATTACH ADDITIONAL PAGES IF NECESSARY.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**DBE GOOD FAITH EFFORTS DOCUMENTATION**

CONTRACT I.D. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

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THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

**ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS**

ADDITIONAL DATA TO SUPPORT DEMONSTRATION OF GOOD FAITH EFFORTS

**NOTE: ATTACH ADDITIONAL PAGES, IF NECESSARY**

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION**

PROJECT TITLE: Round Mountain - Wolf Creek Indian Village - Connector Trail  
PROJECT LOCATION: Bland County, Virginia  
VDOT PROJECT NUMBER: EN00-010-101,C501, UPC 56389

This form must be completed, signed and returned with bid; and failure to do so may result in the rejection of your bid. **THE CONTRACTOR SHALL AFFIRM THE FOLLOWING STATEMENT EITHER BY SIGNING THE AFFIDAVIT AND HAVING IT NOTARIZED OR BY SIGNING THE UNSWORN DECLARATION UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES. A SEPARATE FORM MUST BE SUBMITTED BY EACH PRINCIPAL OF A JOINT VENTURE BID.**

**STATEMENT:** In preparation and submission of this bid, I, the firm, corporation or officers, agents or employees thereof did not, either directly or indirectly, enter into any combination or arrangement with any persons, firm or corporation or enter into any agreement, participate in any collusion, or otherwise take any action in the restraint of free, competitive bidding in violation of the Sherman Act (15 U.S.C. Section 1) or Article 1.1 or Chapter 12 of Title 18.2 (Virginia Governmental Frauds Act), Sections 59.1-9.1 through 59.1-9.17 or Sections 59.1-68.6 through 59.1-68.8 of the Code of Virginia.

**AFFIDAVIT**

The undersigned is duly authorized by the bidder to make the foregoing statement to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_  
County (City), STATE

\_\_\_\_\_  
(Name of Firm) By: \_\_\_\_\_ (Signature) \_\_\_\_\_ Title (Print)

STATE of \_\_\_\_\_ COUNTY (CITY) of \_\_\_\_\_

To wit:

I, \_\_\_\_\_, a Notary Public in and for the State and County (City) aforesaid, hereby certify that this day \_\_\_\_\_ personally appeared before me and made oath that he is duly authorized to make the above statements and that such statements are true and correct.

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

\_\_\_\_\_  
Notary Public My Commission expires \_\_\_\_\_

**OR  
UNSWORN DECLARATION**

The undersigned is duly authorized by the bidder to make the foregoing statement to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_  
County (City), STATE

\_\_\_\_\_  
(Name of Firm) By: \_\_\_\_\_ (Signature) \_\_\_\_\_ Title (Print)

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**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
AFFIDAVIT**

PROJECT TITLE: Round Mountain - Wolf Creek Indian Village - Connector Trail  
PROJECT LOCATION: Bland County, Virginia  
VDOT PROJECT NUMBER: EN00-010-101,C501, UPC 56389

This form must be completed, signed, notarized and returned with bid; and failure to do so, may result in the rejection of your bid. A separate form must be submitted by each principal of a joint venture bid.

1. I, the firm, corporation or officers, agents or employees thereof have neither directly nor indirectly entered into any combination or arrangement with any person, firm or corporation or entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such contract, the effect of which is to prevent competition or increase the cost of construction or maintenance of roads or bridges.

During the preceding twelve months, I (we) have been a member of the following Highway Contractor's Associations, as defined in Section 33.1-336 of the Code of Virginia (1970). (If none, so state).

NAME	Location of Principal Office
_____	_____
_____	_____
_____	_____

2. I (we) have \_\_\_\_\_, have not \_\_\_\_\_, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that I/We have \_\_\_\_\_, have not \_\_\_\_\_, filed with the joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

**Note:** The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor [41 CFR 60-1.7(b)(1)], and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contract or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contract and subcontract unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

3. The bidder certifies to the best of its knowledge and belief, that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offence in

connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated above; and
- (d) Where the bidder is unable to certify to any of the statements in this certification, the bidder shall show an explanation below.

Explanations will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any explanation noted, indicate below to whom it applies, initiating agency, and dates of action. Providing false information may result in federal criminal prosecution or administration sanctions. The bidder shall provide immediate written notice to the Department if at any time the bidder learns that its certification was erroneous when submitted or has become erroneous by reason of change circumstances.

The undersigned is duly authorized by the bidder to make the foregoing statements to be filed with bids submitted on behalf of the bidder for contracts to be let by the Commonwealth Transportation Board.

Signed at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.  
County (City), STATE

\_\_\_\_\_  
(Name of Firm) By: \_\_\_\_\_ (Signature) Title (Print)

STATE of \_\_\_\_\_ COUNTY (CITY) of \_\_\_\_\_

To wit:

I, \_\_\_\_\_, a Notary Public in and for the State and County (City) aforesaid, hereby certify that this day \_\_\_\_\_ personally appeared before me and made oath that he is duly authorized to make the above statements and that such statements are true and correct.

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

\_\_\_\_\_  
Notary Public My Commission expires \_\_\_\_\_.

COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF TRANSPORTATION  
**CERTIFICATION OF BINDING AGREEMENT**  
WITH  
**DISADVANTAGED BUSINESS ENTERPRISE FIRMS**

Project No.: EN00-010-101,C501, UPC 56389

This form is to be submitted in accordance with the Department's Special Provision for Section 107.15.

It is hereby certified by the below signed Contractors that there exists a written quote, acceptable to the parties involved preliminary to a binding subcontract agreement stating the details concerning the work to be performed and the price which will be paid for the aforementioned work. This document is not intended to, nor should it be construed to, contain the entire text of the agreement between the contracting parties. This document does not take the place of, nor may it be substituted for, an official subcontracting agreement in those situations that may require such an agreement. A copy of the fully executed *subcontract agreement* shall be submitted to the Engineer within fourteen (14) business days after contract execution.

It is further certified that the aforementioned mutually acceptable quote and fully executed subcontract agreement represent the entire agreement between the parties involved and that no conversations, verbal agreements, or other forms of non-written representations shall serve to add to, delete, or modify the terms as stated.

The prime Contractor further represents that the aforementioned mutually acceptable quote and fully executed subcontract agreement shall remain on file for a period of not less than one year following completion of the prime's contract with the Department or for such longer period as provisions of governing Federal or State law or regulations may require. For purposes of this form, the term Prime Contractor shall refer to any Contractor utilizing a DBE subcontractor, regardless of tier, in which they are claiming DBE credit toward the contract goal.

Contractors further jointly and severally represent that said binding agreement is for the performance of a "commercially useful function" as that term is employed in 49 C.F.R. Part 26.55 (c), (d).

**TO BE SIGNED BY THE SUBCONTRACTOR TO THE PRIME CONTRACTOR, AND ANY LOWER TIER  
SUBCONTRACTORS HAVING A CONTRACT WITH THE BELOW NAMED DBE FIRM**

Prime Contractor \_\_\_\_\_

By: \_\_\_\_\_  
Signature Title

Date: \_\_\_\_\_

First Tier  
Subcontractor if  
Applicable \_\_\_\_\_

By: \_\_\_\_\_  
Signature Title

Date: \_\_\_\_\_

Second Tier  
Subcontractor if  
Applicable

---

By: \_\_\_\_\_  
Signature Title  
Date: \_\_\_\_\_

Third Tier  
Subcontractor if  
Applicable

---

By: \_\_\_\_\_  
Signature Title  
Date: \_\_\_\_\_

DBE Contractor

---

By: \_\_\_\_\_  
Signature Title  
Date: \_\_\_\_\_

**BIDDER'S REFERENCE FORM**

Name of Contractor: \_\_\_\_\_

Business Address: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_

FAX Number: (\_\_\_\_) \_\_\_\_\_

Email Address: \_\_\_\_\_

Years in Business: \_\_\_\_\_

List below three (3) recent projects of this nature that you have completed and provide the name, address and telephone number of a reference from each along with the completed cost of each project listed.

A. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by Bland County in the verification of the references listed above and in the determination of the contractor's qualifications to perform this work.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Printed Name / Title

Attest: \_\_\_\_\_

**COMMONWEALTH OF VIRGINIA  
STANDARD BID BOND**

**KNOW ALL MEN BY THESE PRESENTS:** That \_\_\_\_\_  
, the Contractor (“Principal”) whose principal place of business is located at \_\_\_\_\_  
\_\_\_\_\_  
and \_\_\_\_\_ (“Surety”) whose address for delivery of  
‘Notices’ is located at \_\_\_\_\_  
\_\_\_\_\_ are held and firmly bound unto the Commonwealth of  
Virginia, \_\_\_\_\_, the Owner (“Obligee”) in the  
amount of five percent (5%) of the Amount (Total Base Bid plus all Additive Bid Items)  
Bid by Principal, for the payment whereof, Principal and Surety bind themselves, their  
heirs, executors, administrators, successors and assigns, jointly and severally, firmly by  
these presents.

**WHEREAS**, the Principal has submitted a bid for \_\_\_\_\_

**NOW, THEREFORE**, the conditions of this obligation are as follows. This Bid Bond shall guarantee that the Principal will not withdraw his bid during the period of thirty (30) days following the opening of bids; that if his bid is accepted, Principal will enter into a formal contract with the Owner in accordance with the Contractual Agreement between Owner and Contractor, included as a part of the Invitation for Bids (IFB Documents); that Principal will submit a properly executed and authorized Standard Performance Bond and Standard Labor and Material Payment Bond on the forms included in the IFB documents; and that in the event of the withdrawal of said bid within said period, or failure to enter into said contract and give said bonds within ten (10) days after Principal has received notice of acceptance of his bid, Principal and Surety shall be jointly and severally liable to the Owner for the difference between the amount specified in said bid and such larger amount for which the Owner may contract with another party to perform the work covered by said bid, up to the amount of the bid guarantee. This amount represents the damage to the Owner of account of the default of the bidder in any particular thereof.

The Surety represents to the Principal and to the Obligee that it is legally authorized to do business in the Commonwealth of Virginia.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Contractor/Principal* (SEAL)

\_\_\_\_\_  
*Witness* By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
*Surety* (SEAL)

By: \_\_\_\_\_  
*Attorney-in-Fact*

Typed Name: \_\_\_\_\_

**AFFIDAVIT AND ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT**

COMMONWEALTH OF VIRGINIA  
(Or alternatively, Commonwealth or State of \_\_\_\_\_)

CITY (or) COUNTY (Strike one) of \_\_\_\_\_

I, the undersigned notary public, do certify that \_\_\_\_\_,  
whose name is signed to the foregoing bid bond in the amount of five percent (5%) of the  
Total Bid Amount and which names the Commonwealth of Virginia, \_\_\_\_\_  
\_\_\_\_\_, as Obligee, personally appeared before me today in the above jurisdiction  
and made oath that he/she is the attorney-in-fact of \_\_\_\_\_  
\_\_\_\_\_, a \_\_\_\_\_ corporation which is the Surety in the  
foregoing bond, that he/she is duly authorized to execute on the above Surety's behalf the  
foregoing bond pursuant to the Power of Attorney noted above and attached hereto, and  
on behalf of the surety, he/she acknowledged the foregoing bond before me as the above  
Surety's act and deed

She/he has further certified that her/his Power of Attorney has not been revoked.  
[Complete if Power is recorded: Clerk's Office: \_\_\_\_\_;  
Deed Book/Page No. or Instrument No.: \_\_\_\_\_.]

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Notary Public* (SEAL)

My name (printed) is \_\_\_\_\_.

My commission expires: \_\_\_\_\_.

APPROVED:

\_\_\_\_\_  
*Attorney General/Designee* Date

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## **Contracting Requirements**

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## GENERAL TERMS AND CONDITIONS OF THE CONSTRUCTION CONTRACT

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## **GENERAL TERMS AND CONDITIONS OF THE CONSTRUCTION CONTRACT**

### **1. DEFINITIONS**

- 1.1 Wherever used in the CONTRACT DOCUMENTS, the following terms shall have the meanings indicate which shall be applicable to both the singular and plural thereof:
- 1.2 ADDENDA - Written or graphic instruments issued prior to the execution of the Agreement, which modify or interpret the CONTRACT DOCUMENTS, DRAWINGS, and SPECIFICATIONS, by additions, clarifications or corrections.
- 1.3 BID - The offer or proposal of the BIDDER submitted on the prescribed form setting forth the prices for the WORK to be performed.
- 1.4 BIDDER - Any person, firm, or corporation submitting a BID for the WORK.
- 1.5 BONDS - Bid, Performance, and Payment Bonds and other instruments of security, furnished by the CONTRACTOR and his surety in accordance with the CONTRACT DOCUMENTS.
- 1.6 CHANGE ORDER - A written order to the CONTRACTOR authorizing an addition, deletion, or revision in the WORK within the general scope of the CONTRACT DOCUMENTS, or authorizing an adjustment in the CONTRACT PRICE or CONTRACT TIME.
- 1.7 CONTRACT DOCUMENTS - The contract, including Advertisement for Bids, Information for Bidders, General Conditions, Supplemental General Conditions, BID, Technical Specifications and Special Conditions, Bid Bond, Agreement, Payment Bond, Performance Bond, NOTICE OF AWARD, NOTICE TO PROCEED, CHANGE ORDER, DRAWINGS, SPECIFICATIONS, and ADDENDA.
- 1.8 CONTRACT PRICE - The total monies payable to the CONTRACTOR under the terms and conditions of the CONTRACT DOCUMENTS.
- 1.9 CONTRACT TIME - The number of calendar days stated in the CONTRACT DOCUMENTS for the completion of the WORK.
- 1.10 CONTRACTOR - The persons, firm, or corporation with whom the OWNER has executed the Agreement.
- 1.11 DRAWINGS - The part of the CONTRACT DOCUMENTS, which show the characteristics and scope of the WORK to be performed and which have been prepared or approved by the ENGINEER.
- 1.12 ENGINEER – Bland County Administrator or person, firm, or corporation designated by the OWNER to supervise the WORK and/or administer the CONTRACT DOCUMENTS.
- 1.13 FIELD ORDER - A written order effecting a change in the WORK not involving an adjustment in the CONTRACT PRICE or an extension of the CONTRACT TIME, issued by the ENGINEER to the CONTRACTOR during construction.

- 1.14 FINAL ACCEPTANCE - The date as certified by the ENGINEER that the WORK has been completed in accordance with the CONTRACT DOCUMENTS and that final payment can be made.
- 1.15 NOTICE OF AWARD - The written notice of the acceptance of the BID from the OWNER to the successful BIDDER.
- 1.16 NOTICE TO PROCEED - Written communication issued by the OWNER or authorized agent to the CONTRACTOR authorizing the Contractor to proceed with the WORK and establishing the date of commencement of the WORK.
- 1.17 OWNER - The Bland County Economic Development Authority, or their authorized agent.
- 1.18 PROJECT - The undertaking to be performed as provided in the CONTRACT DOCUMENTS.
- 1.19 RESIDENT PROJECT REPRESENTATIVE - The authorized representative of the OWNER who is assigned to the project site or any part thereof.
- 1.20 SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules, and other data, which are prepared by the CONTRACTOR, a SUBCONTRACTOR, manufacturer, SUPPLIER, or distributor, which illustrate how specific portions of the WORK shall be fabricated or installed.
- 1.21 SPECIFICATIONS - A part of the CONTRACT DOCUMENTS consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.
- 1.22 SUBCONTRACTOR - An individual, firm, or corporation having a direct contract with the CONTRACTOR or with any other SUBCONTRACTOR for the performance of a part of the WORK at the site.
- 1.23 SUBSTANTIAL COMPLETION - That date as certified by the ENGINEER when the construction of the PROJECT or a specified part thereof is sufficiently completed, in accordance with the CONTRACT DOCUMENTS, so that the PROJECT or specified part can be utilized for the purposes for which it is intended.
- 1.24 SUPPLEMENTAL GENERAL CONDITIONS - Modifications to General Conditions required for the PROJECT, or such requirements that may be imposed by applicable state laws, or required to clarify or amplify the General Conditions.
- 1.25 SUPPLIER - Any person or organization who supplies materials or equipment for the WORK, including that fabricated to a special design, but who does not perform labor at the site.
- 1.26 WORK - All labor necessary to produce the construction required by the CONTRACT DOCUMENTS, and all materials and equipment incorporated or to be incorporated in the PROJECT.
- 1.27 WRITTEN NOTICE - Any notice to any party of the Agreement relative to any part of this Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at their last given address, or delivered in person to said party or their authorized representative on the Project.

**2. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS**

- 2.1 The CONTRACTOR may be furnished additional instructions and detail drawings, by the ENGINEER, as necessary to carry out the WORK required by the CONTRACT DOCUMENTS.
- 2.2 The additional drawings and instruction thus supplied will become a part of the CONTRACT DOCUMENTS. CONTRACTOR shall carry out the WORK in accordance with the additional detail drawings and instructions.

**3. SCHEDULES, REPORTS, AND RECORDS**

- 3.1 The CONTRACTOR shall submit to the OWNER such schedule of quantities and costs, progress schedule, payrolls, reports, estimates, records, and other data where applicable as are required by the CONTRACT DOCUMENTS for the WORK to be performed.
- 3.2 Prior to beginning work the CONTRACTOR shall submit construction progress schedules showing the order in which the CONTRACTOR proposes to carry out the WORK, including dates at which the CONTRACTOR will start the various parts of the WORK, estimated date of completion of each part, and, as applicable:
  - 3.2.1 The dates at which special detail drawings will be required; and
  - 3.2.2 Respective dates for submission of SHOP DRAWINGS, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.
- 3.3 CONTRACTOR shall also submit a schedule of payments anticipated to be earned during course of WORK.

**4. DRAWINGS AND SPECIFICATIONS**

- 4.1 The intent of the DRAWINGS and SPECIFICATIONS is that the CONTRACTOR shall furnish all labor, materials, tools, equipment, and transportation necessary for the proper execution of the WORK in accordance with the CONTRACT DOCUMENTS and all incidental work necessary to complete the PROJECT in an acceptable manner, ready for use, occupancy or operation by the OWNER.
- 4.2 In case of conflict between DRAWINGS and SPECIFICATIONS, SPECIFICATIONS shall govern. Figure dimensions on DRAWINGS shall govern over scale dimensions, and detailed DRAWINGS shall govern over general DRAWINGS.
- 4.3 Any discrepancies found between the DRAWINGS and SPECIFICATIONS and site conditions or any inconsistencies or ambiguities in the DRAWINGS or SPECIFICATIONS shall be immediately reported to the ENGINEER, in writing, who shall promptly correct such inconsistencies or ambiguities in writing. WORK done by the CONTRACTOR after his discovery of such discrepancies, inconsistencies, or ambiguities shall be done at the CONTRACTOR'S risk.

**5. SHOP DRAWINGS**

- 5.1 The CONTRACTOR shall provide SHOP DRAWINGS as may be necessary for the prosecution of the WORK as required by the CONTRACT DOCUMENTS. The ENGINEER shall promptly review all SHOP DRAWINGS. The ENGINEER'S approval of

any SHOP DRAWING shall not release the CONTRACTOR from responsibility for deviations from the CONTRACT DOCUMENTS. The approval of any SHOP DRAWING which substantially deviates from the requirement of the CONTRACT DOCUMENTS shall be evidenced by a CHANGE ORDER. SHOP DRAWINGS, catalog cuts, samples, schedules, etc. shall be submitted for all materials and equipment. On initial submittals, three copies of each item shall be required. Once the review is complete and all corrections made, five copies of the final SHOP DRAWINGS shall be submitted for approval and distribution to all parties.

- 5.2 When submitted for the ENGINEER'S REVIEW, SHOP DRAWINGS shall bear the CONTRACTOR'S certification that he has reviewed, checked, and approved the SHOP DRAWINGS and that they are in conformance with the requirements of the CONTRACT DOCUMENTS.
- 5.3 Portions of the WORK requiring a SHOP DRAWING or sample submission shall not begin until the SHOP DRAWING or submission has been approved by the ENGINEER. A copy of each approved SHOP DRAWING and each approved sample shall be kept in good order by the CONTRACTOR at the site and shall be available to the ENGINEER.

## **6. MATERIALS, SERVICES, AND FACILITIES**

- 6.1 It is understood that, except as otherwise specifically stated in the CONTRACT DOCUMENTS, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the WORK within the specified time.
- 6.2 Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the WORK. Stored materials and equipment to be incorporated in the WORK shall be located so as to facilitate prompt inspection. All equipment, including but not limited to motors, drives, gear reducers, electrical switch gear, heating, ventilation and air conditioning equipment, communication and instrumentation shall be stored in a secure, heated, ventilated and dry space. Storage must be approved by the ENGINEER. The ENGINEER'S approval of the storage plan shall not release the CONTRACTOR from responsibility for the equipment. Equipment that is not suitably stored shall not be paid for until storage requirements are met. The CONTRACTOR shall be required to comply with the manufacturers' requirements concerning lubrication, oil changes, and other special conditions during the storage period and until the equipment is installed, start-up of the equipment is instituted, and the equipment is finally accepted or determined as substantially completed.
- 6.3 Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- 6.4 Materials, supplies, and equipment shall be in accordance with samples submitted by the CONTRACTOR and approved by the ENGINEER.
- 6.5 Materials, supplies, or equipment to be incorporated into the WORK shall not be purchased by the CONTRACTOR or the SUBCONTRACTOR subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.
- 6.6 Materials, supplies, or equipment to be included into the WORK shall be new and unused.

**7. INSPECTION AND TESTING**

- 7.1 All materials and equipment used in the construction of the PROJECT shall be subject to adequate inspection and testing in accordance with generally accepted standards, as required and defined in the CONTRACT DOCUMENTS.
- 7.2 The OWNER shall provide all inspection and testing services not required by the CONTRACT DOCUMENTS. The CONTRACTOR shall notify the OWNER of the work schedule planned in order that adequate inspection can be made. No work may be performed in any day on which it was not scheduled. A minimum of 12 hours notice of change in work schedule must be given to OWNER by CONTRACTOR. If CONTRACTOR does not work on a scheduled day, the CONTRACTOR will be charged the cost incurred by the OWNER for the lost work of the inspector.
- 7.3 The CONTRACTOR shall provide at his expense the testing and inspection services required by the CONTRACT DOCUMENTS.
- 7.4 If the CONTRACT DOCUMENTS, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any WORK to specifically be inspected, tested, or approved by someone other than the CONTRACTOR, the CONTRACTOR will give the ENGINEER timely notice of readiness. The CONTRACTOR will then furnish the ENGINEER the required certificates of inspection, testing or approval.
- 7.5 Inspections, tests, or approvals by the ENGINEER or others shall not relieve the CONTRACTOR from his obligations to perform the WORK in accordance with the requirements of the CONTRACT DOCUMENTS.
- 7.6 The ENGINEER and other owner representatives will at all times have access to the WORK. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all WORK, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The CONTRACTOR will provide facilities for such access and observation of the WORK and also for any inspection, or testing thereof.
- 7.7 If any WORK is covered contrary to the written instructions of the ENGINEER, it must, if requested by the ENGINEER, be uncovered for observation and replaced at the CONTRACTOR'S expense.
- 7.8 If the ENGINEER considers it necessary or advisable that covered WORK be inspected or tested by others, the CONTRACTOR, at the ENGINEER'S request, will uncover, expose, or otherwise make available for observation, inspection, or testing as the ENGINEER may require, that portion of the WORK in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such WORK is defective, the CONTRACTOR will bear all the expenses of such uncovering, exposure, observation, inspection, and testing and of satisfactory reconstruction. If, however, such WORK is not found to be defective, the CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction and an appropriate CHANGE ORDER shall be issued.

**8. SUBSTITUTIONS**

- 8.1 Whenever a material, article, or piece of equipment is identified on the DRAWINGS or SPECIFICATIONS by reference to brand name or catalogue number, it shall be understood that the first brand name listed in the SPECIFICATIONS is that around which the DRAWINGS have been prepared. Should the second or another brand name be utilized in preparing the BID, the CONTRACTOR shall be responsible for assuring that the costs of all changes, including costs of changes to the CONTRACT DOCUMENTS, required by such use are also included in the BID. The CONTRACTOR may recommend the substitution of a material, article, or piece of equipment of equal substance and function for those referred to in the CONTRACT DOCUMENTS by reference to brand name or catalogue cut, if piece of equipment is of equal substance and function to that specified, the ENGINEER may approve its substitution and use by the CONTRACTOR. Any cost differential shall be deductible from the CONTRACT PRICE and the CONTRACT DOCUMENTS shall be appropriately modified by CHANGE ORDER. The CONTRACTOR warrants that if substitutes are approved, no major changes in the function or general design of the PROJECT will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the CONTRACTOR without a change in the CONTRACT PRICE or CONTRACT TIME.

**9. PATENTS**

- 9.1 The CONTRACTOR shall pay all applicable royalties and license fees. The CONTRACTOR shall defend all suits or claims for infringement of patent rights and save the OWNER harmless from loss on account thereof, except that the OWNER shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, however, if the CONTRACTOR has reason to believe that the design, process, or product specified is an infringement of a patent, CONTRACTOR shall be responsible for such loss unless CONTRACTOR promptly gives such information to the ENGINEER.

**10. SURVEYS, PERMITS, REGULATIONS**

- 10.1 The OWNER shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the WORK as shown in the CONTRACT DOCUMENTS. From the information provided by the OWNER, unless otherwise specified in the CONTRACT DOCUMENTS, the CONTRACTOR shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations, and other working points, lines, elevations, and cut sheets.
- 10.2 The CONTRACTOR shall carefully preserve benchmarks, reference points, and stakes; and, in case of willful or careless destruction, CONTRACTOR shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their unnecessary loss or disturbance.
- 10.3 Permits and licenses of a temporary nature necessary for the prosecution of the WORK shall be secured and paid for by the OWNER unless otherwise stated in the SUPPLEMENTAL GENERAL CONDITIONS. Permits, licenses, and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the OWNER, unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the WORK as drawn and specified. If the CONTRACTOR observes that the CONTRACT DOCUMENTS are at variance therewith, CONTRACTOR shall promptly notify the ENGINEER in writing, and any necessary changes shall be adjusted as provided in Section 13, CHANGES IN THE WORK.

**11. PROTECTION OF WORK, PROPERTY, AND PERSONS**

- 11.1 The CONTRACTOR will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the WORK. The CONTRACTOR will take all necessary precautions for the safety of, and will protect the persons who may be affected thereby, protect all the WORK and all materials or equipment to be incorporated therein, whether in storage on or off the site, and protect other property at the site adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
- 11.2 The CONTRACTOR will comply with all applicable laws, ordinances, rules, regulations, and orders of any public body having jurisdiction. The CONTRACTOR will erect and maintain, as required by the conditions and progress of the WORK, all necessary safeguards for safety and protection. The CONTRACTOR will notify owners of adjacent utilities when prosecution of the WORK may affect them. The CONTRACTOR will remedy all damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by the CONTRACTOR, any SUBCONTRACTOR or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damage or loss attributable to the fault of the CONTRACT DOCUMENTS or to the acts or omissions of the OWNER or the ENGINEER or anyone employed by either or them or anyone for whose acts either of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the CONTRACTOR.
- 11.3 In emergencies affecting safety of persons or the WORK or property at the site or adjacent thereto, CONTRACTOR, without special instruction or authorization from ENGINEER or OWNER, shall act to prevent threatened damage, injury, or loss. CONTRACTOR will give OWNER prompt WRITTEN NOTICE of any significant changes in the WORK or deviations from the CONTRACT DOCUMENTS caused thereby, and a CHANGE ORDER shall thereupon be issued covering the changes and deviations involved.

**12. SUPERVISION BY CONTRACTOR**

- 12.1 CONTRACTOR shall supervise and direct the WORK. CONTRACTOR shall be solely responsible for means, methods, techniques, sequences, and procedures of construction. CONTRACTOR shall employ and maintain on the WORK a qualified supervisor or superintendent who shall have been designated in writing by CONTRACTOR as CONTRACTOR'S representative at the site. Supervisor shall have full authority to act on behalf of CONTRACTOR and all communications given to the supervisor shall be as binding as if given to CONTRACTOR. Supervisor shall be present on the site at all times as required to perform adequate supervision and coordination of the WORK.

**13. CHANGES IN THE WORK**

- 13.1 The OWNER may at any time, as the need arises, order changes within the scope of the WORK without invalidating the Agreement. If such changes increase or decrease the amount due under the CONTRACT DOCUMENTS, or in the time required for performance of the WORK, an equitable adjustment shall be authorized by CHANGE ORDER.

- 13.2 The ENGINEER, also, may at any time, by issuing a FIELD ORDER, make changes in the details of the WORK. The CONTRACTOR shall proceed with the performance of any changes in the WORK so ordered by the ENGINEER unless the CONTRACTOR believes that such FIELD ORDER entitles him to a change in CONTRACT PRICE or TIME or both, in which event he shall give the ENGINEER WRITTEN NOTICE thereof within seven (7) days after the receipt of the ordered change. Thereafter, the CONTRACTOR shall document the basis for the change in CONTRACT PRICE or TIME within thirty (30) days. The CONTRACTOR shall not execute such changes pending the receipt of an executed CHANGE ORDER or further instruction from the OWNER.

#### **14. CHANGES IN CONTRACT PRICE**

- 14.1 The CONTRACT PRICE may be changed only by a CHANGE ORDER. The value of any WORK covered by a CHANGE ORDER or of any claim for increase or decrease in the CONTRACT PRICE shall be determined by one or more of the following methods in the order of precedence listed below:

- 14.1.1 Unit prices previously approved. Under this method, it is understood that addition to or deletion of quantities of WORK in excess of 25 percent may be cause for review of the agreed unit price.
- 14.1.2 An agreed lump sum. For the negotiation of the agreed lump sum amount, the CONTRACTOR shall furnish the ENGINEER a breakdown of all labor, materials, supplies, and equipment utilizing the costing principles described under 14.1.3.
- 14.1.3 The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the WORK. In addition, there shall be added an amount to be agreed upon but not to exceed 15 percent of the actual cost of the WORK to cover the cost of general overhead and profit. To amplify the items described under 14.1.3, labor shall include the crew foreman but not other supervisory personnel, labor costs shall include taxes, insurance, and actual fringe benefits paid; and, rental rates for equipment owned by the CONTRACTOR shall not exceed 75 percent of Associated Equipment Distributors book rental monthly rates. To costs incurred by SUBCONTRACTORS for changes in the WORK, there shall be an added amount not to exceed 10 percent of the subcontract to cover the cost of general overhead and profit.

#### **15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES**

- 15.1 The date of beginning and the time for completion of the WORK are essential conditions of the CONTRACT DOCUMENTS and the WORK embraced shall be commenced on a date specified in the NOTICE TO PROCEED. Contact time for this project is one hundred twenty (120) calendar days.
- 15.2 The CONTRACTOR is advised of construction period restrictions imposed by U.S. Department of Interior / Fish & Wildlife Service dated May 11, 2007 due to the presence of federally listed endangered species, *Percina rex*, the Roanoke logperch.
- 15.3 The CONTRACTOR shall proceed with the WORK at such rate of progress to insure full completion within the CONTRACT TIME. It is expressly understood and agreed, by and

completion of the WORK described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the WORK.

- 15.4 If the CONTRACTOR shall fail to complete the WORK within the CONTRACT TIME, or extension of time granted by the OWNER, then the CONTRACTOR will pay to the OWNER the amount for liquidated damages as specified in the BID for each calendar day that the CONTRACTOR shall be in default after the time stipulated in the CONTRACT DOCUMENTS.
- 15.5 The CONTRACTOR shall not be charged with liquidated damages or any excess cost when the delay in completion of the WORK is due to the following, and the CONTRACTOR has promptly given WRITTEN NOTICE of such delay to the OWNER or ENGINEER.
  - 15.5.1 To any preference, priority or allocation order duly issued by the OWNER.
  - 15.5.2 To unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including but not restricted to, acts of God, or of the public enemy, acts of the OWNER, acts of another CONTRACTOR in the performance of a contract with the OWNER, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather.
  - 15.5.3 To any delays of SUBCONTRACTORS occasioned by any of the causes specified in paragraphs 15.5.1 and 15.5.2 of this article.

#### **16. CORRECTION OF WORK**

- 16.1 The CONTRACTOR shall promptly remove from the premises all WORK rejected by the ENGINEER for failure to comply with the CONTRACT DOCUMENTS, whether incorporated in the construction or not, and the CONTRACTOR shall promptly replace and re-execute the WORK in accordance with the CONTRACT DOCUMENTS and without expense to the OWNER and shall bear the expense of making good all WORK of other CONTRACTORS destroyed or damaged by such removal or replacement.
- 16.2 All removal and replacement WORK shall be done at the CONTRACTOR'S expense. If the CONTRACTOR does not take action to remove such rejected WORK within ten (10) days after receipt of WRITTEN NOTICE, the OWNER may remove such WORK and store the materials at the expense of the CONTRACTOR.

#### **17. SUBSURFACE CONDITIONS**

- 17.1 The CONTRACTOR shall promptly, and before such conditions are disturbed, except in the event of any emergency, notify the OWNER by WRITTEN NOTICE of:
  - 17.1.1 Subsurface or latent physical conditions at the site differing materially from those ordinarily encountered and generally recognized as inherent in WORK of the character provided for in the CONTRACT DOCUMENTS.
  - 17.1.2 Unknown physical conditions at the site, of unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in WORK of the character provided for in the CONTRACT DOCUMENTS.
- 17.2 The OWNER shall promptly investigate the conditions, and if the OWNER finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or in the time required for, performance of the WORK, an equitable adjustment shall be made

and the CONTRACT DOCUMENTS shall be modified by a CHANGE ORDER. Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless he has given the required WRITTEN NOTICE; provided that the OWNER may, if he determines the facts so justify, consider and adjust any such claims asserted before the date of final payment.

**18. SUSPENSION OF WORK, TERMINATION AND DELAY**

- 18.1 The OWNER may suspend the WORK or any portion thereof for a period of not more than ninety (90) days or such further time as agreed upon by the CONTRACTOR, by WRITTEN NOTICE to the CONTRACTOR and the ENGINEER which notice shall fix the date on which WORK shall be resumed. The CONTRACTOR will resume that WORK on the date so fixed. The CONTRACTOR will be allowed an increase in the CONTRACT PRICE or an extension of the CONTRACT TIME, or both, directly attributable to any suspension.
- 18.2 If the CONTRACTOR is adjudged bankrupt or insolvent; or if the CONTRACTOR makes a general assignment for the benefit of CONTRACTOR'S creditors; or if a trustee or receiver is appointed for the CONTRACTOR or for any of the CONTRACTOR'S property; or if the CONTRACTOR'S files a petition to take advantage of any debtor's act; or to reorganize under the bankruptcy or applicable laws; or if the CONTRACTOR repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment; or if the CONTRACTOR repeatedly fails to make prompt payments to SUBCONTRACTORS or for labor, materials, or equipment; or if the CONTRACTOR disregards laws, ordinances, rules, regulations, or orders of any public body having jurisdiction of the WORK; or if the CONTRACTOR disregards the authority of the ENGINEER; or if the CONTRACTOR otherwise violates any provision of the CONTRACT DOCUMENTS, then the OWNER may, without prejudice to any other right or remedy and after giving the CONTRACTOR and his surety a minimum of ten (10) days from delivery of a WRITTEN NOTICE, terminate the services of the CONTRACTOR and take possession of the PROJECT and of all materials, equipment, tools, construction equipment, and machinery thereon owned by the CONTRACTOR, and finish the WORK by whatever method the OWNER may deem expedient. In such case the CONTRACTOR shall not be entitled to receive any further payment until the WORK is finished. If the unpaid balance of the CONTRACT PRICE exceeds the direct and indirect costs of completing the PROJECT, including compensation for additional professional services, such excess SHALL BE PAID TO THE CONTRACTOR. If such costs exceed such unpaid balance, the CONTRACTOR will pay the difference to the OWNER. Such costs incurred by the OWNER will be determined by the ENGINEER and incorporated in a CHANGE ORDER.
- 18.3 Where the CONTRACTOR'S services have been so terminated by the OWNER, said termination shall not affect any right of the OWNER against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies by the OWNER due the CONTRACTOR will not release the CONTRACTOR from compliance with the CONTRACT DOCUMENTS.
- 18.4 After ten (10) days from delivery of a WRITTEN NOTICE to the CONTRACTOR and the ENGINEER, the OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the PROJECT and terminate the CONTRACT. In such case, the CONTRACTOR shall be paid for all WORK executed and any expense sustained plus reasonable profit.
- 18.5 If, through no act or fault of the CONTRACTOR, the WORK is suspended for a period of more than ninety (90) days by the OWNER; or under any order of court or other public authority; or the ENGINEER fails to act on any request for payment within thirty (30) days after it is submitted; or the OWNER fails to pay the CONTRACTOR substantially the sum approved by the ENGINEER or awarded by arbitrators within thirty (30) days of its approval

and presentation, then the CONTRACTOR may, after ten (10) days from delivery of a WRITTEN NOTICE to the OWNER and the ENGINEER, terminate the CONTRACT and recover from the OWNER payment for all WORK executed and all expenses sustained. In addition and in lieu of terminating the CONTRACT, if the ENGINEER has failed to act on a request for payment or if the OWNER has failed to make any payment as aforesaid, the CONTRACTOR may upon ten (10) days WRITTEN NOTICE to the OWNER and the ENGINEER stop the WORK until he has paid all amounts then due, in which event and upon resumption of the WORK, CHANGE ORDERS shall be issued for adjusting the CONTRACT PRICE or extending the CONTRACT TIME or both to compensate for the costs and delays attributable to the stoppage of the WORK.

- 18.6 If the performance of all or any portion of the WORK is suspended, delayed, or interrupted as a result of a failure of the OWNER or ENGINEER to act within the time specified in the CONTRACT DOCUMENTS, or if no time is specified, within a reasonable time, an adjustment in the CONTRACT ORDER to compensate the CONTRACTOR for the costs and delays necessarily caused by the failure of the OWNER or ENGINEER.

### **19. PAYMENTS TO CONTRACTOR**

- 19.1 At least ten (10) days before each progress payment falls due (but not more often than once a month), the CONTRACTOR will submit to the ENGINEER a partial payment estimate filled out and signed by the CONTRACTOR covering the WORK performed during the period covered by the partial payment estimate and supported by such data as the ENGINEER may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the WORK but delivered and suitably stored at or near the site, the partial payment estimate shall also be accompanied by such supporting data, satisfactory to the OWNER, as will establish the OWNER'S title to the material and equipment and protect his interest therein, including applicable insurance. The ENGINEER will, within ten (10) days after receipt of each partial payment estimate, either indicate in writing his approval of payment and present the partial payment estimate to the OWNER, or return the partial payment estimate to the CONTRACTOR indicating in writing his reasons for refusing to approve payment. In the latter case, the CONTRACTOR may make the necessary corrections and resubmit the partial payment estimate. The OWNER will, within ten (10) days of presentation to him of an approved partial payment estimate, pay the CONTRACTOR a progress payment of 95 per cent (with the balance being retainage) on the basis of the approved partial payment estimate.
- 19.2 The request for payment may also include an allowance for the cost of such major materials and equipment, which are suitably stored either at or near the site.
- 19.3 Prior to SUBSTANTIAL COMPLETION, the OWNER, with the approval of the ENGINEER and with the concurrence of the CONTRACTOR, may use any completed or SUBSTANTIALLY COMPLETED portions of the WORK. Such use shall not constitute an acceptance of such portions of the WORK.
- 19.4 The OWNER shall have the right to enter the premises for the purpose of doing work not covered by the CONTRACT DOCUMENTS. This provision shall not be construed as relieving the CONTRACTOR of the sole responsibility for the care and protection of the WORK, or the restoration of any damaged WORK except such as may be caused by agents or employees of the OWNER.
- 19.5 The final payment request must be accompanied by a "Release of Surety" prior to acceptance of the request by the ENGINEER. Upon completion and acceptance of the WORK, the ENGINEER shall issue a certificate attached to the final payment request that the WORK has been accepted by him under the conditions of the CONTRACT DOCUMENTS. The entire balance found to be due the CONTRACTOR, including the retained percentages, but except such sums as may be lawfully retained by the OWNER,

shall be paid to the CONTRACTOR within thirty (30) days of the completion and acceptance of the WORK.

- 19.6 The CONTRACTOR will indemnify and save the OWNER or the OWNER'S agents harmless from all claims growing out of the lawful demands of SUBCONTRACTORS, laborers, workmen, mechanics, material men, and furnishers of machinery and parts thereof, equipment, tools, and all supplies, incurred in the furtherance of the performance of the WORK. The CONTRACTOR shall, at the OWNER'S request, furnish satisfactory evidence that all obligations of the nature designated above have been paid, discharged, or waived. If the CONTRACTOR fails to do so, the OWNER may, after having notified the CONTRACTOR, either pay unpaid bills or withhold from the CONTRACTOR'S unpaid compensation a sum of money deemed reasonable sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged whereupon payment to the CONTRACTOR shall be resumed, in accordance with the terms of the CONTRACT DOCUMENTS, but in no event shall the provisions of this sentence be construed to impose any obligations upon the OWNER to either the CONTRACTOR, his Surety, or any third party.
- 19.7 In paying any unpaid bills of the CONTRACTOR, any payment so made by the OWNER shall be considered as a payment made under the CONTRACT DOCUMENTS by the OWNER to the CONTRACTOR and the OWNER shall not be liable to the CONTRACTOR for any such payments made in good faith.
- 19.8 If the OWNER fails to make payment thirty (30) days after approval by the ENGINEER, in addition to other remedies available to the CONTRACTOR, there shall be added to each such payment interest at the maximum legal rate commencing on the first day after said payment is due and continuing until the payment is received by the CONTRACTOR.

## **20. ACCEPTANCE OF FINAL PAYMENT AS RELEASE**

- 20.1 The acceptance by the CONTRACTOR of final payment shall be and shall operate as a release to the OWNER of all claims and liability to the CONTRACTOR other than claims in stated amounts as may be specifically excepted by the CONTRACTOR for all things done or furnished in connection with this WORK and for every act and neglect of the OWNER and others relating to or arising out of this WORK. Any payment, however, final or otherwise shall not release the CONTRACTOR or his sureties from any obligations under the CONTRACT DOCUMENTS or the PERFORMANCE BOND and PAYMENT BONDS.

## **21. INSURANCE**

- 21.1 The CONTRACTOR shall purchase and maintain such insurance as will protect him from claims set forth below which may arise out of or result from the CONTRACTOR'S execution of the WORK, whether such execution be by himself or by any SUBCONTRACTOR or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
- 21.1.1 Claims under workmen's compensation, disability benefit and other similar employee benefit acts; and
- 21.1.2 Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees; and
- 21.1.3 Claims for damages because of bodily injury, sickness liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONTRACTOR, or (2) by any

other person; and

- 21.1.4 Claims for damages because of bodily injury, sickness, or disease, or death of any person other than his employees; and
  - 21.1.5 Claims for damages because of injury in or destruction of tangible property, including loss of use resulting there from.
- 21.2 Certificates of insurance acceptable to the OWNER shall be filed with the OWNER prior to commencement of the WORK. These certificates shall contain a provision that coverages afforded under the policies will not be canceled unless at least fifteen (15) days prior WRITTEN NOTICE has been given to the OWNER.
- 21.3 The CONTRACTOR shall procure and maintain, at his own expense, during the CONTRACT TIME, liability insurance as hereinafter specified:
- 21.3.1 CONTRACTOR'S General Public Liability and Property Damage Insurance including vehicle coverage issued to the CONTRACTOR and protecting him from all claims for personal injury, including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under the CONTRACT DOCUMENTS, whether such operations be by himself or by any SUBCONTRACTOR under him, or anyone directly or indirectly employed by the CONTRACTOR or by a SUBCONTRACTOR under him. Insurance shall be written with a limit of liability of not less than \$1,000,000 for all damages arising out of bodily injury, including death, at any time resulting there from, sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$1,000,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$1,000,000 aggregate for any such damage sustained by two or more persons in any one accident.
  - 21.3.2 The CONTRACTOR shall acquire and maintain Fire and Extended Coverage insurance upon the PROJECT to the full insurable value thereof for the benefit of the OWNER, the CONTRACTOR, and the SUBCONTRACTORS as their interest may appear. This provision shall in no way release the CONTRACTOR or CONTRACTOR'S surety from obligations under the CONTRACT DOCUMENTS to fully complete the PROJECT.
  - 21.3.3 The CONTRACTOR shall acquire and maintain such special insurance coverage as required by the railroad crossing license/permit
- 21.4 The CONTRACTOR shall procure and maintain, at his own expense, during the CONTRACT TIME, in accordance with the provisions of the laws of the state in which the WORK is performed. Workmen's Compensation Insurance, including occupational disease provisions, for all of his employees at the site of the PROJECT and in case any WORK is sublet, the CONTRACTOR shall require each SUBCONTRACTOR similarly to provide Workmen's Compensation Insurance, including occupational disease provisions for all of the latter's employees unless such employees are covered by the protection afforded by the CONTRACTOR. In case any class of employees engaged in hazardous WORK under this CONTRACT at the site of the PROJECT is not protected under Workmen's Compensation statute, the CONTRACTOR shall provide, and shall cause each SUBCONTRACTOR to provide, adequate and suitable insurance for the protection of his employees not otherwise protected.

21.5 The CONTRACTOR shall secure "All Risk" type Builder's Risk Insurance for WORK to be performed. Unless specifically authorized by the OWNER, the amount of such insurance shall not be less than the CONTRACT PRICE totaled in the BID. The policy shall cover not less than the losses due to fire, explosion, hail, lightening, vandalism, malicious mischief, wind, flood, collapse, riot, aircraft, and smoke during the CONTRACT TIME, and until the WORK is accepted by the OWNER. The policy shall name as the insured the CONTRACTOR, the ENGINEER, and the OWNER.

## **22. CONTRACT SECURITY**

22.1 The CONTRACTOR shall within ten (10) days after the receipt of the NOTICE OF AWARD furnish the OWNER with a Performance Bond and Payment Bond in penal sums equal to the amount of the CONTRACT PRICE, conditioned upon the performance by the CONTRACTOR of all undertakings, covenants, terms, conditions, and agreements of the CONTRACT DOCUMENTS, and upon the prompt payment by the CONTRACTOR to all persons supplying labor and materials in the prosecution of the WORK provided by the CONTRACT DOCUMENTS. Such BONDS shall be executed by the CONTRACTOR and a corporate bonding company licensed to transact such business in the State of Virginia and named on the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Treasury Department Circular Number 570. The expense of these BONDS shall be borne by the CONTRACTOR. If at any time a surety on any such BOND is declared a bankrupt or loses its right to do business in Virginia or is removed from the list of Surety Companies accepted on Federal BONDS, CONTRACTOR shall within ten (10) days after notice from the OWNER to do so, substitute an acceptable BOND (or BONDS) in such form and sum and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such BOND shall be paid by the CONTRACTOR. No further payments shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable BOND to the OWNER. The Performance Bond shall remain in full force and effect through the guarantee period.

## **23. ASSIGNMENTS**

23.1 Neither the CONTRACTOR nor the OWNER shall sell, transfer, assign, or otherwise dispose of the CONTRACT or any portion thereof, or of their right, title, or interest therein, or their obligations thereunder, without written consent of the other party.

## **24. INDEMNIFICATION**

24.1 The CONTRACTOR will indemnify and hold harmless the OWNER and the ENGINEER and their agents and employees from and against all claims, damages, losses, and expenses including attorney's fees arising out of or resulting from the performance of the WORK, provided that such claims, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use resulting there from; and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, and SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

24.2 In any and all claims against the OWNER or the ENGINEER, or any of their agents or employees, by any employee of the CONTRACTOR, any SUBCONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any SUBCONTRACTOR under workmen's compensation acts, disability benefit acts or other employee benefits acts.

24.3 The obligation of the CONTRACTOR under this paragraph shall not extend to the liability

of the ENGINEER or ENGINEER'S employees arising out of the preparation or approval of maps, DRAWINGS, opinions, reports, surveys, CHANGE ORDERS, designs or SPECIFICATIONS.

## **25. SEPARATE CONTRACTS**

- 25.1 The OWNER reserves the right to let other contracts in connection with this PROJECT. The CONTRACTOR shall afford other CONTRACTORS reasonable opportunity for the introduction and storage of their materials and the execution of their WORK, and shall properly connect and coordinate the CONTRACTOR'S WORK with theirs. If the proper execution or results of any part of the CONTRACTOR'S WORK depends upon the WORK of any other CONTRACTOR, the CONTRACTOR shall inspect and promptly report to the ENGINEER any defects in such WORK that render it unsuitable for such proper execution and results.
- 25.2 The OWNER may perform additional WORK related to the PROJECT, or OWNER may let other contracts containing provisions similar to these. The CONTRACTOR will afford the other CONTRACTORS who are parties to such Contracts (or the OWNER, if the CONTRACTOR is performing the additional WORK), reasonable opportunity for the introduction and storage of materials and equipment and the execution of WORK, and shall properly connect and coordinate the CONTRACTOR'S WORK with theirs.
- 25.3 If the performance of additional WORK by other CONTRACTORS or the OWNER is not noted in the CONTRACT DOCUMENTS prior to the execution of the CONTRACT, WRITTEN NOTICE thereof shall be given to the CONTRACTOR prior to starting any such additional WORK. If the CONTRACTOR believes that the performance of such additional WORK by the OWNER or others involves the CONTRACTOR in additional expense or entitles the CONTRACTOR to an extension of the CONTRACT TIME, the CONTRACTOR may make a claim therefore as provided in Sections 13 and 14.

## **26. SUBCONTRACTING**

- 26.1 The CONTRACTOR may utilize the services of specialty SUBCONTRACTORS on those parts of the WORK which, under normal contracting practices, are performed by specialty CONTRACTORS.
- 26.2 The CONTRACTOR shall not award WORK to SUBCONTRACTOR(S), in excess of 50 percent of the CONTRACT PRICE, without prior written approval of the OWNER. For purposes of this paragraph, purchase of materials and equipment by the CONTRACTOR with their installation by SUBCONTRACTORS shall not be considered part of the CONTRACTOR'S WORK.
- 26.3 The CONTRACTOR shall be fully responsible to the OWNER for the acts and omissions of any SUBCONTRACTORS, and of persons either directly or indirectly employed by them, as the CONTRACTOR is for the acts and omissions of persons directly employed by the CONTRACTOR.
- 26.4 The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the WORK to bind SUBCONTRACTORS to the CONTRACTOR by the terms of the CONTRACT DOCUMENTS insofar as applicable to the WORK of SUBCONTRACTORS and to give the CONTRACTOR the same power as regards terminating any subcontract that the OWNER may exercise over the CONTRACTOR under any provision of the CONTRACT DOCUMENTS.
- 26.5 Nothing contained in the CONTRACT shall create any contractual relation between any SUBCONTRACTOR and the OWNER.

## **27. ENGINEER'S AUTHORITY**

- 27.1 The ENGINEER shall act as the OWNER'S representative during the construction period. The ENGINEER shall decide questions, which may arise as to quality and acceptability of materials furnished and WORK performed. The ENGINEER shall interpret the intent of the CONTRACT DOCUMENTS in a fair and unbiased manner. The ENGINEER will make visits to the site and determine if the WORK is proceeding in accordance with the CONTRACT DOCUMENTS.
- 27.2 The CONTRACTOR will be held strictly to the intent of the CONTRACT DOCUMENTS in regard to the quality of materials, workmanship and execution of the WORK. Inspections may be made at the factory or fabrication plant of the source of material supply at the ENGINEER'S discretion.
- 27.3 The ENGINEER will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.
- 27.4 The ENGINEER shall promptly make decisions relative to interpretation of the CONTRACT DOCUMENTS.

## **28. LAND AND RIGHT-OF-WAYS**

- 28.1 Prior to issuance of NOTICE TO PROCEED, the OWNER shall obtain all land and right-of-ways necessary for carrying out and for the completion of the WORK to be performed pursuant to the CONTRACT DOCUMENTS, unless otherwise mutually agreed.
- 28.2 The OWNER shall provide to the CONTRACTOR information, which delineates and describes the lands owned and right-of-ways acquired.
- 28.3 The CONTRACTOR shall provide at CONTRACTOR'S own expense and without liability to the OWNER any additional land and access thereto that the CONTRACTOR may desire for temporary construction facilities, or for storage of materials.

## **29. GUARANTY**

- 29.1 The CONTRACTOR shall guarantee all materials and equipment furnished and WORK performed for a period of one (1) year from the date of FINAL ACCEPTANCE. The CONTRACTOR warrants and guarantees for a period of one (1) year from the date of FINAL ACCEPTANCE of the system that the completed system is free from all defects due to faulty materials or workmanship and the CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects.

The OWNER will give notice of observed defects with reasonable promptness. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other WORK that may be made necessary by such defects, the OWNER may do so and charge the CONTRACTOR the cost thereby incurred. The PERFORMANCE BOND shall remain in full force and effect through the guarantee period.

## **30. TAXES**

- 30.1 The CONTRACTOR will pay all sales, consumer, use, and other similar taxes required by the law of the place where the WORK is performed.

## **31. CLEAN UP ON COMPLETION OF PROJECT**

- 31.1 On completion of the WORK covered by any of the sections of this PROJECT, the CONTRACTOR for said section shall clean up the entire premises occupied by his operations, and this area shall be left neat and clean of trash, debris, piles of earth, waste materials or equipment. All surplus materials and equipment, trash, debris, and other foreign matter shall be disposed of as directed by the ENGINEER or OWNER. The entire project or sections thereof shall be made ready for the OWNER'S use, and the CONTRACTOR shall assist as may be necessary in placing any equipment furnished under the contract in proper operating condition.

**32. WORK HOURS**

To be defined by the project owner.

**33. PROJECT IDENTIFICATION SIGNBOARD**

Sign as required by EDA contracting provisions.

**34. SUPPLEMENTAL CONDITIONS**

- 34.1 The following Supplemental Conditions as required by the Virginia Department of Transportation are in addition to the GENERAL CONDITIONS, and shall be included as part of these CONTRACT DOCUMENTS:

34.1.1	c100II2-0112 - VDOT SSs_SPs_SPCNs (Local Assist)
34.1.2	c103i01-0814 - Section 103 Award and Execution of Contracts
34.1.3	cu105000a - Personnel Requirements for Work Zone Traffic Control
34.1.5	c105hf1-0309 - Section 105.06 Subcontracting
34.1.6	SF001AF-0708 - Predetermined Wage Rates
34.1.7	Davis Bacon Wage Rates – VA150129 - 01/02/2015 VA129
34.1.8	SF010DF-0712 - Required Contract Provisions for Federal-Aid Construction Contracts
34.1.9	SF030AF-0708 - Notice of Requirement for Affirmative Action (Executive Order 11246)
34.1.10	SF030AF-0708 - Minority Goal Requirements (Attachment A to Executive Order 11246)
34.1.11	S102CF2-0813 - Section 102.05 – Use of Domestic Material
34.1.12	Section 107.14- Equal Employment Opportunity
34.1.13	S107HF1-0211 - Section 107.15 – Use of Disadvantaged Business Enterprises (DBEs)

**35. NONDISCRIMINATION PROVISIONS**

- 35.1 The successful Contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of the nondiscrimination clause.

- 35.2 The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that the Contractor is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

- 35.3 The Contractor will include the provision of the foregoing paragraph in every subcontract

or purchase order over ten thousand dollars (\$10,000.) so that the provisions will be binding upon each subcontractor or vendor.

**36. IMMIGRATION AND CONTROL ACT OF 1986**

- 36.1 Contractor is aware of and understands the Immigration Reform and Control Act of 1986 (IRCA) and is in compliance with IRCA; that it acknowledges its responsibility to complete I-9 Employment Eligibility Verification forms for all of its employees assigned to work on City contracts who are not authorized to work in the United States; and that it agrees to defend and indemnify the City for any liability arising out of claims that the contractor's employees are not authorized to work in the United States or any other claims based upon any alleged violations of IRCA by the contractor.

END OF GENERAL TERMS AND CONDITIONS OF THE CONSTRUCTION CONTRACT

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## SUPPLEMENTAL CONDITIONS / VDOT SPECIAL PROVISIONS

**VDOT STANDARDS AND SPECIFICATIONS REFERENCES:** This Contract shall be Constructed in accordance with the Plans; the *Virginia Department of Transportation Road and Bridge Specifications*, dated 2007; and *Road and Bridge Standards*, dated 2008; the *Virginia Work Area Protection Manual*, dated 2011; and Special Provisions and Special Provision Copied Notes as listed herein.

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(c100II2-0112)

**VDOT SUPPLEMENTAL SPECIFICATIONS (SSs), SPECIAL PROVISIONS (SPs) AND SPECIAL PROVISION COPIED NOTES (SPCNs)**

Where Virginia Department of Transportation (VDOT) Supplemental Specifications, Special Provisions and Special Provision Copied Notes are used in this contract, the references therein to “the Specifications” shall refer to the Virginia Department of Transportation Road and Bridge Specifications, dated 2007 for both imperial and metric unit projects. References to the “Road and Bridge Standard(s)” shall refer to the Virginia Department of Transportation Road and Bridge Standards, dated 2008 for both imperial and metric unit projects. References to the “Virginia Work Area Protection Manual” shall refer to the 2011 edition of the Virginia Work Area Protection Manual for imperial and metric unit projects. References to the “MUTCD” shall refer to the 2009 edition of the MUTCD and the current Virginia Supplement to the MUTCD for imperial and metric unit projects.

Where the terms “Department”, “Engineer” and “Contract Engineer” appear in VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes used in this contract and the VDOT publication(s) that each references, the authority identified shall be in accordance with the definitions in Section 101.02 of the Virginia Department of Transportation Road and Bridge Specifications, dated 2007. Authority identified otherwise for this particular project will be stated elsewhere in this contract.

VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes used in this contract and the VDOT publication(s) that each reference are intended to be complementary to the each other. In case of a discrepancy, the order of priority stated in Section 105.12 of the Virginia Department of Transportation Road and Bridge Specifications, dated 2007 shall apply.

VDOT Special Provision Copied Notes in this contract are designated with “(SPCN)” after the date of each document. VDOT Supplemental Specifications and Special Provision Copied Notes in this contract are designated as such above the title of each document.

The information enclosed in parenthesis “( )” at the left of each VDOT Special Provision Copied Note in this contract is file reference information for VDOT use only. The information in the upper left corner above the title of each VDOT Supplemental Specification and VDOT Special Provision in this contract is file reference information for VDOT use only.

The system of measurement to be used in this project is stated elsewhere in this contract. VDOT Supplemental Specifications, Special Provisions and Special Provision Copied Notes containing imperial units of measure with accompanying expressions in metric units shall be referred to hereinafter as “dual unit measurement” documents. Such a “dual unit measurement” is typically expressed first in the imperial unit followed immediately to the right by the metric unit in parenthesis “( )” or brackets “[ ]” where parenthesis is used in the sentence to convey other information. Where a “dual unit measurement” appears in VDOT documents, the unit that applies shall be in accordance with the system of measurement as stated elsewhere in this contract. The unit shown that is not of the declared unit of measurement is not to be considered interchangeable and mathematically convertible to the

declared unit and shall not be used as an alternate or conflicting measurement. Where VDOT Specifications are used for metric unit projects and only imperial units of measurement appear the document, the provision(s) in this contract for imperial unit to metric unit conversion shall apply.

12-1-11 (SPCN)

(c103i01-0814)

**SECTION 103—AWARD AND EXECUTION OF CONTRACTS** of the Specifications is amended as follows:

**Section 103.09—Execution of Contract** is amended to include the following:

According to Section 2.2-4308.2 of the Code of Virginia, any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with the Department to provide work or provide services pursuant to such contract shall register and participate in the U.S. Department of Homeland Security's "E-Verify" system to verify information and work authorization of its newly hired employees performing work pursuant to such contract.

Contractors are not required to be enrolled with "E-Verify" at the time bids are submitted, however, prior to award, the lowest responsive and responsible bidder must be enrolled with "E-Verify". Contractors may use the following website to enroll in "E-Verify", <http://www.uscis.gov/e-verify>.

8-8-14 (SPCN)

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(cu105000a)

**PERSONNEL REQUIREMENTS FOR WORK ZONE TRAFFIC CONTROL** - Section 105 and 512 of the Specifications are amended as follows:

**Section 105.14—Maintenance During Construction** is amended to add the following:

The Contractor shall provide at least one person on the project site during all work operations who is currently verified either by the Department in Intermediate Work Zone Traffic Control, or by the American Traffic Safety Services Association (ATSSA) as a Traffic Control Supervisor (TCS). This person must have the verification card with them while on the project site. This person shall be responsible for the oversight of work zone traffic control within the project limits in compliance with the contract requirements involving the plans, specifications, the VWAPM, and the MUTCD. This person's duties shall include the supervision of the installation, adjustment (if necessary), inspection, maintenance and removal when no longer required of all traffic control devices on the project.

If none of the Contractor's on-site personnel responsible for the supervision of such work has the required verification with them or if they have an outdated verification card showing they are not currently verified either by the Department in Intermediate Work Zone Traffic Control, or by the American Traffic Safety Services Association (ATSSA) as a Traffic Control Supervisor (TCS) all work on the project will be suspended by the Engineer.

The Contractor shall provide at least one person on site who is, at a minimum, verified by the Department in Basic Work Zone Traffic Control for each construction and/or maintenance operation that involves installing, maintaining, or removing work zone traffic control devices. This person shall be responsible for the placement, maintenance and removal of work zone traffic control devices.

In the event none of the Contractor's on-site personnel of any construction/maintenance operation has, at a minimum, the required verification by the Department in Basic Work Zone Traffic Control, that construction/maintenance operation will be suspended by the Engineer until that operation is appropriately staffed in accordance with the requirements herein.

**Section 512.03 Procedures** is amended to add (r) **Work Zone Traffic Control** as the following:

- (r) **Work Zone Traffic Control:** The Contractor shall provide individuals trained in Work Zone Traffic Control in accordance with the requirements of Section 105.14 of the Specifications.

**Section 512.04 Measurement and Payment** is amended to add the following:

**Basic Work Zone Traffic Control** – Separate payment will not be made for providing a person to meet the requirements of Section 105.14 of the Specifications. The cost thereof shall be included in the price of other appropriate pay items.

**Intermediate Work Zone Traffic Control** - Separate payment will not be made for providing a person to meet the requirements of Section 105.14 of the Specifications. The cost thereof shall be included in the price of other appropriate pay items.

6-11-09a (SPCN)

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(c105hf1-0309)

**SECTION 105.06 SUBCONTRACTING** of the Specifications is amended to include the following:

Any distribution of work shall be evidenced by a written binding agreement on file at the project site. Where no field office exists, such agreement shall be readily available upon request to Department inspector(s) assigned to the project.

The provisions contained in Form FHWA-1273 specifically, and other federal provisions included with the prime Contract are generally applicable to all Federal-aid construction projects and must be made a part of, and physically incorporated into all contracts, as well as, appropriate subcontracts for work so as to be binding in those agreements.

12-19-08 (SPCN)

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**PREDETERMINED MINIMUM WAGE RATES****U.S. DEPARTMENT OF LABOR  
OFFICE OF THE SECRETARY  
WASHINGTON  
DECISION OF THE SECRETARY**

This case is before the Department of Labor pursuant to a request for a wage predetermination as required by law applicable to the work described.

A study has been made of wage conditions in the locality and based on information available to the Department of Labor the wage rates and fringe payments listed are hereby determined by the Secretary of Labor as prevailing for the described classes for labor in accordance with applicable law.

This wage determination decision and any modifications thereof during the period prior to the stated expiration date shall be made a part of every contract for performance of the described work as provided by applicable law and regulations of the Secretary of Labor, and the wage rates and fringe payments contained in this decision, including modifications, shall be the minimums to be paid under any such contract and subcontractors on the work.

The contracting officer shall require that any class of laborers and mechanics which is not listed in the wage determination and which is to be employed under the contract, shall be classified or reclassified conformably to the wage determination, and a report of the action taken shall be sent by the Federal agency to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question accompanied by the recommendation of the contracting officer shall be referred to the Secretary for determination.

Before using apprentices on the job the contractor shall present to the contracting officer written evidence of registration of such employees in a program of a State apprenticeship and training agency approved and recognized by the U.S. Bureau of Apprenticeship and Training. In the absence of such a State agency, the contractor shall submit evidence of approval and registration by the U.S. Bureau of Apprenticeship and Training.

The contractor shall submit to the contracting officer written evidence of the established apprentice-journeyman ratios and wage in the project area, which will be the basis for establishing such ratios and rates for the project under the applicable contract provisions.

Fringe payments include medical and hospital care, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance, disability and sickness insurance, accident insurance (all designated as health and welfare), pensions, vacation and holiday pay, apprenticeship or other similar programs and other bona fide fringe benefits.

By direction of the Secretary of Labor



E. Irving Manger, Associate Administrator  
Division of Wage Determinations  
Wage and Labor Standards Administration

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General Decision Number: VA150129 01/02/2015 VA129

Superseded General Decision Number: VA20140129

State: Virginia

Construction Type: Highway

Counties: Chesapeake\*, Isle of Wight, Norfolk\*, Portsmouth\*, Suffolk\* and Virginia Beach\* Counties in Virginia.

\*INDEPENDENT CITIES

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

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it

is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/02/2015

SUVA2013-003 09/20/2013

	Rates	Fringes
ASBESTOS WORKER.....	\$ 12.85	
CARPENTER (STRUCTURE).....	\$ 17.06	
CEMENT MASON/CONCRETE FINISHER....	\$ 17.82	
ELECTRICIAN.....	\$ 24.40	
FORM SETTER.....	\$ 15.00	
IRONWORKER, REINFORCING.....	\$ 19.61	
IRONWORKER, STRUCTURAL.....	\$ 28.80	

LABORER

Asphalt Raker.....\$ 15.58  
Construction Laborer I  
(Skilled Laborer).....\$ 15.57  
Construction Worker II  
(Laborer).....\$ 12.48  
Fence Erector.....\$ 15.18  
Flagger.....\$ 9.00  
Grade Checker.....\$ 14.50  
Guardrail Erector.....\$ 23.00  
Landscape Worker.....\$ 13.20  
Pipe Layer.....\$ 14.83  
Power Tool Operator.....\$ 17.00  
Sign Erector.....\$ 11.50

MASON (STRUCTURE).....\$ 12.50

PAINTER.....\$ 21.67

PILEDRIVERMAN.....\$ 13.25

PLUMBER.....\$ 16.00

POWER EQUIPMENT OPERATOR:

Air Compressor Operator.....\$ 15.40  
Asphalt Distributor.....\$ 17.57  
Asphalt Paver.....\$ 18.52

Backhoe.....	\$ 18.59
Bulldozer (Utility).....	\$ 16.50
Bulldozer.....	\$ 16.85
Concrete Paving Machine	
Operator.....	\$ 14.00
Concrete Finish Machine	
Operator.....	\$ 14.00
Concrete Finish Machine	
Screed Operator (Bridge)....	\$ 36.85
Concrete Saw Operator.....	\$ 16.01
Crane, Derrick, Dragline....	\$ 19.23
Drill Operator.....	\$ 15.00
Excavator (Gradall).....	\$ 17.54
Front End Loader.....	\$ 14.27
Hydro Seeder.....	\$ 11.00
Log Skidder Operator.....	\$ 15.00
Mechanic.....	\$ 18.00
Motor Grader (Fine Grade)...	\$ 16.72
Motor Grader (Rough Grade)..	\$ 18.40
Oiler, Greaser.....	\$ 14.00
Pavement Marking Operator...	\$ 14.00
Pavement Marking Truck	
Operator.....	\$ 23.75
Pavement Planing Groundman..	\$ 16.00
Pavement Planing Operator...	\$ 17.56
Pile Driver Leadsman.....	\$ 13.25
Pile Driver.....	\$ 15.65

Roller (Finish).....\$ 16.57  
Roller (Rough).....\$ 16.91  
Scraper Pan.....\$ 11.85  
Slurry Seal Paver Machine...\$ 17.00  
Stabilizer Operator.....\$ 16.00  
Stone-Spreader.....\$ 15.80  
Tractor Operator (Crawlers)\$. \$ 12.37  
Tractor Operator (Utility)..\$ 16.15  
Trenching Machine Operator..\$ 14.38  
Vacuum Machine Operator.....\$ 13.25

SHEET METAL WORKER.....\$ 18.56

TRAFFIC SIGNALIZATION:

Traffic Signal Installation.....\$ 11.25

TRUCK DRIVER

Fuel & Lubricant Service  
Truck Driver.....\$ 11.50  
Truck Driver (Multi-Rear  
Axle).....\$ 15.89  
Truck Driver (Single Rear  
Axle).....\$ 13.25  
Truck Driver (Tandem Rear  
Axle).....\$ 14.31  
Truck Driver, Heavy Duty....\$ 16.13

WELDER.....\$ 14.00

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

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

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

## Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

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

## Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all

rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

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

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current

negotiated/CBA rate of the union locals from which the rate is based.

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END OF GENERAL DECISION.

The following Form **FHWA-1273** titled **REQUIRED CONTRACT PROVISIONS, FEDERAL-AID CONSTRUCTION CONTRACTS** shall apply to this contract:

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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.

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.

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.

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
  - (II) 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.

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VIRGINIA DEPARTMENT OF TRANSPORTATION  
SPECIAL PROVISION FOR  
**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE  
EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals for female and minority participation, expressed in percentage terms of the Contractor's aggregate work force in each trade on all construction works in the covered area, are as follows:

Females- 6.9%

Minorities - See Attachment "A"

The goals are applicable to all the Contractor's construction work performed in the covered area, whether or not it is Federal or federally assisted. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications, set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established herein. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executives Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 workings days the award of any construction subcontract in excess of \$10,000 at any tier for construction works under this contract. The notification shall list the name, address and telephone number of the subcontractor, employer identification number, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the contract is to be performed.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)**

1. As, used in this provision:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U. S. Treasury Department Form 941;
  - d. "Minority" includes:

- (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
  - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation.
  3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U. S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors and Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
  4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the coverer area. Covered construction Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
  5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
  6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.
  7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, shall assign two or more women to each construction project. The Contractor shall specifically ensure that all foreman, superintendents and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off the street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union, or if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or women sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper or annual report; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents and General Foremen prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including in any news media advertisement that the Contractor is "An Equal Opportunity Employer" for minority and female, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- i. Directs its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by

recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of Contractor's workforce.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for such opportunities through appropriate training or other means.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are nonsegregated, except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. Goals for women have been established. However, the Contractor IS required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner, that is even though the Contractor has achieved its goals for women, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or nation origin.
11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director will proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate and make known to the Department a responsible official as the EEO Officer to monitor all employment related activity, to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors will not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

## ATTACHMENT A

<u>Economic Area</u>	<u>Goal (Percent)</u>
Virginia:	
021 Roanoke-Lynchburg, VA	
SMSA Counties:	
4640 Lynchburg, VA .....	19.3
VA Amherst; VA Appomattox; VA Campbell; VA Lynchburg	
6800 Roanoke, VA .....	10.2
VA Botetourt; VA Craig; VA Roanoke; VA Roanoke City; VA Salem	
Non-SMSA Counties .....	12.0
VA Alleghany; VA Augusta; VA Bath; VA Bedford; VA Bland; VA Carroll;	
VA Floyd; VA Franklin; VA Giles; VA Grayson; VA Henry; VA Highland;	
VA Montgomery; VA Nelson; VA Patrick; VA Pittsylvania; VA Pulaski;	
VA Rockbridge; VA Rockingham; VA Wythe; VA Bedford City; VA Buena	
Vista:	
VA Clifton Forge; VA Covington; VA Danville; VA Galax; VA Harrisonburg;	
VA Lexington; VA Martinsville; VA Radford; VA Staunton; VA Waynesboro;	
WV Pendleton.	
022 Richmond, VA	
SMSA Counties:	
6140 Petersburg - Colonial Heights - Hopewell, VA .....	30.6
VA Dinwiddie; VA Prince George; VA Colonial Heights; VA Hopewell;	
VA Petersburg.	
6760 Richmond, VA .....	24.9

	VA Charles City; VA Chesterfield; VA Goochland, VA Hanover; VA Henrico; VA New Kent; VA Powhatan; VA Richmond.	
	Non-SMSA Counties .....	27.9
	VA Albemarle; VA Amelia; VA Brunswick; VA Buckingham, VA Caroline; VA Charlotte; VA Cumberland; VA Essex; VA Fluvanna; VA Greene; VA Greensville; VA Halifax; VA King and Queen; VA King William; VA Lancaster; VA Louisa; VA Lunenburg; VA Madison; VA Mecklenburg; VA Northumberland; VA Nottoway; VA Orange; VA Prince Edward; VA Richmond VA Sussex; VA Charlottesville; VA Emporia; VA South Boston	
023 Norfolk - Virginia Beach - Newport News VA:		
	SMSA Counties:	
	5680 Newport News- Hampton, VA .....	27.1
	VA Gloucester; VA James City; VA York; VA Hampton; VA Newport News; VA Williamsburg.	
	5720 Norfolk - Virginia Beach - Portsmouth, VA - NC .....	26.6
	NC Currituck; VA Chesapeake; VA Norfolk; VA Portsmouth; VA Suffolk; VA Virginia Beach.	
	Non-SMSA Counties .....	29.7
	NC Bertie; NC Camden; NC Chowan; NC Gates; NC Hertford; NC Pasquotank; NC Perquimans; VA Isle of Wight; VA Matthews; VA Middlesex; VA Southampton; VA Surry; VA Franklin.	
Washington, DC:		
020 Washington, DC.		
	SMSA Counties:	
	8840 Washington, DC - MD - VA .....	28.0
	DC District of Columbia; MD Charles; MD Montgomery MD Prince Georges; VA Arlington; VA Fairfax; VA Loudoun; VA Prince William VA Alexandria; VA Fairfax City; VA Falls Church.	
	Non- SMSA Counties .....	25.2
	MD Calvert; MD Frederick; MD St. Marys; MD Washington; VA Clarke; VA Culpeper; VA Fauquier; VA Frederick; VA King George; VA Page; VA Rappahannock; VA Shenandoah; VA Spotsylvania; VA Stafford; VA Warren; VA Westmoreland; VA Fredericksburg; VA Winchester WV Berkeley; WV Grant; WV Hampshire; WV Hardy; WV Jefferson; WV Morgan.	
Tennessee:		
052 Johnson City - Kingsport - Bristol, TN - VA		
	SMSA Counties:	
	3630 Johnson City - Kingsport -Bristol, TN-VA .....	2.6
	TN Carter; TN Hawkins; TN Sullivan; TN Washington; VA Scott: VA Washington; VA Bristol.	
	Non-SMSA Counties .....	3.2
	TN Greene; TN Johnson; VA Buchanan; VA Dickenson; VA Lee; VA Russell; VA Smyth; VA Tazewell; VA Wise; VA Norton; WV McDowell; WV Mercer.	
Maryland:		
019 Baltimore MD		
	Non-SMSA Counties .....	23.6
	MD Caroline; MD Dorchester; MD Kent; MD Queen Annes; MD Somerset; MD Talbot; MD Wicomico; MD Worchester; VA Accomack; VA Northampton.	

VIRGINIA DEPARTMENT OF TRANSPORTATION  
SPECIAL PROVISION FOR  
**USE OF DOMESTIC MATERIAL**

July 26, 2013

**SECTION 102.05 PREPARATION OF BID** of the Specifications is amended to include the following:

In accordance with the provisions of Section 635.410(b) of Title 23 CFR, hereinafter referred to as "Buy America", except as otherwise specified, all iron and steel products (including miscellaneous steel items such as fasteners, nuts, bolts and washers) to be permanently incorporated for use on federal aid projects shall be produced in the United States of America regardless of the percentage they exist in the manufactured product or final form they take. Therefore, "Domestically produced in the United States of America" means all manufacturing processes must occur in the United States of America, to mean, in one of the 50 States, the District of Columbia, Puerto Rico or in the territories and possessions of the United States. Manufacturing processes are defined as any process which alters or modifies the chemical content, physical size or shape or final finish of iron or steel material) such as rolling, extruding, bending, machining, fabrication, grinding, drilling, finishing, or coating whereby a raw material or a reduced iron ore material is changed, altered or transformed into a steel or iron item or product which, because of the process, is different from the original material. For the purposes of satisfying this requirement "coating" is defined as the application of epoxy, galvanizing, painting or any other such process that protects or enhances the value of the material. Materials used in the coating process need not be domestic materials.

For the purposes herein the manufacturing process is considered complete when the resultant product is ready for use as an item in the project (e.g. fencing, posts, girders, pipe, manhole covers, etc.) or is incorporated as a component of a more complex product by means of further manufacturing. Final assembly of a product may occur outside of the United States of America provided no further manufacturing process takes place.

Raw materials such as iron ore, pig iron, processed, pelletized and reduced iron ore, waste products (including scrap, that is, steel or iron no longer useful in its present form from old automobiles, machinery, pipe, railroad rail, or the like and steel trimmings from mills or product manufacturing) and other raw materials used in the production of steel and/or iron products may, however, be imported. Extracting, handling, or crushing the raw materials which are inherent to the transporting the materials for later use in the manufacturing process are exempt from Buy America. The use of foreign source steel or iron billet is not acceptable under the provisions of Buy America. For the purposes of this provision all steel or iron material not meeting the criteria as domestically produced in the United States of America will be considered as "foreign" material. All iron and steel items will be classified hereinafter as "domestic" or "foreign", identified by and subject to the provisions herein.

Domestically produced iron or steel ingots or billets shipped outside the United States of America for any manufacturing process and returned for permanent use in a project would not comply with "Buy America" requirements.

Buy America provisions do not apply to iron or steel products used temporarily in the construction of a project such as temporary sheet piling, temporary bridges, steel scaffolding, falsework or such temporary material or product or material that remains in place for the Contractor's convenience.

Section 635.410(b) of Title 23 CFR permits a minimal amount of steel or iron material to be incorporated in the permanent work on a federal-aid contract. The cost of such materials or products must not exceed one-tenth of one percent of the contract amount or \$2500, whichever is greater. The cost of the foreign iron or steel material is defined as its monetary value delivered to the job site

and supported by invoices or bill of sale to the Contractor. This delivered to site cost must include transportation, assembly, installation and testing.

In the event the total cost of all "foreign" iron and steel product or material does not exceed one-tenth of one percent of the total contract cost or \$2,500, whichever is greater, the use of such material meeting the limitations herein will not be restricted by the domestic requirements herein. However, by signing the bid, the Bidder certifies that such cost does not exceed the limits established herein.

**Waivers:**

With prior concurrence from Federal Highway Administration (FHWA) headquarters, the Federal Highway Division Administrator may grant a waiver to specific projects provided it can be demonstrated:

1. that the use of domestic steel or iron materials would be inconsistent with the public interest; or
2. materials or products requested for use are not produced in the United States in sufficient or reasonably available quantities and are of satisfactory quality for use in the permanent work.

The waiver request shall be submitted with supportive information to include:

1. Project number\description, project cost, waiver item, item cost, country of origin for the product, reason for the waiver, and
2. Analysis of redesign of the project using alternative or approved equal domestic products

In order to grant such a waiver the request for the waiver must be published in the Federal Register for a period not less than 15 days or greater than 60 days prior to waiving such requirement. An initial 15 day comment period to the waiver will be available to the public by means of the FHWA website: <http://www.fhwa.dot.gov/construction/contracts/waivers.cfm>. Following that initial 15 day period of review and comment the request for waiver will be published by the FHWA in the Federal Register. The effective date of the FHWA finding, either to approve or deny the waiver request, will be 15 days following publication in the Federal Register.

Only the FHWA Administrator may grant nationwide waivers which still are subject to the public rulemaking and review process.

**Alternative Bidding Procedures:**

An alternative bidding procedure may be employed to justify the use of foreign iron and/or steel. To qualify under this procedure the total project is bid using two alternatives, one based on the use of domestic products and the other, the use of corresponding foreign source steel and/or iron materials.

In accordance with the provisions of Section 103.02 the Contract will be awarded to the lowest responsive and responsible bidder who submits the lowest total bid based on furnishing domestic iron or steel unless such total exceeds the lowest total bid based on furnishing foreign iron and/or steel by more than 25 percent, in which case the award will be made to the lowest responsive and responsible bidder furnishing foreign iron and/or steel based upon furnishing verifiable supportive data. The bidder shall submit a bid based on permanently incorporating only domestic iron and/or steel in the construction of the project. The bidder may also submit a bid for the same proposed contract based on being allowed to permanently incorporate corresponding foreign iron and/or steel materials meeting the other contract requirements into the work on the contract. If he chooses to submit such a bid, that alternate bid shall clearly indicate which foreign iron and/or steel items will be permanently

installed in the work as well as contain prices for all other items listed in the corresponding domestic proposal to complete a total "Foreign" bid.

In the event the contract is awarded to the bidder furnishing foreign iron and/or steel materials or items the provision for price adjustment of steel items will be permitted, however, price fluctuations shall use the U.S. index as stated in the Special Provision for Price Adjustment For Steel. The Contractor must indicate which corresponding eligible steel items he chooses price adjustment to apply. In the event the contract is awarded to a bidder furnishing foreign iron and/or steel items and during the life of that contract the Contractor discovers he can not furnish foreign iron and/or steel material as originally anticipated and agreed upon, he shall be responsible to honor the total bid price and furnish such iron and/or steel materials meeting the contract requirements from other sources as necessary to complete the work.

In the event the Contractor proposes to furnish "foreign" iron and steel and can verify a savings in excess of 25 percent of the overall project cost if bid using domestic materials, the Contractor shall submit a second complete paper bid proposal clearly marked "Foreign" including Form C-7 and supportive data supplement on all sheets. Supportive data shall list, but not be limited to, origin of material, best price offer, quantity and complete description of material, mill analysis, evidence or certification of conformance to contract requirements, etc. The "Foreign" bid shall be completed using the best price offer for each corresponding bid item supplying foreign material in the alternative bid and submit the same with the Contractor's "Domestic" bid. The Contractor shall write the word "Foreign" by the bid total shown on Form C-7 as well as last page of Schedule of Items showing the total bid amount. The bidder shall also contact the State Contract Engineer to inform him that he is also submitting an alternate "Foreign" paper bid..

The information listed on the supportive data sheet(s) will be used to provide the basis for verification of the required cost savings. In the event comparison of the prices given, or corrected as provided in Section 103.01 of the Specifications, shows that use of "foreign" iron and steel items does not represent a cost savings exceeding the aforementioned 25 percent, "domestic" iron and/or steel and prices given there for shall be used and the "100 percent Domestic Items Total" shall be the Contractor's bid.

#### **Certification of Compliance:**

Where domestic material is supplied, prior to incorporation into the Work, the Contractor shall furnish to the Department a certificate of compliance (such as may be furnished by steel mill test reports) that all steel and/or iron products supplied to the project except as may be permitted (one-tenth of one percent of the total contract cost or \$2,500, whichever is greater) and permanently incorporated into the work satisfies the domestic requirements herein. This certification shall contain a definitive statement about the origin of all products covered under the provisions of Buy America as stated herein.

In lieu of the Contractor providing personal certification, the Contractor may furnish a stepped certification in which each handler of the product, such as supplier, fabricator, manufacturer, processor, etc. furnishes an individual certification that their step in the process was domestically performed.

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#### **107.14—Equal Employment Opportunity**

The Contractor shall comply with the applicable provisions of presidential executive orders and the rules, regulations, and orders of the President's Committee on Equal Employment Opportunity.

The Contractor shall maintain the following records and reports as required by the contract EEO provisions:

- (a) record of all applicants for employment
- (b) new hires by race, work classification, hourly rate, and date employed
- (c) minority and non-minority employees employed in each work classification
- (d) changes in work classifications
- (e) employees enrolled in approved training programs and the status of each
- (f) minority subcontractor or subcontractors with meaningful minority group representation
- (g) copies of Form C-57 submitted by subcontractors

If the Contract has a stipulation or requirement for trainees, the Contractor shall submit semiannual training reports in accordance with the instructions shown on the forms furnished by the Department.

If the Contractor fails to submit such reports in accordance with the instructions, his monthly progress estimate for payment may be delayed.

The Contractor shall cooperate with the Department in carrying out EEO obligations and in the Department's review of activities under the Contract. The Contractor shall comply with the specific EEO requirements specified herein and shall include these requirements in every subcontract of \$10,000 or more with such modification of language as may be necessary to make them binding on the subcontractor.

(a) **EEO Policy:** The Contractor shall accept as 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, or national origin. 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 or on-the-job training.

(b) **EEO Officer:** The Contractor shall designate and make known to the Department an EEO Officer who can effectively administer and promote an active contractor EEO program and who shall be assigned adequate authority and responsibility to do so.

(c) **Dissemination of Policy:**

1. Members of the Contractor's staff who are authorized to hire, supervise, promote, and discharge employees or recommend such action or are substantially involved in such action shall be made fully aware of and shall implement the Contractor's EEO policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. The following actions shall be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees shall be conducted before the start of work and at least once every 6 months thereafter, at which time the Contractor's EEO policy and its implementation shall be reviewed and explained. The meetings shall be conducted by the EEO Officer or another knowledgeable company official.

b. New supervisory or personnel office employees shall be given a thorough indoctrination by the EEO Officer or another knowledgeable company official covering all major aspects of the Contractor's EEO obligations within 30 days following their reporting for duty with the Contractor.

c. The EEO Officer or appropriate company official shall instruct employees engaged in the direct recruitment of employees for the project relative to the methods followed by the Contractor in locating and hiring minority group employees.

2. In order to make the Contractor's EEO policy known to all employees, prospective employees, and potential sources of employees such as, but not limited to, schools, employment agencies, labor unions where appropriate, and college placement officers, the Contractor shall take the following actions:

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

The Contractor shall furnish, erect, and maintain at least two bulletin boards having dimensions of at least 48 inches in width and 36 inches in height at locations readily accessible to all personnel concerned with the project. The boards shall be erected immediately upon initiation of the contract work and shall be maintained until the completion of such work, at which time they shall be removed from the project. Each bulletin board shall be equipped with a removable glass or plastic cover that when in place will protect posters from weather or damage. The Contractor shall promptly post official notices on the bulletin boards. The costs for such work shall be included in the price bid for other contract items.

107.14

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

**(d) Recruitment:**

1. When advertising for employees, the Contractor shall include in all advertisements for employees the notation "An Equal Opportunity Employer" and shall insert all such advertisements in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

2. Unless precluded by a valid bargaining agreement, the Contractor shall conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, state employment agencies, schools, colleges, and minority group organizations. The Contractor shall identify sources of potential minority group employees and shall establish procedures with such sources whereby minority group applicants may be referred to him for employment consideration.

3. The Contractor shall encourage his employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all employees. In addition, information and procedures with regard to referring minority group applicants shall be discussed with employees.

**(e) Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel action of any type shall be taken without regard to race, color, religion, sex, or national origin.

1. The Contractor shall conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of personnel.

2. The Contractor shall periodically evaluate the spread of wages paid within each classification to determine whether there is evidence of discriminatory wage practices.

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

4. The Contractor shall investigate all complaints of alleged discrimination made to him in connection with obligations under the Contract, attempt to resolve such complaints, and take appropriate corrective action. If the investigation indicates that the discrimination may affect persons other than the complainant, corrective action shall include those persons. Upon completion of each investigation, the Contractor shall inform every complainant of all avenues of appeal.

**(f) Training:**

1. The Contractor shall assist in locating, qualifying, and increasing the skills of minority group and women employees and applicants for employment.

2. Consistent with work force requirements and as permissible under federal and state regulations, the Contractor shall make full use of training programs, i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training.

3. The Contractor shall advise employees and applicants for employment of available training programs and the entrance requirements for each.

4. The Contractor shall periodically review the training and promotion potential of minority group employees and shall encourage eligible employees to apply for such training and promotion.

5. If the Contract does not provide a separate pay item for trainees, the cost associated with the training specified herein shall be included in the price bid for other items in the Contract.

6. If the Contract provides a pay item for trainees, training shall be in accordance with the requirements of Section 518.

**(g) Unions:** If the Contractor relies in whole or in part on unions as a source of employees, best efforts shall be made to obtain the cooperation of such unions to increase opportunities for minority groups and women in the unions and to effect referrals by such unions of minority and women employees. Actions by the Contractor, either directly or through his Contractor's Association acting as agent, shall include the following procedures:

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1. In cooperation with the unions, best efforts shall be used to develop joint training programs aimed toward qualifying more minority group members and women for membership in the unions and to increase the skills of minority group employees and women so that they may qualify for higher-paying employment.

2. Best efforts shall be used to incorporate an EEO clause into union agreements to the end that unions shall be contractually bound to refer applicants without regard to race, color, religion, sex, or national origin.

3. Information shall be obtained concerning referral practices and policies of the labor union except that to the extent the information is within the exclusive possession of the union. If the labor union refuses to furnish the information to the Contractor, the Contractor shall so certify to the Department and shall set forth what efforts he made to obtain the information.

4. If a union is unable to provide the Contractor with a reasonable flow of minority and women referrals within the time limit set forth in the union agreement, the Contractor shall, through his recruitment procedures, fill the employment vacancies without regard to race, color, religion, sex, or national origin, making full efforts to obtain qualified or qualifiable minority group persons and women. If union referral practice prevents the Contractor from complying with the EEO requirements, the Contractor shall immediately notify the Department.

(h) **Subcontracting:** The Contractor shall use best efforts to use minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of MBE, DBE, and WBE construction firms from the Department. If MBE, DBE, or WBE goals are established in the proposal, the Contractor shall comply with the requirements of Section 107.15.

The Contractor shall use best efforts to ensure subcontractor compliance with his EEO obligations.

(i) **Records and Reports:** The Contractor shall keep such records as are necessary to determine compliance with his EEO obligations. The records shall be designed to indicate the following:

1. the number of minority and nonminority group members and females employed in each work classification on the project

2. the progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and females if unions are used as a source of the work force

3. the progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees

4. the progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees

Records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Department.

Each month for the first three months after construction begins and every month of July thereafter for the duration of the project, Form C-57 shall be completed to indicate the number of minority, nonminority, and female employees currently engaged in each work classification shown on the form. The completed Form C-57 shall be submitted within three weeks after the reporting period. Failure to do so may result in delay of approval of the Contractor's monthly progress estimate for payment.

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VIRGINIA DEPARTMENT OF TRANSPORTATION  
SPECIAL PROVISION FOR  
**SECTION 107.15**

December 10, 2010

**Section 107.15** of the Specifications is replaced by the following:

**Section 107.15—Use of Disadvantaged Business Enterprises (DBEs)**

**A. Disadvantaged Business Enterprise (DBE) Program Requirements**

Any Contractor, subcontractor, supplier, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the United States Department of Transportation (USDOT) DBE Program as the terms appear in Part 26 of the Code of Federal Regulations (49 CFR as amended), the USDOT DBE Program regulations; and the Virginia Department of Transportation's (VDOT or the Department) Road and Bridge Specifications and DBE Program rules and regulations.

For the purposes of this provision, Contractor is defined as the Prime Contractor of the contract; and sub-contractor is defined as any DBE supplier, manufacturer, or subcontractor performing work or furnishing material, supplies or services to the contract. The Contractor shall physically include this same contract provision in every supply or work/service subcontract that it makes or executes with a subcontractor having work for which it intends to claim credit.

In accordance with 49 CFR Part 26 and VDOT's DBE Program requirements, the Contractor, for itself and for its subcontractors and suppliers, whether certified DBE firms or not, shall commit to complying fully with the auditing, record keeping, confidentiality, cooperation, and anti-intimidation or retaliation provisions contained in those federal and state DBE Program regulations. By bidding on this contract, and by accepting and executing this contract, the Contractor agrees to assume these contractual obligations and to bind the Contractor's subcontractors contractually to the same at the Contractor's expense.

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, administration, and performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

All administrative remedies noted in this provision are automatic unless the Contractor exercises the right of appeal within the required timeframe(s) specified herein. Appeal requirements, processes, and procedures shall be in accordance with guidelines stated herein and current at the time of the proceedings. Where applicable, the Department will notify the Contractor of any changes to the appeal requirements, processes, and procedures after receiving notification of the Contractor's desire to appeal.

All time frames referenced in this provision are expressed in business days unless otherwise indicated. Should the expiration of any deadline fall on a weekend or holiday, such deadline will automatically be extended to the next normal business day.

## **B. DBE Certification**

The only DBE firms eligible to perform work on a federal-aid contract for DBE contract goal credit are firms certified as Disadvantaged Business Enterprises by the Virginia Department of Minority Business Enterprise (DMBE) or the Metropolitan Washington Airports Authority (MWAA) in accordance with federal and VDOT guidelines. DBE firms must be certified in the specific work listed for DBE contract goal credit. A directory listing of certified DBE firms can be obtained from the Virginia Department of Minority Business Enterprise and the Metropolitan Washington Airports Authority Internet websites: <http://www.dmbv.virginia.gov/> ; <http://mwaa.com/362.htm>

## **C. Bank Services**

The Contractor and each subcontractor are encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals. Such banking services and the fees charged for services typically will not be eligible for DBE Program contract goal credit. Such information is available from the VDOT's Internet Civil Rights Division website: <http://insidevdot/C7/Civil%20Rights/default.aspx>

## **D. DBE Program-Related Certifications Made by Bidders\Contractors**

By submitting a bid and by entering into any contract on the basis of that bid, the bidder/Contractor certifies to each of the following DBE Program-related conditions and assurances:

1. That the management and bidding officers of its firm agree to comply with the bidding and project construction and administration obligations of the USDOT DBE Program requirements and regulations of 49 CFR Part 26 as amended, and VDOT's Road and Bridge Specifications and DBE Program requirements and regulations.
2. Under penalty of perjury and other applicable penal law that it has complied with the DBE Program requirements in submitting the bid, and shall comply fully with these requirements in the bidding, award, and execution of the contract.
3. To ensure that DBE firms have been given full and fair opportunity to participate in the performance of the contract. The bidder certifies that all reasonable steps were, and will be, taken to ensure that DBE firms had, and will have, an opportunity to compete for and perform work on the contract. The bidder further certifies that the bidder shall not discriminate on the basis of race, color, age, national origin, or sex in the performance of the contract or in the award of any subcontract. Any agreement between a bidder and a DBE whereby the DBE promises not to provide quotations for performance of work to other bidders is prohibited.
4. As a bidder, good faith efforts were made to obtain DBE participation in the proposed contract at or above the goal for DBE participation established by VDOT. It has submitted as a part of its bid true, accurate, complete, and detailed documentation of the good faith efforts it performed to meet the contract goal for DBE participation. The bidder, by signing and submitting its bid, certifies the DBE participation information submitted within the stated time thereafter is true, correct, and complete, and that the information provided includes the names of all DBE firms that will participate in the contract, the specific line item(s) that each listed DBE firm will perform, and the creditable dollar amounts of the participation of each listed DBE. The specific line item must reference the VDOT line number and item number contained in the proposal.

5. The bidder further certifies, by signing its bid, it has committed to use each DBE firm listed for the specific work item shown to meet the contract goal for DBE participation. Award of the contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents. By signing the bid, the bidder certifies on work that it proposes to sublet; it has made good faith efforts to seek out and consider DBEs as potential subcontractors. The bidder shall contact DBEs to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain on file proper documentation to substantiate its good faith efforts. Award of the contract will be conditioned upon meeting these and other listed requirements of 49 CFR Part 26.53 and the contract documents.
6. Once awarded the contract, the Contractor shall make good faith efforts to utilize DBE firms to perform work designated to be performed by DBEs at or above the amount or percentage of the dollar value specified in the bidding documents. Further, the Contractor understands it shall not unilaterally terminate, substitute for, or replace any DBE firm that was designated in the executed contract in whole or in part with another DBE, any non-DBE firm, or with the Contractor's own forces or those of an affiliate of the Contractor without the prior written consent of VDOT as set out within the requirements of this provision.
7. Once awarded the contract, the Contractor shall designate and make known to the Department a liaison officer who is assigned the responsibility of administering and promoting an active and inclusive DBE program as required by 49 CFR Part 26 for DBEs. The designation and identity of this officer need be submitted only once by the Contractor during any twelve (12) month period at the preconstruction conference for the first contract the Contractor has been awarded during that reporting period. The Department will post such information for informational and administrative purposes at VDOT's Internet Civil Rights Division website.
8. Once awarded the contract, the Contractor shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each DBE firm participating in the contract shall fully perform the designated work items with the DBE's own forces and equipment under the DBE's direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract regulations and/or requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the contract in the event of such a contract breach.
9. In the event a bond surety assumes the completion of work, if for any reason VDOT has terminated the prime Contractor, the surety shall be obligated to meet the same DBE contract terms and requirements as were required of the original prime Contractor in accordance with the requirements of this specification.

#### **E. Disqualification of Bidder**

Bidders may be disqualified from bidding for failure to comply with the requirements of this Special Provision, the contract specifications, and VDOT Road and Bridge Specifications.

## F. Bidding Procedures

The following bidding procedures shall apply to the contract for DBE Program compliance purposes:

1. **Contract Goal, Good Faith Efforts Specified:** All bidders evidencing the attainment of DBE goal commitment equal to or greater than the required DBE goal established for the project must submit completed Form C-111, Minimum DBE Requirements, and Form C-48, Subcontractor/Supplier Solicitation and Utilization, as a part of the bid documents.

Form C-111 may be submitted electronically or may be faxed to the Department, but in no case shall the bidder's Form C-111 be received later than 10:00 a.m. the next business day after the time stated in the bid proposal for the receipt of bids. Form C-48 must be received within ten (10) business days after the bid opening.

If, at the time of submitting its bid, the bidder knowingly cannot meet or exceed the required DBE contract goal, it shall submit Form C-111 exhibiting the DBE participation it commits to attain as a part of its bid documents. The bidder shall then submit Form C-49, DBE Good Faith Efforts Documentation, within two (2) business days after the bid opening.

The lowest responsive and responsible bidder must submit its properly executed Form C-112, Certification of Binding Agreement, within three (3) business days after the bids are received. DBEs bidding as prime contractors are not required to submit Form C-112 unless they are utilizing other DBEs as subcontractors.

If, after review of the apparent lowest bid, VDOT determines the DBE requirements have not been met, the apparent lowest successful bidder must submit Form C-49, DBE Good Faith Efforts Documentation, which must be received by the Contract Engineer within two (2) business days after official notification of such failure to meet the aforementioned DBE requirements.

Forms C-48, C-49, C-111, and C-112 can be obtained from the VDOT website at:  
<http://vdotforms.vdot.virginia.gov/>

Instructions for submitting Form C-111 can be obtained from the VDOT website at:  
[http://www.virginiadot.org/business/resources/const/Exp\\_DBE\\_Commitments.pdf](http://www.virginiadot.org/business/resources/const/Exp_DBE_Commitments.pdf)

2. **Bid Rejection:** The failure of a bidder to submit the required documentation within the timeframes specified in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision may be cause for rejection of that bidder's bid.

If the lowest bidder is rejected for failure to submit the required documentation in the specified time frames, the Department may award the work to the next lowest bidder, or re-advertise the proposed work at a later date or proceed otherwise as determined by the Commonwealth.

3. **Good Faith Efforts Described:** In order to award a contract to a bidder that has failed to meet DBE contract goal requirements, VDOT will determine if the bidder's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were made actively and aggressively to meet the DBE requirements. Efforts to obtain DBE participation are not good faith efforts if they could not reasonably be expected to produce a level of DBE participation sufficient to meet the DBE Program and contract goal requirements.

Good faith efforts may be determined through use of the following list of the types of actions the bidder may make to obtain DBE participation. This is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts of similar intent may be relevant in appropriate cases:

- (a) Soliciting through reasonable and available means, such as but not limited to, attendance at pre-bid meetings, advertising, and written notices to DBEs who have the capability to perform the work of the contract. Examples include: advertising in at least one daily/weekly/monthly newspaper of general circulation, as applicable; phone contact with a completely documented telephone log, including the date and time called, contact person, or voice mail status; and internet contacts with supporting documentation, including dates advertised. The bidder shall solicit this interest no less than five (5) business days before the bids are due so that the solicited DBEs have enough time to reasonably respond to the solicitation. The bidder shall determine with certainty if the DBEs are interested by taking reasonable steps to follow up initial solicitations as evidenced by documenting such efforts as requested on Form C-49, DBE Good Faith Efforts Documentation.
- (b) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to completely perform all portions of this work in its entirety or use its own forces;
- (c) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner, which will assist the DBEs in responding to a solicitation;
- (d) Negotiating for participation in good faith with interested DBEs;
  - 1. Evidence of such negotiation shall include the names, addresses, and telephone numbers of DBEs that were considered; dates DBEs were contacted; a description of the information provided regarding the plans, specifications, and requirements of the contract for the work selected for subcontracting; and, if insufficient DBE participation seems likely, evidence as to why additional agreements could not be reached for DBEs to perform the work;
  - 2. A bidder using good business judgment should consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and should take a firm's price, qualifications, and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not sufficient reason for a bidder's failure to meet the contract goal for DBE participation, as long as such costs are reasonable and comparable to costs customarily appropriate to the type of work under consideration. Also, the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make diligent good faith efforts. Bidders are not, however, required to accept higher quotes from DBEs if the price difference can be shown by the bidder to be excessive, unreasonable, or greater than would normally be expected by industry standards;
- (e) A bidder cannot reject a DBE as being unqualified without sound reasons based on a thorough investigation of the DBE's capabilities. The DBE's standing within its industry, membership in specific groups, organizations, associations, and political or social affiliations, and union vs. non-union employee status are not legitimate causes

for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal for DBE participation;

- (f) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by VDOT or by the bidder/Contractor;
- (g) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services subject to the restrictions contained in these provisions;
- (h) Effectively using the services of appropriate personnel from VDOT and from DMBE; available minority/women community or minority organizations; contractors' groups; local, state, and Federal minority/ women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and utilization of qualified DBEs.

#### **G. Documentation and Administrative Reconsideration of Good Faith Efforts**

**During Bidding:** As described in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision, the bidder must provide Form C-49, DBE Good Faith Efforts Documentation, of its efforts made to meet the DBE contract goal as proposed by VDOT within the time frame specified in this provision. The means of transmittal and the risk for timely receipt of this information shall be the responsibility of the bidder. The bidder shall attach additional pages to the certification, if necessary, in order to fully detail specific good faith efforts made to obtain the DBE firms participation in the proposed contract work.

However, regardless of the DBE contract goal participation level proposed by the bidder or the extent of good faith efforts shown, all bidders shall timely and separately file their completed and executed forms C-111, C-112, C-48, and C-49, as aforementioned, or face potential bid rejection.

If a bidder does not submit its completed and executed forms C-111, or C-112, when required by this Special Provision, the bidder's bid will be considered non-responsive and may be rejected.

Where the Department upon initial review of the bid results determines the apparent low bidder has failed or appears to have failed to meet the requirements of the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision and has failed to adequately document that it made a good faith effort to achieve sufficient DBE participation as specified in the bid proposal, that firm upon notification of the Department's initial determination will be offered the opportunity for administrative reconsideration before VDOT rejects that bid as non-responsive. The bidder shall address such request for reconsideration in writing to the Contract Engineer within five (5) business days of receipt of notification by the Department and shall be given the opportunity to discuss the issue and present its evidence in person to the Administrative Reconsideration Panel. The Administrative Reconsideration Panel will be made up of VDOT Division Administrators or their designees, none of who took part in the initial determination that the bidder failed to make the goal or make adequate good faith efforts to do so. After reconsideration, VDOT shall notify the bidder in writing of its decision and explain the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

If, after reconsideration, the Department determines the bidder has failed to meet the requirements of the contract goal and has failed to make adequate good faith efforts to achieve the level of DBE participation as specified in the bid proposal, the bidder's bid will be rejected.

If sufficient documented evidence is presented to demonstrate that the apparent low bidder made reasonable good faith efforts, the Department will award the contract and reduce the DBE requirement to the actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is still encouraged to seek additional DBE participation during the life of the contract.

However, such action will not relieve the Contractor of its responsibility for complying with the reduced DBE requirement during the life of the contract or any administrative sanctions as may be appropriate.

**During the Contract:** If a DBE, through no fault of the Contractor, is unable or unwilling to fulfill his agreement with the Contractor, the Contractor shall immediately notify the Department and provide all relevant facts. If a Contractor relieves a DBE subcontractor of the responsibility to perform work under their subcontract, the Contractor is encouraged to take the appropriate steps to obtain a DBE to perform an equal dollar value of the remaining subcontracted work. In such instances, the Contractor is expected to seek DBE participation towards meeting the goal during the performance of the contract.

If the Contractor fails to conform to the schedule of DBE participation as shown on the progress schedule, or at any point at which it is clearly evident that the remaining dollar value of allowable credit for performing work is insufficient to obtain the scheduled participation, and the Contractor has not taken the preceding actions, the Contractor and any aforementioned affiliates may be subject to disallowance of DBE credit until such time as conformance with the schedule of DBE participation is achieved.

**Project Completion:** If the Contractor fails upon completion of the project to meet the required participation, the Contractor and any prime contractual affiliates, as in the case of a joint venture, may be enjoined from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects for a period of 90 days.

Prior to enjoinder from bidding or denial to participate as a subcontractor for failure to comply with participation requirements, as provided hereinbefore, the Contractor may submit documentation to the State Construction Engineer to substantiate that failure was due solely to quantitative underrun(s), elimination of items subcontracted to DBEs, or to circumstances beyond their control, and that all feasible means have been used to obtain the required participation. The State Construction Engineer upon verification of such documentation shall make a determination whether or not the Contractor has met the requirements of the contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. If the decision is made to enjoin the Contractor from bidding on other VDOT work as described herein, the enjoinder period will begin upon the Contractor's failure to request a hearing within the designated time frame or upon the Administrative Reconsideration Panel's decision to enjoin, as applicable.

## H. DBE Participation for Contract Goal Credit

DBE participation on the contract will count toward meeting the DBE contract goal in accordance with the following criteria:

1. Cost-plus subcontracts will not be considered to be in accordance with normal industry practice and will not normally be allowed for credit.
2. The applicable percentage of the total dollar value of the contract or subcontract awarded to the DBE will be counted toward meeting the contract goal for DBE participation in accordance with the **DBE Program-Related Certifications Made by Bidders\Contractors** section of this Special Provision for the value of the work, goods, or services that are actually performed or provided by the DBE firm itself or subcontracted by the DBE to other DBE firms.
3. When a DBE performs work as a participant in a joint venture with a non-DBE firm, the Contractor may count toward the DBE goal only that portion of the total dollar value of the contract equal to the distinctly defined portion of the contract work that the DBE has performed with the DBE's own forces or in accordance with the provisions of this Section. The Department shall be contacted in advance regarding any joint venture involving both a DBE firm and a non-DBE firm to coordinate Department review and approval of the joint venture's organizational structure and proposed operation where the Contractor seeks to claim the DBE's credit toward the DBE contract goal.
4. When a DBE subcontracts part of the work of the contract to another firm, the value of that subcontracted work may be counted toward the DBE contract goal only if the DBE's subcontractor at a lower tier is a certified DBE. Work that a DBE subcontracts to either a non-DBE firm or to a non-certified DBE firm will not count toward the DBE contract goal. The cost of supplies and equipment a DBE subcontractor purchases or leases from the prime Contractor or the prime's affiliated firms will not count toward the contract goal for DBE participation.
5. The Contractor may count expenditures to a DBE subcontractor toward the DBE contract goal only if the DBE performs a Commercially Useful Function (CUF) on that contract.
6. A Contractor may not count the participation of a DBE subcontractor toward the Contractor's final compliance with the DBE contract goal obligations until the amount being counted has actually been paid to the DBE. A Contractor may count sixty (60) percent of its expenditures actually paid for materials and supplies obtained from a DBE certified as a regular dealer, and one hundred (100) percent of such expenditures actually paid for materials and supplies obtained from a certified DBE manufacturer.
  - (a) For the purposes of this Special Provision, a regular dealer is defined as a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment required and used under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the DBE firm shall be an established business that regularly engages, as its principal business and under its own name, in the purchase and sale or lease of the products or equipment in question. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions will not be considered regular dealers.
  - (b) A DBE firm may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business where it keeps such items in stock if the DBE both owns and operates distribution equipment for the products it sells and provides for the contract work.

Any supplementation of a regular dealer's own distribution equipment shall be by a long-term lease agreement and not on an *ad hoc* or contract-by-contract basis to be eligible for credit to meet the DBE contract goal.

- (c) If a DBE regular dealer is used for DBE contract goal credit, no additional credit will be given for hauling or delivery to the project site goods or materials sold by that DBE regular dealer. Those delivery costs shall be deemed included in the price charged for the goods or materials by the DBE regular dealer, who shall be responsible for their distribution.
- (d) For the purposes of this Special Provision, a manufacturer will be defined as a firm that operates or maintains a factory or establishment that produces on the premises the materials, supplies, articles, or equipment required under the contract and of the general character described by the project specifications. A manufacturer shall include firms that produce finished goods or products from raw or unfinished material, or purchase and substantially alter goods and materials to make them suitable for construction use before reselling them.
- (g) A Contractor may count toward the DBE contract goal the following expenditures to DBE firms that are not regular dealers or manufacturers for DBE program purposes:
  - 1. 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 the federal-aid contract, if the fee is reasonable and not excessive or greater than would normally be expected by industry standards for the same or similar services.
  - 2. The entire amount of that portion of the construction contract that is performed by the DBE's own forces and equipment under the DBE's supervision. This includes the cost of supplies and materials ordered and paid for by the DBE for contract work, including supplies purchased or equipment leased by the DBE, except supplies and equipment a DBE subcontractor purchases or leases from the prime Contractor or its affiliates.
- (h) A Contractor may count toward the DBE contract goal one hundred (100) percent of the fees paid to a DBE trucker or hauler for the delivery of material and supplies required on the project job site, but not for the cost of those materials or supplies themselves, provided that the trucking or hauling fee is determined by VDOT to be reasonable, as compared with fees customarily charged by non-DBE firms for similar services. A Contractor shall not count costs for the removal or relocation of excess material from or on the job site when the DBE trucking company is not the manufacturer of or a regular dealer in those materials and supplies. The DBE trucking firm shall also perform a Commercially Useful Function (CUF) on the project and not operate merely as a pass through for the purposes of gaining credit toward the DBE contract goal. Prior to submitting a bid, the Contractor shall determine, or contact the VDOT Civil Rights Division or its district Offices for assistance in determining, whether a DBE trucking firm will meet the criteria for performing a CUF on the project. See section on **Miscellaneous DBE Program Requirements; Factors used to Determine if a DBE Trucking Firm is Performing a CUF.**
- (i) The Contractor will receive DBE contract goal credit for the fees or commissions charged by and paid to a DBE broker who arranges or expedites sales, leases, or other project work or service arrangements provided that those fees are determined by VDOT to be reasonable and not excessive as compared with fees customarily charged by non-DBE firms for similar services. For the purposes of this Special

Provision, a broker is defined as a person or firm that regularly engages in arranging for delivery of material, supplies, and equipment, or regularly arranges for the providing of project services as a course of routine business but does not own or operate the delivery equipment necessary to transport materials, supplies, or equipment to or from a job site.

#### **I. Performing a Commercially Useful Function (CUF)**

No credit toward the DBE contract goal will be allowed for contract payments or expenditures to a DBE firm if that DBE firm does not perform a CUF on that contract. A DBE performs a CUF when the DBE is solely responsible for execution of a distinct element of the contract work and the DBE actually performs, manages, and supervises the work involved with the firm's own forces or in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. To perform a CUF the DBE alone shall be responsible and bear the risk for the material and supplies used on the contract, selecting a supplier or dealer from those available, negotiating price, determining quality and quantity, ordering the material and supplies, installing those materials with the DBE's own forces and equipment, and paying for those materials and supplies. The amount the DBE firm is to be paid under the contract shall be commensurate with the work the DBE actually performs and the DBE credit claimed for the DBE's performance.

**Monitoring CUF Performance:** It shall be the Contractor's responsibility to ensure that all DBE firms selected for subcontract work on the contract, for which he seeks to claim credit toward the contract goal, perform a CUF. Further, the Contractor is responsible for and shall ensure that each DBE firm fully performs the DBE's designated tasks with the DBE's own forces and equipment under the DBE's own direct supervision and management or in accordance with the provisions of the **DBE Participation for Contract Goal Credit** section of this Special Provision. For the purposes of this provision the DBE's equipment will mean either equipment directly owned by the DBE as evidenced by title, bill of sale or other such documentation, or leased by the DBE, and over which the DBE has control as evidenced by the leasing agreement from a firm not owned in whole or part by the prime Contractor or an affiliate of the Contractor under this contract.

VDOT will monitor the Contractor's DBE involvement during the performance of the contract. However, VDOT is under no obligation to warn the Contractor that a DBE's participation will not count toward the goal.

**DBEs Must Perform a Useful and Necessary Role in Contract Completion:** A DBE does not perform a commercially useful function if the DBE's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

**DBEs Must Perform The Contract Work With Their Own Workforces:** If a DBE does not perform and exercise responsibility for at least thirty (30) percent of the total cost of the DBE's contract with the DBE's own work force, or the DBE subcontracts 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 involve, VDOT will presume that the DBE is not performing a CUF and such participation will not be counted toward the contract goal.

**VDOT Makes Final Determination On Whether a CUF Is Performed:** VDOT has the final authority to determine whether a DBE firm has performed a CUF on a federal-aid contract. To determine whether a DBE is performing or has performed a CUF, VDOT will evaluate the amount of work subcontracted by that DBE firm or performed by other firms and the extent of the involvement of other firms' forces and equipment. Any DBE work performed by the Contractor or by employees or equipment of the Contractor shall be subject to disallowance

under the DBE Program, unless the independent validity and need for such an arrangement and work is demonstrated.

#### **J. Verification of DBE Participation and Imposed Damages**

Within fourteen days after contract execution, the Contractor shall submit to the Responsible Engineer, with a copy to the District Civil Rights Office (DCRO), a fully executed subcontract agreement for each DBE used to claim credit in accordance with the requirements stated on Form C-112. The subcontract agreement shall be executed by both parties stating the work to be performed, the details or specifics concerning such work, and the price which will be paid to the DBE subcontractor. Because of the commercial damage that the Contractor and its DBE subcontractor could suffer if their subcontract pricing, terms, and conditions were known to competitors, the Department staff will treat subcontract agreements as proprietary Contractor trade secrets with regard to Freedom of Information Act requests. In lieu of subcontract agreements, purchase orders may be submitted for haulers, suppliers, and manufacturers. These too, will be treated confidentially and protected. Such purchase orders must contain, as a minimum, the following information: authorized signatures of both parties; description of the scope of work to include contract item numbers, quantities, and prices; and required federal contract provisions.

The Contractor shall also furnish, and shall require each subcontractor to furnish, information relative to all DBE involvement on the project for each quarter during the life of the contract in which participation occurs and verification is available. The information shall be indicated on Form C-63, DBE and SWAM Payment Compliance Report. The department reserves the right to request proof of payment via copies of cancelled checks with appropriate identifying notations. Failure to provide Form C-63 to the District Civil Rights Office (DCRO) within five (5) business days after the reporting period may result in delay of approval of the Contractor's monthly progress estimate for payment. The names and certification numbers of DBE firms provided by the Contractor on the various forms indicated in this Special Provision shall be exactly as shown on the DMBE's or MWAA's latest list of certified DBEs. Signatures on all forms indicated herein shall be those of authorized representatives of the Contractor as shown on the Prequalification Application, Form C-32 or the Prequalification/Certification Renewal Application, Form C-32A, or authorized by letter from the Contractor. If DBE firms are used which have not been previously documented with the Contractor's bid and for which the Contractor now desires to claim credit toward the project goal, the Contractor shall be responsible for submitting necessary documentation in accordance with the procedures stipulated in this Special Provision to cover such work prior to the DBE beginning work.

Form C-63 can be obtained from the VDOT website at: <http://vdotforms.vdot.virginia.gov/>

The Contractor shall submit to the Responsible Engineer its progress schedule with a copy to the DCRO, as required by Section 108.03 of the Specifications or other such specific contract scheduling specification that may include contractual milestones, i.e., monthly or VDOT requested updates. The Contractor shall include a narrative of applicable DBE activities relative to work activities of the Contractor's progress schedule, including the approximate start times and durations of all DBE participation to be claimed for credit that shall result in full achievement of the DBE goal required in the contract.

On contracts awarded on the basis of good faith efforts, narratives or other agreeable format of schedule information requirements and subsequent progress determination shall be based on the commitment information shown on the latest Form C-111 as compared with the appropriate Form C-63.

Prior to beginning any major component or quarter of the work, as applicable, in which DBE work is to be performed, the Contractor shall furnish a revised Form C-111 showing the name(s) and certification number(s) of any current DBEs not previously submitted who will

perform the work during that major component or quarter for which the Contractor seeks to claim credit toward the contract DBE goal. The Contractor shall obtain the prior approval of the Department for any assistance it may provide to the DBE beyond its existing resources in executing its commitment to the work in accordance with the requirements listed in the **Good Faith Efforts Described** section of this Special Provision. If the Contractor is aware of any assistance beyond a DBE's existing resources that the Contractor, or another subcontractor, may be contemplating or may deem necessary and that have not been previously approved, the Contractor shall submit a new or revised narrative statement for VDOT's approval prior to assistance being rendered.

If the Contractor fails to comply with correctly completing and submitting any of the required documentation requested by this provision within the specified time frames, the Department will withhold payment of the monthly progress estimate until such time as the required submissions are received VDOT. Where such failures to provide required submittals or documentation are repeated the Department will move to enjoin the Contractor and any prime contractual affiliates, as in the case of a joint venture, from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects until such submissions are received.

#### **K. Documentation Required for Semi-final Payment**

On those projects nearing completion, the Contractor must submit Form C-63 marked "Semi-Final" within twenty (20) days after the submission of the last regular monthly progress estimate to the DCRO. The form must include each DBE used on the contract work and the work performed by each DBE. The form shall include the actual dollar amount paid to each DBE for the accepted creditable work on the contract. The form shall be certified under penalty of perjury, or other applicable law, to be accurate and complete. VDOT will use this certification and other information available to determine applicable DBE credit allowed to date by VDOT and the extent to which the DBEs were fully paid for that work. The Contractor shall acknowledge by the act of filing the form that the information is supplied to obtain payment regarding a federal participation contract. A letter of certification, signed by both the prime Contractor and appropriate DBEs, will accompany the form, indicating the amount, including any retainage, if present, that remains to be paid to the DBE(s).

#### **L. Documentation Required for Final Payment**

On those projects that are complete, the Contractor shall submit a final Form C-63 marked "Final" to the DCRO, within thirty (30) days of the final estimate. The form must include each DBE used on the contract and the work performed by each DBE. The form shall include the actual dollar amount paid to each DBE for the creditable work on the contract. VDOT will use this form and other information available to determine if the Contractor and DBEs have satisfied the DBE contract goal percentage specified in the contract and the extent to which credit was allowed. The Contractor shall acknowledge by the act of signing and filing the form that the information is supplied to obtain payment regarding a federal participation contract.

#### **M. Prompt Payment Requirements**

The Contractor shall make prompt and full payment to the subcontractor(s) of any retainage held by the prime Contractor after the subcontractor's work is satisfactorily completed.

For purposes of this Special Provision, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished, documented, and accepted as required by the contract documents by VDOT. When VDOT has made partial acceptance of a portion of the prime contract, the Department will consider the work of any subcontractor covered by that partial acceptance to be satisfactorily completed. Payment will

be made in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

Upon VDOT's payment of the subcontractor's portion of the work as shown on the monthly progress estimate and the receipt of payment by the Contractor for such work, the Contractor shall make compensation in full to the subcontractor for that portion of the work satisfactorily completed and accepted by the Department. For the purposes of this Special Provision, payment of the subcontractor's portion of the work shall mean the Contractor has issued payment in full, less agreed upon retainage, if any, to the subcontractor for that portion of the subcontractor's work that VDOT paid to the Contractor on the monthly progress estimate.

The Contractor shall make payment of the subcontractor's portion of the work within seven (7) days of the receipt of payment from VDOT in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

If the Contractor fails to make payment for the subcontractor's portion of the work within the time frame specified herein, the subcontractor shall contact the Responsible Engineer and the Contractor's bonding company in writing. The bonding company and VDOT will investigate the cause for non-payment and, barring mitigating circumstances that would make the subcontractor ineligible for payment, ensure payment in accordance with the requirements of Section 107.01, Section 109.08, and Section 109.09 of the Specifications.

By bidding on this contract, and by accepting and executing this contract, the Contractor agrees to assume these contractual obligations, and to bind the Contractor's subcontractors contractually to those prompt payment requirements.

Nothing contained herein shall preclude the Contractor from withholding payment to the subcontractor in accordance with the terms of the subcontract in order to protect the Contractor from loss or cost of damage due to a breach of agreement by the subcontractor.

#### **N. Miscellaneous DBE Program Requirements**

**Loss of DBE Eligibility:** When a DBE firm has been removed from eligibility as a certified DBE firm, the following actions will be taken:

1. When a Bidder/Contractor has made a commitment to use a DBE firm that is not currently certified, thereby making the Contractor ineligible to receive DBE participation credit for work performed, and a subcontract has not been executed, the ineligible DBE firm does not count toward either the contract goal or overall goal. The Contractor shall meet the contract goal with a DBE firm that is eligible to receive DBE credit for work performed, or must demonstrate to the Contract Engineer that it has made good faith efforts to do so.
2. When a Bidder/Contractor has executed a subcontract with a certified DBE firm prior to official notification of the DBE firm's loss of eligibility, the Contractor may continue to use the firm on the contract and shall continue to receive DBE credit toward its DBE goal for the subcontractor's work.
3. When VDOT has executed a prime contract with a DBE firm that is certified at the time of contract execution but that is later ruled ineligible, the portion of the ineligible firm's performance on the contract before VDOT has issued the notice of its ineligibility shall count toward the contract goal.

**Termination of DBE:** If a certified DBE subcontractor is terminated, or fails, refuses, or is unable to complete the work on the contract for any reason, the Contractor must promptly

request approval to substitute or replace that firm in accordance with this section of this Special Provision.

The Contractor, as aforementioned in **DBE Program-Related Certifications Made by Bidders/Contractors**, shall notify VDOT in writing before terminating and/or replacing the DBE that was committed as a condition of contract award or that is otherwise being used or represented to fulfill DBE contract obligations during the contract performance period. Written consent from the Department for terminating the performance of any DBE shall be granted only when the Contractor can demonstrate that the DBE is unable, unwilling, or ineligible to perform its obligations for which the Contractor sought credit toward the contract DBE goal. Such written consent by the Department to terminate any DBE shall concurrently constitute written consent to substitute or replace the terminated DBE with another DBE. Consent to terminate a DBE shall not be based on the Contractor's ability to negotiate a more advantageous contract with another subcontractor whether that subcontractor is, or is not, a certified DBE.

1. All Contractor requests to terminate, substitute, or replace a certified DBE shall be in writing, and shall include the following information:
  - (a) The date the Contractor determined the DBE to be unwilling, unable, or ineligible to perform.
  - (b) The projected date that the Contractor shall require a substitution or replacement DBE to commence work if consent is granted to the request.
  - (c) A brief statement of facts describing and citing specific actions or inaction by the DBE giving rise to the Contractor's assertion that the DBE is unwilling, unable, or ineligible to perform;
  - (d) A brief statement of the affected DBE's capacity and ability to perform the work as determined by the Contractor;
  - (e) A brief statement of facts regarding actions taken by the Contractor which are believed to constitute good faith efforts toward enabling the DBE to perform;
  - (f) The current percentage of work completed on each bid item by the DBE;
  - (g) The total dollar amount currently paid per bid item for work performed by the DBE;
  - (h) The total dollar amount per bid item remaining to be paid to the DBE for work completed, but for which the DBE has not received payment, and with which the Contractor has no dispute;
  - (i) The total dollar amount per bid item remaining to be paid to the DBE for work completed, but for which the DBE has not received payment, and over which the Contractor and/or the DBE have a dispute.
2. Contractor's Written Notice to DBE of Pending Request to Terminate and Substitute with another DBE.

The Contractor shall send a copy of the "request to terminate and substitute" letter to the affected committed DBE firm, in conjunction with submitting the request to the DCRO. The affected DBE firm may submit a response letter to the Department within two (2) business days of receiving the notice to terminate from the Contractor. The affected DBE firm shall explain its position concerning performance on the committed work. The

Department will consider both the Contractor's request and the DBE's response and explanation before approving the Contractor's termination and substitution request, or determining if any action should be taken against the Contractor.

If, after making its best efforts to deliver a copy of the "request to terminate and substitute" letter, the Contractor is unsuccessful in notifying the affected DBE firm, the Department will verify that the affected, committed DBE firm is unable or unwilling to continue the contract. The Department will immediately approve the Contractor's request for a substitution.

### 3. Proposed Substitution of Another Certified DBE

Upon termination of a DBE, the Contractor shall use reasonable good faith efforts to replace the terminated DBE. The termination of such DBE shall not relieve the Contractor of its obligations pursuant to this section, and the unpaid portion of the terminated DBE's contract will not be counted toward the contract goal.

When a DBE substitution is necessary, the Contractor shall submit an amended Form C-111 with the name of another DBE firm, the proposed work to be performed by that firm, and the dollar amount of the work to replace the unfulfilled portion of the work of the originally committed DBE firm. The Contractor shall furnish all pertinent information including the contract I.D. number, project number, bid item, item description, bid unit and bid quantity, unit price, and total price. In addition, the Contractor shall submit documentation for the requested substitute DBE as described in this section of this Special Provision.

Should the Contractor be unable to commit the remaining required dollar value to the substitute DBE, the Contractor shall provide written evidence of good faith efforts made to obtain the substitute value requirement. The Department will review the quality, thoroughness, and intensity of those efforts. Efforts that are viewed by VDOT as merely superficial or pro-forma will not be considered good faith efforts to meet the contract goal for DBE participation. The Contractor must document the steps taken that demonstrated its good faith efforts to obtain participation as set forth in the **Good Faith Efforts Described** section of this Special Provision.

#### **Factors Used to determine if a DBE Trucking Firm is performing a CUF:**

The following factors will be used to determine whether a DBE trucking company is performing a CUF:

1. To perform a CUF the DBE trucking firm shall be completely responsible for the management and supervision of the entire trucking operation for which the DBE is responsible by subcontract on a particular contract. There shall not be a contrived arrangement, including, but not limited to, any arrangement that would not customarily and legally exist under regular construction project subcontracting practices for the purpose of meeting the DBE contract goal;
2. The DBE must own and operate at least one fully licensed, insured, and operational truck used in the performance of the contract work. This does not include a supervisor's pickup truck or a similar vehicle that is not suitable for and customarily used in hauling the necessary materials or supplies;
3. The DBE receives full contract goal credit for the total reasonable amount the DBE is paid for the transportation services provided on the contract using trucks the DBE owns, insures, and operates using drivers that the DBE employs and manages;

4. The DBE may lease trucks from another certified DBE firm, including from an owner-operator who is certified as a DBE. The DBE firm that leases trucks from another DBE will receive credit for the total fair market value actually paid for transportation services the lessee DBE firm provides on the contract;
5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of the transportation services provided by non-DBE lessees, *not to exceed the value of transportation services provided by DBE-owned trucks on the contract*. For additional participation by non-DBE lessees, the DBE will only receive credit for the fee or commission it receives as a result of the lease arrangement.

*EXAMPLE*

DBE Firm X uses two (2) of its own trucks on a contract. The firm leases two (2) trucks from DBE Firm Y and six (6) trucks from non-DBE Firm Z.

		<b>Value of Trans. Serv.</b>
		(For Illustrative Purposes Only)
<b><u>Firm X</u></b>		
Truck 1	Owned by DBE	\$100 per day
Truck 2	Owned by DBE	\$100 per day
<b><u>Firm Y</u></b>		
Truck 1	Leased from DBE	\$110 per day
Truck 2	Leased from DBE	\$110 per day
<b><u>Firm Z</u></b>		
Truck 1	Leased from Non DBE	\$125 per day
Truck 2	Leased from Non DBE	\$125 per day
Truck 3	Leased from Non DBE	\$125 per day
Truck 4	Leased from Non DBE	\$125 per day
Truck 5	Leased from Non DBE*	\$125 per day
Truck 6	Leased from Non DBE*	\$125 per day

DBE credit would be awarded for the total transportation services provided by DBE Firm X and DBE Firm Y, and may also be awarded for the total value of transportation services by four (4) of the six (6) trucks provided by non-DBE Firm Z (not to exceed the value of transportation services provided by DBE-owned trucks).

**Credit = 8 Trucks**

**Total Value of Transportation Services = \$820**

In all, full DBE credit would be allowed for the participation of eight (8) trucks (twice the number of DBE trucks owned and leased) and the dollar value attributable to the Value of Transportation Services provided by the 8 trucks.

\* With respect to the other two trucks provided by non-DBE Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks that DBE Firm X receives as a result of the lease with non-DBE Firm Z.

6. For purposes of this section, the lease must indicate that the DBE firm leasing the truck has exclusive use of and control over the truck. This will not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, provided the lease gives the DBE absolute priority for and control over the use of the leased truck. Leased trucks must display the name and identification number of the DBE firm that has leased the truck at all times during the life of the lease.

**Data Collection:** In accordance with 49CFR Section 26.11, all firms bidding on prime contracts and bidding or quoting subcontracts on federal-aid projects shall provide the following information to the Contract Engineer annually.

- o Firm name
- o Firm address
- o Firm's status as a DBE or non-DBE
- o The age of the firm and
- o The annual gross receipts of the firm

The means of transmittal and the risk for timely receipt of this information shall be the responsibility of the bidder. However, the above information can be submitted by means of the Annual Gross Receipts Survey as required in the Prequalification/Certification application.

All bidders, including DBE prime Contractor bidders, shall complete and submit to the Contract Engineer the Subcontractor/Supplier Solicitation and Utilization Form C-48 for each bid submitted; to be received within ten (10) business days after the bid opening. Failure of bidders to submit this form in the time frame specified may be cause for disqualification of the bidder and rejection of their bid in accordance with the requirements of this Special Provision, the contract specifications, and VDOT Road and Bridge specifications.

#### **O. Suspect Evidence of Criminal Behavior**

Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted, prosecution.

#### **Suspected DBE Fraud**

In appropriate cases, VDOT will bring to the attention of the U. S. Department of Transportation (USDOT) any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49CFR Part 31.

#### **P. Summary of Remedies for Non-Compliance with DBE Program Requirements**

Failure of any bidder\Contractor to comply with the requirements of this Special Provision for Section 107.15 of the Virginia Road and Bridge Specifications, which is deemed to be a condition of bidding, or where a contract exists, is deemed to constitute a breach of contract shall be remedied in accordance with the following:

## 1. Disadvantaged Business Enterprise (DBE) Program Requirements

The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award, administration, and performance of this contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which will result in the termination of this contract or other such remedy, as VDOT deems appropriate.

All administrative remedies noted in this provision are automatic unless the Contractor exercises the right of appeal within the required timeframe(s) specified herein.

## 2. DBE Program-Related Certifications Made by Bidders\Contractors

Once awarded the contract, the Contractor shall comply fully with all regulatory and contractual requirements of the USDOT DBE Program, and that each certified DBE firm participating in the contract shall fully perform the designated work items with the DBE's own forces and equipment under the DBE's direct supervision, control, and management. Where a contract exists and where the Contractor, DBE firm, or any other firm retained by the Contractor has failed to comply with federal or VDOT DBE Program regulations and/or their requirements on that contract, VDOT has the authority and discretion to determine the extent to which the DBE contract requirements have not been met, and will assess against the Contractor any remedies available at law or provided in the contract in the event of such a contract breach.

## 3. Disqualification of Bidder

Bidders may be disqualified from bidding for failure to comply with the requirements of this Special Provision, the contract specifications, and VDOT Road and Bridge Specifications.

## 4. Bidding Procedures

The failure of a bidder to submit the required documentation within the timeframes specified in the **Contract Goal, Good Faith Efforts Specified** section of this Special Provision may be cause for rejection of that bidder's bid. If the lowest bidder is rejected for failure to submit required documentation in the specified time frames, the Department may either award the work to the next lowest bidder, or re-advertise and construct the work under contract or otherwise as determined by the Commonwealth.

In order to award a contract to a bidder that has failed to meet DBE contract goal requirements, VDOT will determine if the bidder's efforts were adequate good faith efforts, and if given all relevant circumstances, those efforts were to the extent a bidder actively and aggressively seeking to meet the requirements would make. Regardless of the DBE contract goal participation level proposed by the bidder or the extent of good faith efforts shown, all bidders shall timely and separately file their completed and executed Forms C-111, C-112, C-48, and Form C-49, as aforementioned, or face potential bid rejection. If a bidder does not submit it's completed and executed C-111, or C-112, when required by this Special Provision, the bidder's bid will be considered non-responsive and may be rejected. If, after reconsideration, the Department determines the bidder has failed to meet the requirements of the contract goal and has failed to make adequate good faith efforts to achieve the level of DBE participation as specified in the bid proposal, the bidder's bid will be rejected. If sufficient documented evidence is presented to demonstrate that the apparent low bidder made reasonable good faith efforts, the Department will award the contract and reduce the DBE requirement to the

actual commitment identified by the lowest successful bidder at the time of its bid. The Contractor is encouraged to seek additional participation during the life of the contract.

If the Contractor fails to conform to the schedule of DBE participation as shown on the progress schedule, or at any point at which it is clearly evident that the remaining dollar value of allowable credit for performing work is insufficient to obtain the scheduled participation, the Contractor and any aforementioned affiliates may be enjoined from bidding for 60 days or until such time as conformance with the schedule of DBE participation is achieved. In such instances, the Contractor is expected to seek DBE participation towards meeting the goal during the prosecution of the contract.

If the Contractor fails upon completion of the project to meet the required participation, the Contractor and any prime contractual affiliates, as in the case of a joint venture, may be enjoined from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects for a period of 90 days.

Prior to enjoinder from bidding or denial to participate as a subcontractor for failure to comply with participation requirements, as provided hereinbefore, the Contractor may submit documentation to the State Construction Engineer to substantiate that failure was due solely to quantitative underrun(s) or elimination of items subcontracted to DBEs, and that all feasible means have been used to obtain the required participation. The State Construction Engineer upon verification of such documentation shall make a determination whether or not the Contractor has met the requirements of the contract.

If it is determined that the aforementioned documentation is insufficient or the failure to meet required participation is due to other reasons, the Contractor may request an appearance before the Administrative Reconsideration Panel to establish that all feasible means were used to meet such participation requirements. The decision of the Administrative Reconsideration Panel shall be administratively final. The enjoinder period will begin upon the Contractor's failure to request a hearing within the designated time frame or upon the Administrative Reconsideration Panel's decision to enjoin, as applicable.

## **5. Verification of DBE Participation and Imposed Damages**

If the Contractor fails to comply with correctly completing and submitting any of the required documentation requested by this provision within the specified time frames, the Department will withhold payment of the monthly progress estimate until such time as the required submissions are received by VDOT. Where such failures to provide required submittals or documentation are repeated the Department will move to enjoin the Contractor and any prime contractual affiliates, as in the case of a joint venture, from bidding as a prime Contractor, or participating as a subcontractor on VDOT projects until such submissions are received.

In addition to the remedies described heretofore in this provision VDOT also exercises its rights with respect to the following remedies:

### **Suspect Evidence of Criminal Behavior**

Failure of a bidder, Contractor, or subcontractor to comply with the Virginia Department of Transportation Road and Bridge Specifications and these Special Provisions wherein there appears to be evidence of criminal conduct shall be referred to the Attorney General for the Commonwealth of Virginia and/or the FHWA Inspector General for criminal investigation and, if warranted prosecution.

In appropriate cases, VDOT will bring to the attention of the U. S. Department of Transportation (USDOT) any appearance of false, fraudulent, or dishonest conduct in connection with the DBE program, so that USDOT can take the steps, e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules provided in 49CFR Part 31.

### Sample Contractual Agreement

ARTICLES OF AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between, \_\_\_\_\_, party of the first part and hereinafter referred to as the CONTRACTOR and the County of Bland, Virginia, party of the second part and hereinafter referred to as the OWNER.

WITNESSETH, that the Contractor has been awarded a contract by the Owner for the construction of approximately 625 linear feet of roadway including clearing, grading, paving, and consisting of improvements to the Wolf Creek Indian Village Parking Lot and the construction of approximately 2545 LF of compacted stone trail connecting the improved parking lot to an existing National Forest Blazed Trail west of the Bland County Commerce Park. Included in the construction is a pedestrian crossing of the U.S. Route 52; and whereas, the Contractor has entered into a performance and payment bond, with surety, each in the penalty of One Hundred Percent (100%) of the contract sum payable to the County of Bland, conditioned upon the faithful performance and upon the payment for labor and material, respectively, pursuant to this contract and the contract documents hereinafter set out, upon which the bid of said Contractor was offered.

ARTICLE 1. That, for and in consideration of the sums of money hereinafter specified to be paid by the Owner to the Contractor for the Work provided in the Contract Documents to be performed by the Contractor, the Contractor hereby covenants and agrees with the Owner to fully construct, perform and complete the said Work in good and workmanlike manner in accordance with the Contract Documents and bid specifications, drawings and within the time therein stipulated, time being made of the essence of this Contract; it being agreed by parties hereto that the Contract Documents consist of this Contract and the following, all of which are and constitute a part of the Contract, vis:

1. Invitation to Bid dated \_\_\_\_\_
2. Addendum 1, dated \_\_\_\_\_, if any
3. The Contract Documents
4. The specifications and drawings
5. The Bid submitted by \_\_\_\_\_

ARTICLE 2. Contract Sum: The Owner covenants and agrees to pay the Contractor for the performance of the Work, in the manner and at the times set out in the Contract Documents, in current funds, the Contract Sum of \_\_\_\_\_. The contract sum may be increased or decreased by addition and/or reductions in the Work effected by written change orders, as approved prior to execution by the Project Manager for the County of Bland.

ARTICLE 3. Supervision: The Project Manager will be \_\_\_\_\_ of the County of Bland, who shall oversee the work.

ARTICLE 4. Time and Commencement and Completion: The Contractor shall commence the Work to be performed under this Contract on the date as stated on the Notice to Proceed. The work shall be final completed within \_\_\_\_\_ calendar days. If the work is delayed at any time, by changes ordered in the work by the Owner, labor disputes, fire, unusual delay in transportation, adverse weather conditions not reasonably anticipated or unavoidable casualties, then the Contract Time shall be extended by Change Order for such reasonable time as the owner may determine. The Contractor shall make any claim for extension of time in writing to the owner. If the work is not completed within the time as specified above, then the Contractor agrees to pay as liquidated damages, but not as penalty, the sum of \_\_\_\_\_ (\$\_\_\_\_\_) per day to the County of Bland for each consecutive calendar day in excess of the stated time.

ARTICLE 5. Payment: Based upon monthly applications for payment submitted to the owner by the Contractor and upon the Owner's approval, the Owner shall make progress payments to the Contractor on account of the contract sum with no more that five percent (5%) being retained by the Owner until project completion.

ARTICLE 6. Insurance: The Contractor agrees to obtain and maintain, at the Contractor's expense, such insurance as will protect the Contractor and the Owner from claims under the Workman's Compensation Act and such comprehensive general liability insurance as will protect the City and the Contractor from all claims for bodily injury, death, or property damage which may arise from the performance by the Contractor or by the Contractor's employees, services required under this agreement.

ARTICLE 7. Nondiscrimination: During the performance of this contract, the contractor agrees that the contractor will not discriminate against any employee or applicant for employment because of age, race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting requirements of this section. The Contractor will include the provisions of the foregoing subparagraphs in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor. ARTICLE 8. Drug-free Workplace: During the performance of this contract, the contractor agrees to (i) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

ARTICLE 9. Immigration Reform and Control Act: Contractor is aware of and understands the Immigration Reform and Control Act of 1986 (IRCA) and is in compliance with IRCA; that it acknowledges its responsibility to complete I-9 Employment Eligibility Verification forms for all of its employees assigned to work on City contracts; that it is not knowingly employing any workers assigned to work on the City contracts who are not authorized to in the United States; and that it agrees to defend and indemnify the County of Bland and the Bland County Economic Development Authority for any liability arising out of claims that the contractor's employees are not authorized to work in the United States or any other claims based upon any alleged violations of IRCA by the contractor.

ARTICLE 10. Termination of Contract: If the Contractor defaults or persistently fails or neglects to carry out the Work in accordance with these Documents or fails to perform a provision of the Contract, the Owner, after seven days written notice to the Contractor and without prejudice to any other remedy the Owner may have, may make good such deficiencies and may deduct the cost thereof, from the payment then or thereafter due the Contractor. Alternatively, at the owner's option, the Owner may terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method the Owner may deem expedient. If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor, but if such costs exceed such unpaid balance, the Contractor shall pay the difference to the Owner.

Copy of Bid included as Exhibit A.

IN WITNESS WHEREOF the Contractor has hereunto set his hand and the Owner has caused this contract to be signed by the Procurement Department, and its corporate seal to be hereunto affixed on the day and year first above written:

Contractor: \_\_\_\_\_

Owner: County of Bland, Virginia

BY: \_\_\_\_\_  
Signature

BY: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name / Title

\_\_\_\_\_  
Printed Name / Title

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

ATTEST: \_\_\_\_\_

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**COMMONWEALTH OF VIRGINIA**  
**WORKERS' COMPENSATION**  
**Certificate of Coverage**

PROJECT TITLE: ROUND MOUNTAIN - WOLF CREEK INDIAN VILLAGE -  
CONNECTOR TRAIL

PROJECT LOCATION: BLAND COUNTY, VIRGINIA

VDOT PROJECT NUMBER: EN00-010-101,C501, UPC 56389

Section 2.2-4332, Code of Virginia, requires construction contractors and subcontractors to obtain and maintain workers' compensation insurance while performing work on behalf of the Commonwealth of Virginia, its departments, institutions, or agencies. This same requirement applies on behalf of local governments.

Evidence of coverage must be provided prior to commencement of Work.

This form must be completed and returned to the organization contracting the Work.

The undersigned organization stipulates that it:

- A. has workers' compensation insurance and is in compliance with the Workers' Compensation statutes of the Commonwealth of Virginia.  Yes  No  
Insurance Company \_\_\_\_\_  
Policy expiration date \_\_\_\_\_
- B. is self insured for workers' compensation.  Yes

Title of Construction Contract: \_\_\_\_\_

Contract Number: \_\_\_\_\_

Signed by: \_\_\_\_\_

Title: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**COMMONWEALTH OF VIRGINIA  
STANDARD PERFORMANCE BOND**

**KNOW ALL MEN BY THESE PRESENTS:** That \_\_\_\_\_,  
the Contractor ("Principal") whose principal place of business is located at \_\_\_\_\_  
\_\_\_\_\_  
and \_\_\_\_\_ ("Surety") whose address for delivery of  
'Notices' is located at \_\_\_\_\_  
\_\_\_\_\_ are held and firmly bound unto the Commonwealth of Virginia,  
\_\_\_\_\_, the Owner ("Obligee") in the amount of \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment whereof  
Principal and Surety bind themselves, their heirs, executors, administrators, successors  
and assigns, jointly and severally, firmly by these presents.

**WHEREAS,**

Principal has by written agreement dated \_\_\_\_\_ entered into a contract with  
Obligee \_\_\_\_\_ which contract (the "Contract") is by  
reference expressly make a part hereof;

**NOW THEREFORE, THE CONDITION OF THIS OBLIGATION** is such that, if the  
Principal shall promptly and faithfully perform said Contract in strict conformity with the  
plans, specifications and conditions of the Contract, then this obligation shall be null and  
void; otherwise it shall remain in full force and effect.

Provided, that any alterations which may be made in the terms of the Contract, or in the  
Work to be done under it, or the giving by the Obligee of any extension of time for the  
performance of the Contract, or any alterations, extensions or forbearance on the part of  
either or both of the Obligee or the Principal to the other shall not in any way release the  
Principal and the Surety, or either of them, their heirs, executors, administrators,  
successors or assigns from their liability hereunder, notice to the Surety of any such  
alterations, extension, or forbearance being hereby waived.

No action shall be brought on this bond unless brought within one year after: (a)  
completion of the Contract and all Work thereunder, including expiration of all warranties  
and guarantees, or (b) discovery of the defect or breach of warranty or guarantee if the  
action be for such.

The Surety represents to the Principal and to the Obligee that it is legally authorized to  
do business in the Commonwealth of Virginia.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Contractor/Principal* (SEAL)

\_\_\_\_\_  
*Witness*

By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
*Surety* (SEAL)

By: \_\_\_\_\_  
*Attorney-in-Fact*

Typed Name: \_\_\_\_\_

**AFFIDAVIT AND ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT**

COMMONWEALTH OF VIRGINIA  
(Or alternatively, Commonwealth or State of \_\_\_\_\_)

CITY (or) COUNTY (Strike one) of \_\_\_\_\_

I, the undersigned notary public, do certify that \_\_\_\_\_,  
whose name is signed to the foregoing bid bond in the amount of five percent (5%) of  
the Total Bid Amount and which names the Commonwealth of Virginia, \_\_\_\_\_  
\_\_\_\_\_, as Obligee, personally appeared before me today in the above  
jurisdiction and made oath that he/she is the attorney-in-fact of \_\_\_\_\_  
\_\_\_\_\_, a \_\_\_\_\_ corporation which is the Surety in  
the foregoing bond, that he/she is duly authorized to execute on the above Surety's  
behalf the foregoing bond pursuant to the Power of Attorney noted above and attached  
hereto, and on behalf of the surety, he/she acknowledged the foregoing bond before me  
as the above Surety's act and deed

She/he has further certified that her/his Power of Attorney has not been revoked.  
[Complete if Power is recorded: Clerk's Office: \_\_\_\_\_;  
Deed Book/Page No. or Instrument No.: \_\_\_\_\_.]

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Notary Public* (SEAL)

My name (printed) is \_\_\_\_\_.

My commission expires: \_\_\_\_\_.

APPROVED:

\_\_\_\_\_  
*Attorney General/Designee* Date

## TERMS AND CONDITIONS OF THE PERFORMANCE BOND

- 1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the prompt and faithful performance of the Construction Contract, which is incorporated herein by reference.
- 2 If the Contractor promptly and faithfully performs the Construction Contract in strict conformity with the plans, specifications and conditions of the Construction Contract, the Surety and the Contractor shall have no obligations under this Bond.
- 3 In the event of the Contractor's Default, and subsequent written notification to the Surety, the Surety shall, within fourteen (14) days of receipt of such notice, contact the Owner in writing, and arrange a meeting with the Owner to discuss methods of completing the Construction Contract. See paragraph 4, below, for the options to be discussed. If the Surety fails to arrange a meeting or fails to attend such meeting, the Surety shall be deemed to be in default on this Bond and the Owner may, at its sole discretion, take what measures it deems necessary to protect the Owner's interests, without further notice to the Surety, and the Owner shall be entitled to enforce any remedy available to the Owner under the Construction Contract or under Virginia Law.
- 4 Within thirty (30) days after such meeting, during which time the Surety may investigate and otherwise analyze the project, and which period shall not toll any Construction Contract time periods nor operate as a waiver of any of the Owner's rights, the Surety shall, at its own expense, notify the Owner in writing that it is taking one of the following actions, which shall be acceptable to the Owner, at the Owner's sole discretion.

By written takeover agreement with the Owner, the Surety itself shall undertake to perform and complete the Construction Contract, which it may do through its licensed agents or through licensed independent contractors. If the Owner, at its sole discretion, consents, the Contractor may serve as the Surety's independent contractor (however, due to conflicts with the Virginia Public Procurement Act, the Owner may not directly contract with an otherwise qualified independent contractor produced by the Surety); or

The Surety may, if acceptable to the Owner and at the Owner's sole discretion, waive its right to perform and complete the Construction Contract, and with reasonable promptness under the circumstances:

4.2.1 Pay to the Owner all amounts for which it may be liable to the Owner as surety on this Performance Bond, including the damages described in paragraph 6 below; or

4.2.2 Deny liability, in whole or in part, and provide written notice thereof to the Owner, citing reasons therefor.

- 5 If, after the meeting described in paragraph 4, above, the Surety does not proceed with reasonable promptness with one of the options provided in subparagraphs 4.1 or 4.2 (including its subparts), above, the Owner may send additional written notice to the Surety demanding that the Surety perform its obligations under the Bond. If the Surety does not proceed to perform its obligations under the Bond within fifteen (15) days after receipt of said notice, the Surety shall be deemed to be in default on this Bond. Thereafter, the Owner shall be entitled to enforce any remedy available to the Owner under the Bond, the Construction Contract or Virginia Law. If the Surety proceeds as provided in Subparagraph 4.2, and the Surety and the Owner are unable to agree as to the amount for which the Surety may be liable to the Owner, or if the surety has denied liability, in whole or in part, the Owner, without further notice, shall be entitled to enforce any remedy available to the Owner under the Bond, the Construction Contract or Virginia law. In such event, the Owner may immediately proceed to complete the work in any manner authorized by law.
- 6 After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1 or 4.2.1, above, then the responsibilities of the Surety to the Owner shall not be greater or less than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than or less than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, plus the increased cost of any change orders under the Construction Contract, provided the Owner commits the balance of the Construction Contract Price to the prompt and faithful completion of the Construction Contract, the Surety is obligated without duplication for:

The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

The Owner, at its sole discretion, may waive its claim to delay costs and/or liquidated damages.

- 7 The Surety shall not be liable to the Owner for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner, its officers, agencies, administrators, successors or assigns.
- 8 The Surety hereby waives notice of any changes, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations. The Surety understands and agrees that the penal amount of the bond shall be increased or decreased by any changes to time and amount incorporated into any Change Orders.

- 9 Any proceeding by the Owner, legal or equitable, under this Bond may be instituted in any Virginia state court of competent jurisdiction, as permitted under Virginia Code §2.2-4337 and §2.2-4340, or by the Contractor or Surety, as permitted under the Construction Contract or under Virginia law.
- 10 Notice to the Surety shall be mailed or delivered to the address shown on the Standard Performance Bond in the Space for Surety address for delivery of Notices.
- 11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory and other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond when furnished to comply with statutory requirements.

## 12 DEFINITIONS

**Balance of the Construction Contract Price:** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

**Construction Contract:** The agreement between the Owner and the Contractor identified on first page of the Standard Performance Bond, DGS-30-084, CO-10, including all Construction Contract Documents and duly executed modifications and change orders thereto.

**Contractor Default:** Failure of the Contractor to perform or otherwise to comply with the terms of the Construction Contract, as defined in the General Terms and Conditions of the Construction Contract, which has neither been remedied, as permitted under said Terms and Conditions and at the Owner's sole discretion, nor expressly waived by the Owner.

- 13 Nothing in these General Conditions shall prevent a surety from becoming involved in the Construction Contract prior to termination, upon notice from the Owner of the Contractor's failure to promptly and faithfully perform the Construction Contract in strict conformity with the plans, specifications and conditions of the Construction Contract.

**COMMONWEALTH OF VIRGINIA  
STANDARD LABOR AND MATERIAL PAYMENT BOND**

**KNOW ALL MEN BY THESE PRESENTS:** That \_\_\_\_\_,  
he Contractor ("Principal") whose principal place of business is located \_\_\_\_\_  
\_\_\_\_\_ and \_\_\_\_\_ ("Surety") whose address for delivery of  
'Notices' is located at \_\_\_\_\_  
\_\_\_\_\_ are held and firmly bound unto the Commonwealth of Virginia,  
\_\_\_\_\_, the Owner ("Obligee") in the amount of  
\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment whereof  
Principal and Surety bind themselves, their heirs, executors, administrators, successors  
and assigns, jointly and severally, firmly by these presents.

**WHEREAS,**

Principal has by written agreement dated \_\_\_\_\_ entered into a contract with  
Obligee for \_\_\_\_\_ which contract (the "Contract") is by  
reference expressly made a part hereof;

**NOW THEREFORE, THE CONDITION OF THIS OBLIGATION** is such that, if the  
Principal shall promptly make payment to all claimants as hereinafter defined, for labor  
performed and material furnished in the prosecution of the Work provided for in the  
Contract, then this obligation shall be void; otherwise it shall remain in full force and  
effect, subject, however, to the following conditions.

The Principal and Surety, jointly and severally, hereby agree with Obligee as follows:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both for use in the performance of the Contract. A "subcontractor" of the Principal, for the purposes of this bond only, includes not only those subcontractors having a direct contractual relationship with the Principal, but also any other contractor who undertakes to participate in the Work which the Principal is to perform under the aforesaid Contract, whether there are one or more intervening subcontractors contractually positioned between it and the Principal (for example, a subcontractor). "Labor" and "material" shall include, but not be limited to, public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the work site.
2. Subject to the provisions of paragraph 3, any claimant who has performed labor or furnished material in accordance with the Contract documents in the prosecution of the Work provided in the Contract, who has not been paid in full therefor before the expiration of ninety (90) days after the day on which such claimant performed the last of such labor or furnished the last of such materials for which he claims payment, may bring an action on this bond to recover any amount due him for such labor or material, and may prosecute such action to final judgment and have execution on the judgment. The Obligee need not be a party to such action and shall not be liable for the payment of any costs, fees or expenses of any such suit.

3. Any claimant who has a direct contractual relationship with any subcontractor of the Principal from whom the Principal has not required a subcontractor payment bond, but who has no contractual relationship, express or implied, with the Principal, may bring an action on this bond only if he has given written notice to the Principal within one hundred eighty (180) days from the day on which the claimant performed the last of the labor or furnished the last of the materials for which he claims payment, stating with substantial accuracy the amount claimed and the name of the person for whom the Work was performed or to whom the material was furnished. Notice to the Principal shall be served by registered or certified mail, postage prepaid, in an envelope addressed to the Principal at any place where his office is regularly maintained for the transaction of business. Claims for sums withheld as retainages with respect to labor performed or materials furnished shall not be subject to the time limitations stated in this paragraph 3.
4. No suit or action shall be commenced hereunder by any claimant.
  - a. Unless brought within one year after the day on which the person bringing such action last performed labor or last furnished or supplied materials, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, the limitation embodied within this bond shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
  - b. Other than in a Virginia court of competent jurisdiction, with venue as provided by statute, or in the United States District Court for the district in which the project, or any part thereof is situated.
5. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Contractor/Principal* (SEAL)

\_\_\_\_\_  
*Witness*

By: \_\_\_\_\_

Typed Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
*Surety* (SEAL)

By: \_\_\_\_\_

*Attorney-in-Fact*

Typed Name: \_\_\_\_\_

**AFFIDAVIT AND ACKNOWLEDGEMENT OF ATTORNEY-IN-FACT**

COMMONWEALTH OF VIRGINIA  
(Or alternatively, Commonwealth or State of \_\_\_\_\_)

CITY (or) COUNTY (Strike one) of \_\_\_\_\_

I, the undersigned notary public, do certify that \_\_\_\_\_,  
whose name is signed to the foregoing bid bond in the amount of five percent (5%) of  
the Total Bid Amount and which names the Commonwealth of Virginia, \_\_\_\_\_  
\_\_\_\_\_, as Obligee, personally appeared before me today in the above  
jurisdiction and made oath that he/she is the attorney-in-fact of \_\_\_\_\_  
\_\_\_\_\_, a \_\_\_\_\_ corporation which is the Surety in  
the foregoing bond, that he/she is duly authorized to execute on the above Surety's  
behalf the foregoing bond pursuant to the Power of Attorney noted above and attached  
hereto, and on behalf of the surety, he/she acknowledged the foregoing bond before me  
as the above Surety's act and deed

She/he has further certified that her/his Power of Attorney has not been revoked.  
[Complete if Power is recorded: Clerk's Office: \_\_\_\_\_;  
Deed Book/Page No. or Instrument No.: \_\_\_\_\_.]

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*Notary Public* (SEAL)

My name (printed) is \_\_\_\_\_.

My commission expires: \_\_\_\_\_.

APPROVED:

\_\_\_\_\_  
*Attorney General/Designee* Date

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**CONTRACT CHANGE ORDER**

Date: \_\_\_\_\_

PROJECT TITLE: ROUND MOUNTAIN - WOLF CREEK INDIAN VILLAGE - CONNECTOR TRAIL

PROJECT LOCATION: BLAND COUNTY, VIRGINIA

VDOT PROJECT NUMBER: EN00-010-101,C501, UPC 56389

Change Order Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

This change order is entered into pursuant to the provision of the basic contract.

Reason for Change Order: \_\_\_\_\_

Description of Change Order: \_\_\_\_\_

Original Contract Amount: \$ \_\_\_\_\_

[Add / Deduct] Change Order Amount: [+ / -] \$ \_\_\_\_\_

New Contract Amount: \$ \_\_\_\_\_

Days to Complete Contract: Original contract completion is \_\_\_\_\_ calendar days from the "Notice to Proceed" date. Change Order Number \_\_\_\_\_ [adds / reduces] this contract by \_\_\_\_\_ calendar days.

Except for the changes provided herein, all other terms and conditions of this contract remain unchanged and in full force and effect.

Contractor: \_\_\_\_\_

Owner: County of Bland, Virginia

BY: \_\_\_\_\_  
Signature

BY: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name / Title

\_\_\_\_\_  
Printed Name / Title

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

ATTEST: \_\_\_\_\_

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**COMMONWEALTH OF VIRGINIA  
AFFIDAVIT OF PAYMENT OF CLAIMS**

By: \_\_\_\_\_  
\_\_\_\_\_

This day \_\_\_\_\_ personally appeared before me, \_\_\_\_\_, a Notary Public in and for the City (County) of \_\_\_\_\_, \_\_\_ and, being by me first duly sworn, states that all subcontractors and suppliers of labor and materials have been paid all sums due them for work performed or materials furnished in the performance of the Contract between the County of Bland Virginia, Owner, and \_\_\_\_\_, Contractor, dated \_\_\_\_\_, 20\_\_\_\_, for Commerce Park consisting of the construction of approximately 1625 linear feet of roadway including clearing, grading, paving, and drainage improvements as well as utility extensions, or arrangements have been made by the Contractor satisfactory to such subcontractors and suppliers with respect to payments of such sums as may be due them by the Contractor.

\_\_\_\_\_  
*Typed Contractor Name*

By: \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Typed Name & Title of Person Signing*

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

My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

[SEAL]

\_\_\_\_\_  
*Notary Public*

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## **Specifications – Division 1**

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## SECTION 01100 – SUMMARY

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes the following:
  - 1. Work covered by the Contract Documents.
  - 2. Type of Contract.
  - 3. Work sequence.
  - 4. Work under other contracts.
  - 5. Use of premises.
  - 6. Owner's occupancy requirements.
  - 7. Work restrictions.
  - 8. Specification formats and conventions.
- B. Related Sections include the following:
  - 1. Division 1 Section "Temporary Facilities and Controls" for limitations and procedures governing temporary use of Owner's facilities.

#### 1.3 WORK COVERED BY CONTRACT DOCUMENTS

- A. Project Identification: Bland Trails Project
  - 1. Project Location: Bland County, Virginia
  - 2. Owner's Representative: Ms. Audra Repass, Project Manager, County of Bland, P.O. Box 510, Bland, VA 24315
  - 3. Engineer: Carolyn A. Howard, P.E., Program Manager, Draper Aden Associates, 2206 South Main Street, Blacksburg, VA 24060

B. The Work generally consists of the following:

1. Improvements to the Wolf Creek Indian Village Parking Lot.
2. Construction approximately 2545 LF of compacted stone trail connecting the improved parking lot to an existing National Forest Blazed Trail west of the Bland County Commerce Park.
3. The construction is a pedestrian crossing of the U.S. Route 52.

1.4 TYPE OF CONTRACT

- A. Project will be constructed under a single prime contract.

1.5 WORK SEQUENCE

- A. Erosion and sediment control and traffic control shall be in place prior to any soil disturbance. Refer to Plans for erosion and sediment control and traffic control measures.

1.6 USE OF PREMISES

- A. General: Contractor shall have limited use of premises for construction operations as indicated on Drawings by the Contract limits.
- B. Use of Site: Limit use of premises to areas within the Contract limits indicated. Do not disturb portions of Project site beyond areas in which the Work is indicated.
1. Owner Occupancy: Allow for Owner occupancy of Project site.
- C. Prior to performing work within VDOT right-of-ways, the Contractor shall acquire the required approvals and permits.

1.7 OWNER'S OCCUPANCY REQUIREMENTS

- A. Owner Occupancy of Completed Areas of Construction: Owner reserves the right to occupy and to place and install equipment in completed areas of construction, before Substantial Completion, provided such occupancy does not interfere with completion of the Work. Such placement of equipment and partial occupancy shall not constitute acceptance of the total Work.

1.8 WORK RESTRICTIONS

- A. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions and then only after arranging to provide temporary utility services according to requirements indicated:

1. Notify Owner not less than five (5) days in advance of proposed utility interruptions.
2. Do not proceed with utility interruptions without Owner's written permission.

#### 1.9 SPECIFICATION FORMATS AND CONVENTIONS

A. Specification Format: *Virginia Department of Transportation Road and Bridge Specifications*, dated 2007.

1. Section Identification: The Specifications use Section numbers and titles to help cross-referencing in the Contract Documents. Sections in the Project Manual are in numeric sequence; however, the sequence is incomplete because all available Section numbers are not used. Consult the table of contents at the beginning of the Project Manual to determine numbers and names of Sections in the Contract Documents.
2. Division 1: Sections in Division 1 govern the execution of the Work of all Sections in the Specifications.

B. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:

1. Abbreviated Language: Language used in the Specifications and other Contract Documents is abbreviated. Words and meanings shall be interpreted as appropriate. Words implied, but not stated, shall be inferred as the sense requires. Singular words shall be interpreted as plural, and plural words shall be interpreted as singular where applicable as the context of the Contract Documents indicates.
2. Imperative mood and streamlined language are generally used in the Specifications. Requirements expressed in the imperative mood are to be performed by Contractor. Occasionally, the indicative or subjunctive mood may be used in the Section Text for clarity to describe responsibilities that must be fulfilled indirectly by Contractor or by others when so noted.
  - a. The words "shall," "shall be," or "shall comply with," depending on the context, are implied where a colon (:) is used within a sentence or phrase.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01100

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## SECTION 01310 - PROJECT MANAGEMENT AND COORDINATION

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

1. The requirements of this section are in addition to, not in place of, those found in the General Conditions.

#### 1.2 SUMMARY

- A. This Section includes administrative provisions for coordinating construction operations on Project including, but not limited to, the following:

1. Administrative and supervisory personnel.
2. Project meetings.

- B. Related Sections include the following:

1. Division 1 Section "Construction Progress Documentation" for preparing and submitting Contractor's Construction Schedule.
2. Division 1 Section "Execution Requirements" for procedures for coordinating general installation and field-engineering services, including establishment of benchmarks and control points.
3. Division 1 Section "Closeout Procedures" for coordinating Contract closeout.

#### 1.3 COORDINATION

- A. Coordination: Coordinate construction operations included in different Sections of the Specifications to ensure efficient and orderly installation of each part of the Work. Coordinate construction operations, included in different Sections, that depend on each other for proper installation, connection, and operation.

1. Schedule construction operations in sequence required to obtain the best results where installation of one part of the Work depends on installation of other components, before or after its own installation.
2. Make adequate provisions to accommodate items scheduled for later installation.
3. Where availability of space is limited, coordinate installation of different components to ensure maximum performance and accessibility for required maintenance, service, and repair of all components, including mechanical and electrical.

- B. Prepare memoranda for distribution to each party involved, outlining special procedures required for coordination. Include such items as required notices, reports, and list of attendees at meetings.
  - 1. Prepare similar memoranda for Owner and separate contractors if coordination of their Work is required.
- C. Administrative Procedures: Coordinate scheduling and timing of required administrative procedures with other construction activities and activities of other contractors to avoid conflicts and to ensure orderly progress of the Work. Such administrative activities include, but are not limited to, the following:
  - 1. Preparation of Contractor's Construction Schedule.
  - 2. Preparation of the Schedule of Values.
  - 3. Installation and removal of temporary facilities and controls.
  - 4. Delivery and processing of submittals.
  - 5. Progress meetings.
  - 6. Preinstallation conferences.
  - 7. Project closeout activities.
  - 8. Startup and adjustment of systems.
- D. Conservation: Coordinate construction activities to ensure that operations are carried out with consideration given to conservation of energy, water, and materials.
  - 1. Salvage materials and equipment involved in performance of, but not actually incorporated into, the Work. Refer to other Sections for disposition of salvaged materials that are designated as Owner's property.

#### 1.4 ADMINISTRATIVE AND SUPERVISORY PERSONNEL

- A. General: In addition to Project superintendent, provide other administrative and supervisory personnel as required for proper performance of the Work.

#### 1.5 PROJECT MEETINGS

- A. General: Schedule and conduct meetings and conferences at Project site, unless otherwise indicated.
  - 1. Attendees: Inform participants and others involved, and individuals whose presence is required, of date and time of each meeting. Notify Owner and Engineer of scheduled meeting dates and times.
  - 2. Agenda: Prepare the meeting agenda. Distribute the agenda to all invited attendees.
  - 3. Minutes: Record significant discussions and agreements achieved. Distribute the meeting minutes to everyone concerned, including Owner and Engineer, within five days of the meeting.
- B. Preconstruction Conference: Refer to Section 50 of the General Conditions. Schedule a preconstruction conference before starting construction, at a time convenient to Owner, and Engineer, but no later than 15 days after Notice to

Proceed. Hold the conference at Project site or another convenient location. Conduct the meeting to review responsibilities and personnel assignments.

1. Attendees: Authorized representatives of Owner, and their consultants; Contractor and its superintendent; major subcontractors; suppliers; and other concerned parties shall attend the conference. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
  2. Agenda: Discuss items of significance that could affect progress, including the following:
    - a. Tentative construction schedule.
    - b. Phasing.
    - c. Critical work sequencing and long-lead items.
    - d. Designation of key personnel and their duties.
    - e. Procedures for processing field decisions and Change Orders.
    - f. Procedures for requests for interpretations (RFIs).
    - g. Procedures for testing and inspecting.
    - h. Procedures for processing Applications for Payment.
    - i. Distribution of the Contract Documents.
    - j. Submittal procedures.
    - k. Preparation of Record Documents.
    - l. Use of the premises.
    - m. Work restrictions.
    - n. Owner's occupancy requirements.
    - o. Responsibility for temporary facilities and controls.
    - p. Construction waste management.
    - q. Parking availability.
    - r. Office, work, and storage areas.
    - s. Equipment deliveries and priorities.
    - t. First aid.
    - u. Security.
    - v. Progress cleaning.
    - w. Working hours.
  3. Minutes: Record and distribute meeting minutes.
- C. Progress Meetings: Conduct progress meetings at minimum monthly intervals. Coordinate dates of meetings with preparation of payment requests.
1. Attendees: In addition to representatives of Owner and Engineer, each contractor, subcontractor, supplier, and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
  2. Agenda: Review and correct or approve minutes of previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.

- a. Contractor's Construction Schedule: Review progress since the last meeting. Determine whether each activity is on time, ahead of schedule, or behind schedule, in relation to Contractor's Construction Schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
  - 1) Review schedule for next period.
- b. Review present and future needs of each entity present, including the following:
  - 1) Interface requirements.
  - 2) Sequence of operations.
  - 3) Status of submittals.
  - 4) Deliveries.
  - 5) Access.
  - 6) Site utilization.
  - 7) Temporary facilities and controls.
  - 8) Work hours.
  - 9) Hazards and risks.
  - 10) Progress cleaning.
  - 11) Quality and work standards.
  - 12) Status of correction of deficient items.
  - 13) Field observations.
  - 14) Requests for interpretations (RFIs).
  - 15) Status of proposal requests.
  - 16) Pending changes.
  - 17) Status of Change Orders.
  - 18) Pending claims and disputes.
  - 19) Documentation of information for payment requests.
3. Minutes: Record the meeting minutes.
4. Reporting: Distribute minutes of the meeting to each party present and to parties who should have been present.
  - a. Schedule Updating: Revise Contractor's Construction Schedule after each progress meeting where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with the report of each meeting.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01310

## SECTION 01320 - CONSTRUCTION PROGRESS DOCUMENTATION

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for documenting the progress of construction during performance of the Work, including the following:
  - 1. Contractor's Construction Schedule.
  - 2. Daily construction reports.
  - 3. Field condition reports.
- B. Related Sections include the following:
  - 1. Division 1 Section "Project Management and Coordination" for submitting and distributing meeting and conference minutes.

#### 1.3 DEFINITIONS

- A. Activity: A discrete part of a project that can be identified for planning, scheduling, monitoring, and controlling the construction project. Activities included in a construction schedule consume time and resources.
- B. Event: The starting or ending point of an activity.
- C. Major Area: A story of construction, a separate building, or a similar significant construction element.
- D. Milestone: A key or critical point in time for reference or measurement.

#### 1.4 SUBMITTALS

- A. Contractor's Bar Graph Construction Schedule: Submit two copies of initial schedule, large enough to show entire schedule for entire construction period.
- B. Daily Construction Reports: Submit two copies at weekly intervals.

- C. Field Condition Reports: Submit two copies at time of discovery of differing conditions.

## 1.5 QUALITY ASSURANCE

- A. Preconstruction Conference: Conduct conference at Project site to comply with requirements in Division 1 Section "Project Management and Coordination." Review methods and procedures related to the Contractor's Construction Schedule, including, but not limited to, the following:
  - 1. Discuss constraints, including work stages, area separations, interim milestones, and Owner occupancy.
  - 2. Review schedule for work of Owner's separate contracts.
  - 3. Review requirements for tests and inspections by independent testing and inspecting agencies.
  - 4. Review and finalize list of construction activities to be included in schedule.
  - 5. Review procedures for updating schedule.

## 1.6 COORDINATION

- A. Coordinate Contractor's Construction Schedule with progress reports, payment requests, and other required schedules and reports.
  - 1. Secure time commitments for performing critical elements of the Work from parties involved.
  - 2. Coordinate each construction activity with other activities and schedule them in proper sequence.

## PART 2 - PRODUCTS

### 2.1 CONTRACTOR'S CONSTRUCTION SCHEDULE

- A. Bar-Chart Schedule: Submit preliminary horizontal bar-chart-type construction schedule within seven days of date established for the Notice to Proceed.
- B. Preparation: Indicate each significant construction activity separately. Identify first workday of each week with a continuous vertical line.
- C. Time Frame: Extend schedule from date established for the Notice to Proceed to date of Final Completion.
- D. Activities: Treat each separate area as a separate numbered activity for each principal element of the Work. Comply with the following:
  - 1. Activity Duration: Define activities so no activity is longer than 20 days, unless specifically allowed by Owner.
  - 2. Submittal Review Time: If submittals are required, include review and resubmittal in schedule.

3. Substantial Completion: Indicate completion in advance of date established for Substantial Completion, and allow time for Owner's and Engineer's administrative procedures necessary for certification of Substantial Completion.
- E. Constraints: Include constraints and work restrictions indicated in the Contract Documents and as follows in schedule, and show how the sequence of the Work is affected.
1. Work Restrictions: Show the effect of the following items on the schedule, if applicable:
    - a. Uninterruptible services.
    - b. Partial occupancy before Substantial Completion.
    - c. Use of premises restrictions.
    - d. Provisions for future construction.
  2. Work Stages: Indicate important stages of construction for each major portion of the Work, including, but not limited to, the following:
    - a. Deliveries.
    - b. Installation.
    - c. Tests and inspections.
  3. Area Separations: Identify each major area of construction for each major portion of the Work. Indicate where each construction activity within a major area must be sequenced or integrated with other construction activities to provide for the following:
    - a. Substantial Completion.
- F. Milestones: Include milestones indicated in the Contract Documents in schedule, including, but not limited to, the Notice to Proceed, Substantial Completion, and Final Completion.
- G. Contract Modifications: For each proposed contract modification and concurrent with its submission, prepare a time-impact analysis to demonstrate the effect of the proposed change on the overall project schedule.

## 2.2 REPORTS

- A. Daily Construction Reports: Prepare a daily construction report recording the following information concerning events at Project site:
1. List of subcontractors at Project site.
  2. Approximate count of personnel at Project site.
  3. Equipment at Project site.
  4. Material deliveries.
  5. High and low temperatures and general weather conditions.
  6. Accidents.
  7. Meetings and significant decisions.
  8. Unusual events (refer to special reports).
  9. Stoppages, delays, shortages, and losses.

10. Orders and requests of authorities having jurisdiction.
  11. Change Orders received and implemented.
  12. Construction Change Directives received and implemented.
  13. Services connected and disconnected.
- B. Field Condition Reports: Immediately on discovery of a difference between field conditions and the Contract Documents, prepare and submit a detailed report. Submit with a request for interpretation. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.

### PART 3 - EXECUTION

#### 3.1 CONTRACTOR'S CONSTRUCTION SCHEDULE

- A. Contractor's Construction Schedule Updating: At monthly intervals, and at each progress meeting, update schedule to reflect actual construction progress and activities. Issue schedule one week before each regularly scheduled progress meeting, or concurrent with monthly progress meeting.
1. Revise schedule immediately after each meeting or other activity where revisions have been recognized or made. Issue updated schedule concurrently with the report of each such meeting.
  2. As the Work progresses, indicate Actual Completion percentage for each activity.
- B. Distribution: Distribute copies of approved schedule to Owner, Engineer, separate contractors, testing and inspecting agencies, and other parties identified by Contractor with a need-to-know schedule responsibility.
1. When revisions are made, distribute updated schedules to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in performance of construction activities.

END OF SECTION 01320

## SECTION 01400 - QUALITY REQUIREMENTS

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for quality assurance and quality control.
- B. Testing and inspecting services are required to verify compliance with requirements specified or indicated. These services do not relieve Contractor of responsibility for compliance with the Contract Document requirements.
  - 1. Specific quality-assurance and -control requirements for individual construction activities are specified in the Sections that specify those activities. Requirements in those Sections may also cover production of standard products.
  - 2. Specified tests, inspections, and related actions do not limit Contractor's other quality-assurance and -control procedures that facilitate compliance with the Contract Document requirements.
  - 3. Requirements for Contractor to provide quality-assurance and -control services required by Engineer, Owner or authorities having jurisdiction are not limited by provisions of this Section.
- C. Related Sections include the following:
  - 1. Specific testing and inspection requirements, including time limit of delivering test results, are noted on Plans.
  - 2. VDOT Road and Bridge Specifications, latest edition

#### 1.3 DEFINITIONS

- A. Quality-Assurance Services: Activities, actions, and procedures performed before and during execution of the Work to guard against defects and deficiencies and substantiate that proposed construction will comply with requirements.
- B. Quality-Control Services: Tests, inspections, procedures, and related actions during and after execution of the Work to evaluate that actual products incorporated into

the Work and completed construction comply with requirements. Services do not include contract enforcement activities performed by Owner or Engineer.

- C. Preconstruction Testing: Tests and inspections that are performed specifically for the Project before products and materials are incorporated into the Work to verify performance or compliance with specified criteria.
- D. Product Testing: Tests and inspections that are performed by a testing agency qualified to conduct product testing and acceptable to authorities having jurisdiction, to establish product performance and compliance with industry standards.
- E. Source Quality-Control Testing: Tests and inspections that are performed at the source, i.e., plant, mill, factory, or shop.
- F. Field Quality-Control Testing: Tests and inspections that are performed on-site for installation of the Work and for completed Work.
- G. Testing Agency: An entity engaged to perform specific tests, inspections, or both. Testing laboratory shall mean the same as testing agency.
- H. Installer/Applicator/Erector: Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations.
  - 1. Using a term such as "carpentry" does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as "carpenter." It also does not imply that requirements specified apply exclusively to tradespeople of the corresponding generic name.

#### 1.4 CONFLICTING REQUIREMENTS

- A. General: If compliance with two or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer uncertainties and requirements that are different, but apparently equal, to Owner for a decision before proceeding.
- B. Minimum Quantity or Quality Levels: The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of requirements. Refer uncertainties to Owner for a decision before proceeding.

## 1.5 SUBMITTALS

- A. Permits, Licenses, and Certificates: For Owner's records, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records, and similar documents, established for compliance with standards and regulations bearing on performance of the Work.

## 1.6 QUALITY ASSURANCE

- A. General: Qualifications paragraphs in this Article establish the minimum qualification levels required; individual Specification Sections specify additional requirements.
- B. Installer Qualifications: A firm or individual experienced in installing, erecting, or assembling work similar in material, design, and extent to that indicated for this Project, whose work has resulted in construction with a record of successful in-service performance.
- C. Manufacturer Qualifications: A firm experienced in manufacturing products or systems similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- D. Fabricator Qualifications: A firm experienced in producing products similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- E. Professional Engineer Qualifications: A professional engineer who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing engineering services of the kind indicated. Engineering services are defined as those performed for installations of the system, assembly, or products that are similar to those indicated for this Project in material, design, and extent.
- F. Testing Agency Qualifications: An independent agency with the experience and capability to conduct testing and inspecting indicated, as documented according to ASTM E 548; and with additional qualifications specified in individual Sections; and where required by authorities having jurisdiction, that is acceptable to authorities.
- G. Preconstruction Testing: Where testing agency is indicated to perform preconstruction testing for compliance with specified requirements for performance and test methods, comply with the following:
  - 1. Contractor responsibilities include the following:
    - a. Provide test specimens representative of proposed products and construction.
    - b. Submit specimens in a timely manner with sufficient time for testing and analyzing results to prevent delaying the Work.

2. Testing Agency Responsibilities: Submit a certified written report of each test, inspection, and similar quality-assurance service to Engineer, Owner, with copy to Contractor at intervals indicated in other sections. Interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from the Contract Documents.
  - a. Submit a "Statement of Geotechnical Engineering Testing & Inspections" to the Contractor each month to be submitted with the Contractor's pay applications.

## 1.7 QUALITY CONTROL

- A. Tests and inspections not explicitly assigned to Owner are Contractor's responsibility. Unless otherwise indicated, provide quality-control services specified and those required by authorities having jurisdiction. Perform quality-control services required of Contractor by authorities having jurisdiction, whether specified or not.
  1. Where services are indicated as Contractor's responsibility, engage a qualified testing agency to perform these quality-control services.
  2. Notify testing agencies at least 48 hours in advance of time when Work that requires testing or inspecting will be performed.
  3. Where quality-control services are indicated as Contractor's responsibility, submit a certified written report, in duplicate, of each quality-control service.
  4. Testing and inspecting requested by Contractor and not required by the Contract Documents are Contractor's responsibility.
  5. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
- B. Retesting/Reinspecting: Provide quality-control services, including retesting and reinspecting, for construction that replaced Work that failed to comply with the Contract Documents.
- C. Testing Agency Responsibilities: Cooperate with Owner, Engineer and Contractor in performance of duties. Provide qualified personnel to perform required tests and inspections.
  1. Notify Owner, Engineer, and Contractor promptly of irregularities or deficiencies observed in the Work during performance of its services.
  2. Determine the location from which test samples will be taken and in which in-situ tests are conducted.
  3. Conduct and interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from requirements.
  4. Submit a certified written report, of each test, inspection, and similar quality-control service to the Owner, Engineer, and Contractor.
    - a. Where testing agency is employed by Contractor, provide copies of testing records at intervals specified elsewhere, to Owner and Engineer.

5. Do not release, revoke, alter, or increase the Contract Document requirements or approve or accept any portion of the Work.
  6. Do not perform any duties of Contractor.
- D. Associated Services: Cooperate with agencies performing required tests, inspections, and similar quality-control services, and provide reasonable auxiliary services as requested. Notify agency sufficiently in advance of operations to permit assignment of personnel. Provide the following:
1. Access to the Work.
  2. Incidental labor and facilities necessary to facilitate tests and inspections.
  3. Adequate quantities of representative samples of materials that require testing and inspecting. Assist agency in obtaining samples.
  4. Facilities for storage and field curing of test samples.
  5. Security and protection for samples and for testing and inspecting equipment at Project site.
- E. Coordination: Coordinate sequence of activities to accommodate required quality-assurance and -control services with a minimum of delay and to avoid necessity of removing and replacing construction to accommodate testing and inspecting.
1. Schedule times for tests, inspections, obtaining samples, and similar activities.

## PART 2 - PRODUCTS (Not Used)

## PART 3 - EXECUTION

### 3.1 REPAIR AND PROTECTION

- A. General: On completion of testing, inspecting, sample taking, and similar services, repair damaged construction and restore substrates and finishes.
1. Provide materials and comply with installation requirements specified in other Specification Sections. Restore patched areas and extend restoration into adjoining areas with durable seams that are as invisible as possible.
- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

END OF SECTION 01400

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## SECTION 01420 - REFERENCES

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

#### 1.2 DEFINITIONS

- A. General: Basic Contract definitions are included in the Conditions of the Contract.
- B. "Approved": When used to convey Engineer's action on Contractor's submittals, applications, and requests, "approved" is limited to Engineer's duties and responsibilities as stated in the Conditions of the Contract.
- C. "Directed": A command or instruction by Engineer or Owner. Other terms including "requested," "authorized," "selected," "approved," "required," and "permitted" have the same meaning as "directed."
- D. "Indicated": Requirements expressed by graphic representations or in written form on Drawings, in Specifications, and in other Contract Documents. Other terms including "shown," "noted," "scheduled," and "specified" have the same meaning as "indicated."
- E. "Regulations": Laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, and rules, conventions, and agreements within the construction industry that control performance of the Work.
- F. "Furnish": Supply and deliver to Project site, ready for unloading, unpacking, assembly, installation, and similar operations.
- G. "Install": Operations at Project site including unloading, temporarily storing, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
- H. "Provide": Furnish and install, complete and ready for the intended use.
- I. "Project Site": Space available for performing construction activities. The extent of Project site is shown on Drawings and may or may not be identical with the description of the land on which Project is to be built.

### 1.3 INDUSTRY STANDARDS

- A. Applicability of Standards: Unless the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.
- B. Publication Dates: Comply with standards in effect as of date of the Contract Documents, unless otherwise indicated or specified. Comply with Virginia Uniform Statewide Building Code (VUSBC), effective October 1, 2003.
- C. Copies of Standards: Each entity engaged in construction on Project should be familiar with industry standards applicable to its construction activity. Copies of applicable standards are not bound with the Contract Documents.
  - 1. Where copies of standards are needed to perform a required construction activity, obtain copies directly from publication source.

### 1.4 ABBREVIATIONS AND ACRONYMS

- A. Industry Organizations: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the entities indicated in the VUSBC.
- B. Code Agencies: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the entities in the VUSBC.
- C. Federal Government Agencies: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the entities in the VUSBC.
- D. State Government Agencies: Where abbreviations and acronyms are used in Specifications or other Contract Documents, they shall mean the recognized name of the entities in the VUSBC.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01420

## SECTION 01500 - TEMPORARY FACILITIES AND CONTROLS

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes requirements for temporary utilities, support facilities, and security and protection facilities.
- B. Related Sections include the following:
  - 1. Division 1 Section "Summary" for limitations on utility interruptions and other work restrictions.
  - 2. Division 1 Section "Execution Requirements" for progress cleaning requirements.

#### 1.3 USE CHARGES

- A. General: Cost or use charges for temporary facilities shall be included in the Contract Sum. Allow other entities to use temporary services and facilities without cost, including, but not limited to, Owner, Engineer, testing agencies, and authorities having jurisdiction.
- B. Water Service: Water from Owner's existing water system is available for use without metering and without payment of use charges. Provide connections and extensions of services as required for construction operations.
- C. Electric Power Service: The Contractor shall make all arrangements and pay for temporary electrical and telephone if these services are required. Provide connections and extensions of services as required for construction operations.

#### 1.4 QUALITY ASSURANCE

- A. Electric Service: Comply with NECA, NEMA, and UL standards and regulations for temporary electric service. Install service to comply with NFPA 70.
- B. Tests and Inspections: Arrange for authorities having jurisdiction to test and inspect each temporary utility before use. Obtain required certifications and permits.

## 1.5 PROJECT CONDITIONS

- A. Temporary Use of Permanent Facilities: Installer of each permanent service shall assume responsibility for operation, maintenance, and protection of each permanent service during its use as a construction facility before Owner's acceptance, regardless of previously assigned responsibilities.

## PART 2 - PRODUCTS

### 2.1 MATERIALS

- A. Portable Construction Fencing: Construction fencing shall be in accordance with the Virginia Erosion and Sediment Control Handbook (VESCH), Third Edition, 1992, Standard & Specifications 3.01, "Safety Fence".

### 2.2 EQUIPMENT

- A. Fire Extinguishers: Portable, UL rated; with class and extinguishing agent as required by locations and classes of fire exposures.
- B. Heating Equipment: Unless Owner authorizes use of permanent heating system, provide vented, self-contained, liquid-propane-gas or fuel-oil heaters with individual space thermostatic control.
  - 1. Use of gasoline-burning space heaters, open-flame heaters, or salamander-type heating units is prohibited.
  - 2. Heating Units: Listed and labeled for type of fuel being consumed, by a testing agency acceptable to authorities having jurisdiction, and marked for intended use.

## PART 3 - EXECUTION

### 3.1 INSTALLATION, GENERAL

- A. Locate facilities where they will serve Project adequately and result in minimum interference with performance of the Work. Relocate and modify facilities as required by progress of the Work.
- B. Provide each facility ready for use when needed to avoid delay. Do not remove until facilities are no longer needed or are replaced by authorized use of completed permanent facilities.

### 3.2 TEMPORARY UTILITY INSTALLATION

- A. General: Install temporary service or connect to existing service.

1. Arrange with utility company, Owner, and existing users for time when service can be interrupted, if necessary, to make connections for temporary services.
  - B. Sewers and Drainage: Provide temporary utilities to remove effluent lawfully.
  - C. Water Service: Install water service and distribution piping in sizes and pressures adequate for construction.
  - D. Water Service: Use of Owner's existing water service facilities will be permitted, as long as facilities are cleaned and maintained in a condition acceptable to Owner. At Substantial Completion, restore these facilities to condition existing before initial use.
  - E. Sanitary Facilities: Provide temporary toilets, wash facilities, and drinking water for use of construction personnel. Comply with authorities having jurisdiction for type, number, location, operation, and maintenance of fixtures and facilities.
  - F. Heating: Provide temporary heating required by construction activities for curing or drying of completed installations or for protecting installed construction from adverse effects of low temperatures or high humidity. Select equipment that will not have a harmful effect on completed installations or elements being installed.
  - G. Electric Power Service: Use of Owner's existing electric power service will be permitted, as long as equipment is maintained in a condition acceptable to Owner. If Contractor desires to use electrical power from Owner's system, provide electric power service and distribution system of sufficient size, capacity, and power characteristics required for construction operations.
    1. Connect temporary service to Owner's existing power source, as directed by Owner.
  - H. Lighting: Provide temporary lighting that provides adequate illumination for construction operations, observations, inspections, and traffic conditions.
    1. Install and operate temporary lighting that fulfills security and protection requirements without operating entire system.
  - I. Telephone Service: No Owner service will be provided.
    1. Provide superintendent with cellular telephone or portable two-way radio for use.
- 3.3 SUPPORT FACILITIES INSTALLATION
- A. General: Comply with the following:
    1. Maintain support facilities until near Substantial Completion. Remove before Substantial Completion.

- B. Temporary Roads and Paved Areas: Construct and maintain temporary roads adequate for construction operations. Locate temporary roads within construction limits indicated on Drawings.
  - 1. Provide dust-control treatment that is nonpolluting and nontracking. Reapply treatment as required to minimize dust.
- C. Traffic Controls: Comply with requirements of authorities having jurisdiction.
  - 1. Protect existing site improvements to remain including curbs, pavement, and utilities.
  - 2. Maintain access for fire-fighting equipment and access to fire hydrants.
- D. Parking and Staging:
  - 1. The Owner will provide additional instructions regarding construction vehicle parking within the construction zone during the pre-construction meeting.
  - 2. Construction staging shall be within the designated construction limits. The Contractor should plan to use materials as they are delivered and avoid the need for storage.
- E. Dewatering Facilities and Drains: Comply with requirements of authorities having jurisdiction. Maintain Project site, excavations, and construction free of water.
  - 1. Dispose of rainwater in a lawful manner that will not result in flooding Project or adjoining properties nor endanger permanent Work or temporary facilities.
  - 2. Remove snow and ice as required to minimize accumulations.
- F. Waste Disposal Facilities: Provide waste-collection containers in sizes adequate to handle waste from construction operations. Comply with requirements of authorities having jurisdiction. Comply with Division 1 Section "Execution Requirements" for progress cleaning requirements.

### 3.4 SECURITY AND PROTECTION FACILITIES INSTALLATION

- A. Environmental Protection: Provide protection, operate temporary facilities, and conduct construction in ways and by methods that comply with environmental regulations and that minimize possible air, waterway, and subsoil contamination or pollution or other undesirable effects.
  - 1. Comply with work restrictions specified in Division 1 Section "Summary."
- B. Temporary Erosion and Sedimentation Control: Provide measures to prevent soil erosion and discharge of soil-bearing water runoff and airborne dust to adjacent properties and walkways, according to requirements of authorities having jurisdiction and Division 2 Section "Site Clearing".
  - 1. Inspect, repair, and maintain erosion- and sedimentation-control measures during construction until permanent vegetation has been established.

- C. Stormwater Control: Comply with authorities having jurisdiction. Provide barriers in and around excavations and subgrade construction to prevent flooding by runoff of stormwater from heavy rains.
- D. Tree and Plant Protection: Install temporary fencing located as indicated or outside the drip line of trees to protect vegetation from damage from construction operations. Protect tree root systems from damage, flooding, and erosion.
- E. Active Construction Enclosure Fence: Before excavation begins, furnish and install site enclosure fence in a manner that will prevent people and animals from easily entering active construction areas.
  - 1. Extent of Fence: As required to enclose portion determined sufficient to accommodate daily construction operations.
- F. Barricades, Warning Signs, and Lights: Comply with requirements of authorities having jurisdiction for erecting structurally adequate barricades, including warning signs and lighting.
- G. Temporary Fire Protection: Install and maintain temporary fire-protection facilities of types needed to protect against reasonably predictable and controllable fire losses. Comply with NFPA 241.
  - 1. Prohibit smoking in hazardous fire-exposure areas.
  - 2. Supervise welding operations, combustion-type temporary heating units, and similar sources of fire ignition according to requirements of authorities having jurisdiction.
  - 3. Develop and supervise an overall fire-prevention and -protection program for personnel at Project site. Review needs with local fire department and establish procedures to be followed. Instruct personnel in methods and procedures. Post warnings and information.

### 3.5 OPERATION, TERMINATION, AND REMOVAL

- A. Supervision: Enforce strict discipline in use of temporary facilities. To minimize waste and abuse, limit availability of temporary facilities to essential and intended uses.
- B. Maintenance: Maintain facilities in good operating condition until removal.
  - 1. Maintain operation of temporary enclosures, heating, cooling, and similar facilities on a 24-hour basis where required to achieve indicated results and to avoid possibility of damage.
- C. Temporary Facility Changeover: Do not change over from using temporary security and protection facilities to permanent facilities until Substantial Completion.
- D. Termination and Removal: Remove each temporary facility when need for its service has ended, when it has been replaced by authorized use of a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore

permanent construction that may have been delayed because of interference with temporary facility. Repair damaged Work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.

1. Materials and facilities that constitute temporary facilities are property of Contractor.
2. Where area is intended for landscape development, remove soil and aggregate fill that do not comply with requirements for fill or subsoil. Remove materials contaminated with road oil, asphalt and other petrochemical compounds, and other substances that might impair growth of plant materials or lawns. Repair or replace street paving, curbs, and sidewalks at temporary entrances, as required by authorities having jurisdiction.
3. At Substantial Completion, clean and renovate permanent facilities used during construction period. Comply with final cleaning requirements specified in Division 1 Section "Closeout Procedures."

END OF SECTION 01500

## SECTION 01700 - EXECUTION REQUIREMENTS

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

- 1. The provisions of this section are in addition to, not in place of, those found in the General Conditions.

#### 1.2 SUMMARY

- A. This Section includes general procedural requirements governing execution of the Work including, but not limited to, the following:

- 1. Construction layout.
  - 2. Field engineering and surveying.
  - 3. General installation of products.
  - 4. Progress cleaning.
  - 5. Protection of installed construction.
  - 6. Correction of the Work.

- B. Related Sections include the following:

- 1. Division 1 Section "Project Management and Coordination" for procedures for coordinating field engineering with other construction activities.
  - 2. Division 1 Section "Closeout Procedures" for submitting recording of Owner-accepted deviations from indicated lines and levels, and final cleaning.

#### 1.3 SUBMITTALS

- A. Certified record survey in hard copy and electronic formats.

#### 1.4 QUALITY ASSURANCE

- A. Land Surveyor Qualifications: A professional land surveyor who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing land-surveying services of the kind indicated.

## PART 2 - PRODUCTS (Not Used)

## PART 3 - EXECUTION

### 3.1 EXAMINATION

- A. Existing Conditions: The existence and location of site improvements, utilities, and other construction indicated as existing are not guaranteed. Before beginning work, investigate and verify the existence and location of mechanical and electrical systems and other construction affecting the Work.
  - 1. Before construction, verify the location and points of connection of utility services.
- B. Acceptance of Conditions: Examine substrates, areas, and conditions for compliance with requirements for installation tolerances and other conditions affecting performance. Record observations.

### 3.2 PREPARATION

- A. Existing Utility Information: Furnish information to Owner that is necessary to adjust, move, or relocate existing utility structures, utility poles, lines, services, or other utility appurtenances located in or affected by construction. Coordinate with authorities having jurisdiction.
- B. Field Measurements: Take field measurements as required to fit the Work properly. Recheck measurements before installing each product. Where portions of the Work are indicated to fit to other construction, verify dimensions of other construction by field measurements before work begins.
- C. Review of Contract Documents and Field Conditions: Immediately on discovery of the need for clarification of the Contract Documents, submit a request for information to Owner. Include a detailed description of problem encountered, together with recommendations for changing the Contract Documents.

### 3.3 CONSTRUCTION LAYOUT

- A. Verification: Before proceeding to lay out the Work, verify layout information shown on Drawings, in relation to the property survey and existing benchmarks. If discrepancies are discovered, notify Owner promptly.
- B. General: Engage a Professional Land Surveyor licensed in the Commonwealth of Virginia to lay out the Work using accepted surveying practices.
  - 1. Establish benchmarks and control points to set lines and levels as needed to locate each element of Project.
  - 2. Establish dimensions within tolerances indicated. Do not scale Drawings to obtain required dimensions.

3. Inform installers of lines and levels to which they must comply.
  4. Check the location, level and plumb, of every major element as the Work progresses.
  5. Notify Owner when deviations from required lines and levels exceed allowable tolerances.
  6. Close site surveys with an error of closure equal to or less than the standard established by authorities having jurisdiction.
- C. Site Improvements: Locate and lay out site improvements, including pavements, grading, fill and topsoil placement, utility slopes, and invert elevations.
- D. Record Log: Maintain a log of layout control work. Record deviations from required lines and levels. Include beginning and ending dates and times of surveys, weather conditions, name and duty of each survey party member, and types of instruments and tapes used. Make the log available for reference by Owner.
- 3.4 FIELD ENGINEERING
- A. Identification: Existing permanent benchmarks and control points are shown on drawings.
- B. Reference Points: Locate existing permanent benchmarks, control points, and similar reference points before beginning the Work. Preserve and protect permanent benchmarks and control points during construction operations.
1. Do not change or relocate existing benchmarks or control points without prior written approval of Owner. Report lost or destroyed permanent benchmarks or control points promptly.
- C. Certified Survey: On completion of work requiring field-engineering services, prepare a certified survey showing dimensions, locations, angles, and elevations of construction and sitework.
1. The information shall be submitted in hard copy and digital copy. Coordinate drawing and survey data submittal with the Owner.
    - a. Hard copy shall be a 24" x 36" mylar, sealed by a licensed surveyor.
    - b. Electronic copy shall be AutoCAD, latest or compatible version.
  2. Survey shall include sufficient detail of the stormwater management structures to determine as-built storage volumes. Elevations for all water control orifices and weirs (grates) shall be indicated on survey.
  3. Top of curb elevations shall be shown on all major changes in direction.
  4. Inverts and top elevations shall be shown for all storm and sanitary structures.

### 3.5 INSTALLATION

- A. General: Locate the Work and components of the Work accurately, in correct alignment and elevation, as indicated.
  - 1. Make vertical work plumb and make horizontal work level.
  - 2. Where space is limited, install components to maximize space available for maintenance and ease of removal for replacement.
- B. Comply with manufacturer's written instructions and recommendations for installing products in applications indicated.
- C. Install products at the time and under conditions that will ensure the best possible results. Maintain conditions required for product performance until Substantial Completion.
- D. Conduct construction operations so no part of the Work is subjected to damaging operations or loading in excess of that expected during normal conditions of occupancy.
- E. Tools and Equipment: Do not use tools or equipment that produce harmful noise levels.
- F. Joints: Make joints of uniform width. Where joint locations in exposed work are not indicated, arrange joints for the best visual effect. Fit exposed connections together to form hairline joints.
- G. Hazardous Materials: Use products, cleaners, and installation materials that are not considered hazardous.

### 3.6 PROGRESS CLEANING

- A. General: Clean Project site and work areas daily. Coordinate progress cleaning for joint-use areas where more than one installer has worked. Enforce requirements strictly. Dispose of materials lawfully.
  - 1. Comply with requirements in NFPA 241 for removal of combustible waste materials and debris.
- B. Work Areas: Clean areas where work is in progress to the level of cleanliness necessary for proper execution of the Work.
  - 1. Remove liquid spills promptly.
  - 2. Where dust would impair proper execution of the Work, broom-clean or vacuum the entire work area, as appropriate.
- C. Installed Work: Keep installed work clean. Clean installed surfaces according to written instructions of manufacturer or fabricator of product installed, using only cleaning materials specifically recommended. If specific cleaning materials are not recommended, use cleaning materials that are not hazardous to health or property and that will not damage exposed surfaces.

- D. Concealed Spaces: Remove debris from concealed spaces before enclosing the space.
- E. Exposed Surfaces in Finished Areas: Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.
- F. Waste Disposal: Burying or burning waste materials on-site will not be permitted. Washing waste materials down sewers or into waterways will not be permitted.
- G. During handling and installation, clean and protect construction in progress and adjoining materials already in place. Apply protective covering where required to ensure protection from damage or deterioration at Substantial Completion.
- H. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period. Adjust and lubricate operable components to ensure operability without damaging effects.
- I. Limiting Exposures: Supervise construction operations to assure that no part of the construction, completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

### 3.7 PROTECTION OF INSTALLED CONSTRUCTION

- A. Provide final protection and maintain conditions that ensure installed Work is without damage or deterioration at time of Substantial Completion.

### 3.8 CORRECTION OF THE WORK

- A. Repair or remove and replace defective construction.
  - 1. Repairing includes replacing defective parts, refinishing damaged surfaces, touching up with matching materials, and properly adjusting operating equipment.
- B. Restore permanent facilities used during construction to their specified condition.
- C. Remove and replace damaged surfaces that are exposed to view if surfaces cannot be repaired without visible evidence of repair.
- D. Repair components that do not operate properly. Remove and replace operating components that cannot be repaired.
- E. Remove and replace chipped, scratched, and broken glass or reflective surfaces.

END OF SECTION 01700

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## SECTION 01770 - CLOSEOUT PROCEDURES

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
  - 1. Inspection procedures.
  - 2. Warranties.
  - 3. Final cleaning.
- B. Related Sections include the following:
  - 1. Division 1 Section "Execution Requirements" for progress cleaning of Project site.
  - 2. Division 1 Section "Project Record Documents" for submitting Record Drawings, Record Specifications, and Record Product Data.

#### 1.3 SUBSTANTIAL COMPLETION

- A. Preliminary Procedures: Before requesting inspection for determining date of Substantial Completion, complete the following. List items below that are incomplete in request.
  - 1. Prepare a list of items to be completed and corrected (punch list), and reasons why the Work is not complete.
  - 2. Prepare and submit Project Record Documents, damage surveys, and similar final record information.
  - 3. Terminate and remove temporary facilities from Project site, construction tools, and similar elements.
  - 4. Complete final cleaning requirements.
  - 5. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.
- B. Inspection: Submit a written request for inspection for Substantial Completion along with the Certificate of Substantial Completion by Contractor. On receipt of request, Engineer and Owner will either proceed with inspection or notify Contractor of unfulfilled requirements. Engineer and Owner will prepare the Certificate of Substantial Completion after inspection or will notify Contractor of items, either on

Contractor's list or additional items identified by Engineer and Owner, that must be completed or corrected before certificate will be issued.

1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
2. Results of completed inspection will form the basis of requirements for Final Completion.

#### 1.4 FINAL COMPLETION

- A. Preliminary Procedures: Before requesting final inspection for determining date of Final Completion, complete the following:
  1. Submit a final Application for Payment according to General Conditions, Section 36.
  2. Submit copy of Engineer and Owner Substantial Completion inspection list of items to be completed or corrected (punch list). The copy of the list shall state that each item has been completed or otherwise resolved for acceptance.
- B. Inspection: Submit a written request for final inspection for acceptance along with the Certificate of Completion by Contractor. On receipt of request, Engineer and Owner will either proceed with inspection or notify Contractor of unfulfilled requirements. Engineer and Owner will prepare a final Certificate for Payment after inspection or will notify Contractor of construction that must be completed or corrected before certificate will be issued.
  1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.

#### 1.5 LIST OF INCOMPLETE ITEMS (PUNCH LIST)

- A. Preparation: Submit three copies of list. Include name and identification of each space and area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of construction.
  1. Organize list of work in sequential order, starting with Manhole 10 and proceeding to Manhole 100.
  2. Include the following information at the top of each page:
    - a. Project name.
    - b. Date.
    - c. Name of Engineer and Owner.
    - d. Name of Contractor.
    - e. Page number.

## PART 2 - PRODUCTS

### 2.1 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

## PART 3 - EXECUTION

### 3.1 FINAL CLEANING

- A. General: Provide final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ experienced workers for final cleaning. Clean each surface or unit to condition expected in average commercial project cleaning and maintenance program. Comply with manufacturer's written instructions.
  - 1. Complete the following cleaning operations before requesting inspection for certification of Substantial Completion for entire Project or for a portion of Project:
    - a. Clean Project site, yard, and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and other foreign substances.
    - b. Sweep paved areas broom clean. Remove petrochemical spills, stains, and other foreign deposits.
    - c. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
    - d. Remove tools, construction equipment, machinery, and surplus material from Project site.
    - e. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances. Avoid disturbing natural weathering of exterior surfaces. Restore reflective surfaces to their original condition.
    - f. Remove debris and surface dust from limited access spaces, manholes, and similar spaces.
    - g. Touch up and otherwise repair and restore marred, exposed finishes and surfaces. Replace finishes and surfaces that cannot be satisfactorily repaired or restored or that already show evidence of repair or restoration.
    - h. Leave Project clean.
- C. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on Owner's property. Do not discharge volatile,

harmful, or dangerous materials into drainage systems. Remove waste materials from Project site and dispose of lawfully.

END OF SECTION 01770

## SECTION 01781 - PROJECT RECORD DOCUMENTS

### PART 1 - GENERAL

#### 1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions, Virginia Department of Transportation and Federal Highways Administration Contract Provisions and other Division 1 Specification Sections (General Requirements), apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for Project Record Documents, including the following:
  - 1. Record Drawings.
  - 2. Record Specifications.
- B. Related Sections include the following:
  - 1. Division 1 Section "Closeout Procedures" for general closeout procedures.

#### 1.3 SUBMITTALS

- A. Record Drawings: Comply with the following:
  - 1. Number of Copies: Submit one (1) set of marked-up Record Prints.
  - 2. Submit As-Built Field CAD Drawing per requirement of Section 01700, 3.4.C.
- B. Record Specifications: Submit one (1) copy of Project's Specifications, including addenda and contract modifications.

### PART 2 - PRODUCTS

#### 2.1 RECORD DRAWINGS

- A. Record Prints: Maintain one set of blue- or black-line white prints of the Contract Drawings.
  - 1. Preparation: Mark Record Prints to show the actual installation where installation varies from that shown originally. Require individual or entity who obtained record data, whether individual or entity is Installer, subcontractor, or similar entity, to prepare the marked-up Record Prints.

- a. Give particular attention to information on concealed elements that would be difficult to identify or measure and record later.
  - b. Accurately record information in an understandable drawing technique.
  - c. Record data as soon as possible after obtaining it. Record and check the markup before enclosing concealed installations.
2. Content: Types of items requiring marking include, but are not limited to, the following:
- a. Dimensional changes to Drawings.
  - b. Revisions to details shown on Drawings.
  - c. Locations and depths of underground utilities.
  - d. Revisions to routing of piping and conduits.
  - e. Revisions to electrical circuitry.
  - f. Locations of concealed utilities.
  - g. Changes made by Change Order or Construction Change Directive.
  - h. Changes made following Owner's or Engineer's written orders.
  - i. Details not on the original Contract Drawings.
  - j. Field records for variable and concealed conditions.
3. Mark the Contract Drawings completely and accurately.
4. Mark record sets with erasable, red-colored pencil. Use other colors to distinguish between changes for different categories of the Work at same location.
5. Mark important additional information that was either shown schematically or omitted from original Drawings.
6. Note Construction Change Directive numbers, alternate numbers, Change Order numbers, and similar identification, where applicable.

## 2.2 RECORD SPECIFICATIONS

- A. Preparation: Mark Specifications to indicate the actual product installation where installation varies from that indicated in Specifications, addenda, and contract modifications.
1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
  2. Record the name of manufacturer, supplier, Installer, and other information necessary to provide a record of selections made.
  3. Note related Change Orders and Record Drawings where applicable.

## 2.3 RECORD PRODUCT DATA

- A. Preparation: If product data submittals are required in Division 2, mark Product Data to indicate the actual product installation where installation varies substantially from that indicated in Product Data submittal.
1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.

2. Include significant changes in the product delivered to Project site and changes in manufacturer's written instructions for installation.
3. Note related Change Orders, Record Specifications, and Record Drawings where applicable.

#### 2.4 MISCELLANEOUS RECORD SUBMITTALS

- A. Assemble miscellaneous records required by other Specification Sections for miscellaneous record keeping and submittal in connection with actual performance of the Work. Bind or file miscellaneous records and identify each, ready for continued use and reference.

### PART 3 - EXECUTION

#### 3.1 RECORDING AND MAINTENANCE

- A. Recording: Maintain one copy of each submittal during the construction period for Project Record Document purposes. Post changes and modifications to Project Record Documents as they occur; do not wait until the end of Project.
- B. Maintenance of Record Documents and Samples: Store Record Documents and Samples apart from the Contract Documents used for construction. Do not use Project Record Documents for construction purposes. Maintain Record Documents in good order and in a clean, dry, legible condition, protected from deterioration and loss. Provide access to Project Record Documents for Owner's and Engineer's reference during normal working hours.
- C. Project Record Documents shall be maintained and updated during normal business hours, such that changes, modifications, and deviations from the original construction documents shall be recorded on the Project Record Documents within 24 hours of installation, modification, or construction.
- D. Owner reserves the right to review the Project Record Documents during normal business hours without notice to contractor. Review of the Project Record Drawings does not constitute acceptance or approval of the owner or agents of the owner.
- E. Contractor's failure properly to maintain the Project Record Documents may result in a delay of monthly payments at the discretion of the owner. Notwithstanding the previous statement, the owner reserves the right to update the Project Record Documents or hire additional personnel or contractor(s) to update the Project Record Documents if the contractor fails to maintain the Project Records. The cost associated with updating the Project Record Documents will be deducted from the contractor's payment.

END OF SECTION 01781

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## **Appendix A - Geotechnical Report**

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**SUBSURFACE EXPLORATION AND EVALUATION  
ROUND MOUNTIAN TRAIL HEAD PARKING AREA  
AT  
WOLF CREEK INDIAN VILLAGE**

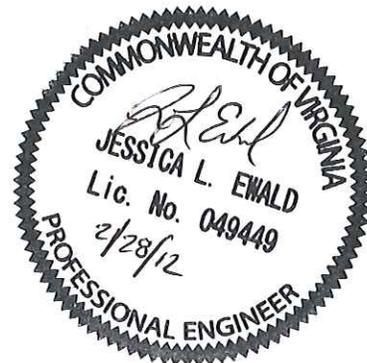


Prepared for:  
The County of Bland, Virginia

Project Manager:  
Ms. Audra Repass

February 28, 2012

Prepared By:



**40<sup>th</sup>** Draper Aden Associates  
*Engineering • Surveying • Environmental Services*  
*Four Decades of Lasting Positive Impact*

DAA Project Number: B11172R-02G

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## ***APPENDICES***

### **Section I**

Boring Location Plan

### **Section II**

Key to Boring Logs

Boring Logs B-1 through B-3

### **Section III**

Soil Laboratory Test Results

### **Section IV**

Geotechnical Test Methods

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## 1. AUTHORIZATION

In accordance with Draper Aden Associates' Proposal No. B08160-01P dated June 21, 2011, Draper Aden Associates is pleased to present our report of the geotechnical study completed for the proposed Round Mountain Trail Head Parking Area at The Wolf Creek Indian Village in Bland County, Virginia.

## 2. BACKGROUND

It is our understanding that Bland County wishes to construct a new parking lot at the Wolfe Creek Indian Village located at 6394 North Scenic Highway in Bastian, Virginia. The parking area will be designed to accommodate approximately 2 buses and 26 cars.

The proposed parking area will be constructed predominantly over existing gravel drives and parking areas.

## 3. OBJECTIVE AND SCOPE OF SERVICES

The objective of this study was to generally characterize subsurface conditions to develop recommendations related to the pavement design for and construction of the Proposed Round Mountain Trail Head Parking Area. As provided in Draper Aden Associates' letter proposal dated June 21, 2011, our scope of services included:

Subsurface Soil Exploration: Draper Aden Associates completed a subsurface soil exploration in order to obtain the data required for our design recommendations. Our proposed field work included the following:

- ❖ Reconnaissance of the site.
- ❖ The advancement of 3 borings to a depth of 15 feet below existing grade within the proposed pavement areas. Bulk samples were obtained at the auger probe locations, and were submitted for laboratory classification, standard Proctor and California Bearing Ratio (CBR) testing.

Laboratory Testing: Draper Aden Associates submitted bulk samples from each boring for in-house laboratory testing. Laboratory testing of bulk samples included particle size distribution, natural moisture content, Atterberg limits, standard Proctor, and California Bearing Ratio (CBR) testing. These tests provide pertinent data related to the on-site soils necessary for our design recommendations.

Geotechnical Analysis and Reporting: Draper Aden Associates has prepared this geotechnical engineering report, documenting the results of the field and laboratory testing program, including the exploratory boring logs, field and laboratory data, a discussion of our data evaluation, and our conclusions and recommendations regarding pavement design.

#### **4. SUBSURFACE EXPLORATIONS**

The field portion of our exploration program was performed January 27th, 2012. The subsurface exploration consisted of 3 subsurface borings advanced at locations indicated on the Boring Location Plan included in Section I of the Appendices. The subsurface borings were executed by Draper Aden Associates' subcontractor Blue Ridge Drilling. Appendix Section II contains logs of the three explorations prepared by Draper Aden Associates.

The borings were advanced to the planned depth of 15 feet below grade and terminated without encountering refusal. The driller executed standard penetration tests (SPT) and split-spoon sampling in subsurface soils at intervals of 2.5 feet for the first 10 feet and at intervals of 5 feet, thereafter. Split spoon samples were taken by driving a 1 $\frac{3}{8}$  inch I.D. split spoon sampler in accordance with ASTM D1586-99. The sampler was first seated 6 inches to penetrate loose cuttings and then driven an additional 12 inches with a 140-pound hammer free falling 30 inches. The number of hammer blows required to drive the sampler the final 12 inches was designated as the penetration resistance or "N" value.

The DAA representative noted cave-in depth measurements at the completion of each soil boring. The soil test borings were backfilled with auger cuttings prior to departure from the site. No long-term groundwater observations were completed with the explorations.

## 5. SUBSURFACE CONDITIONS

### 5.1 Regional Geology

The site is in the Valley and Ridge province of Virginia. The Valley & Ridge province consists of elongated parallel ridges and valleys that are underlain by folded Paleozoic sedimentary rock. The characteristic topography of this region is the result of differential weathering of linear belts of rocks that have been repeatedly folded and faulted.

### 5.2 Local Geology

The Geologic Map of Virginia (2003) indicates that the project site is underlain by the Devonian-age Millboro Shale. Published geologic information describes the Millboro Shale as black, fissile, pyritic, with septarian concretions locally, gradational with underlying Needmore Shale.

### 5.3 Encountered Soil Conditions

#### 5.3.1 General

Boring logs contained in Section II of the Appendices, present the subsurface conditions encountered at the time of exploration. Soil strata inferences, discussed below and indicated on the boring logs, represent an estimate of the subsurface conditions based on visual classifications of soils and laboratory classification test results. It should be noted that the transitions between soil strata are generally less distinct than shown on the boring logs and are interpolated between the boring locations. For specific subsurface soil information refer to the boring logs.

#### 5.3.2 Subsurface Soils

Approximately 6 inches of topsoil was encountered at boring B-2 and 8 inches of gravel was encountered at boring locations B-1 and B-3 during our field explorations. The following strata descriptions generally summarize the subsurface conditions encountered at our exploration locations:

**Stratum S1:** The Stratum S1 soils consisted of fine-grained soils that were visually classified as SILT (ML), Lean CLAY (CL), and Fat CLAY (CH). The Stratum S1 material was encountered below the topsoil and gravel and extended to depths ranging from 8.5 to boring

termination at 15 feet below existing grade. The S1 material exhibited N-values typically ranging from 6 to 20 blows per foot (bpf).

**Stratum S2:** Stratum S2 soils were encountered at boring location B-1 only and consisted of coarse-grained soils that were visually classified as Clayey SAND (SC). The Stratum S2 material was encountered below the S1 soils at boring B-1 and extended to boring termination at 15 feet below existing grade. The S2 material exhibited an N-value of 18 bpf.

**Stratum S3:** Stratum S3 was encountered at boring location B-2 only and consisted of Partially Weathered Rock (PWR). PWR is a transitional material between soil and rock, with very hard to dense relative densities. The Stratum S3 material was encountered below the stratum S1 soils at boring B-2 and extended to boring termination at 15 feet below grade. The S3 material exhibited N-values of 100+ bpf.

#### **5.4 Subsurface Water**

Subsurface water was not encountered at our field exploration locations. Note that groundwater levels may fluctuate due to rainfall, season, temperature and other factors that are different from those prevailing at the time of our subsurface exploration. If dewatering becomes an issue during construction the contractor should determine and employ appropriate dewatering methods.

### **6. LABORATORY TEST RESULTS**

Bulk samples, obtained during our field explorations, were tested in accordance with applicable American Society for Testing and Materials (ASTM) methods for Classification (ASTM 2487), Percent passing No. 200 sieve (ASTM D1140), Natural Moisture Content (ASTM D2216), Atterberg Limits (ASTM D4318), standard Proctor (ASTM D698), and California Bearing Ratio (ASTM D1883).

#### **6.1 Index Testing**

The following table summarizes the results of the laboratory testing, conducted by Draper Aden Associates' U.S. Corps of Engineers Qualified Materials Testing Laboratory, performed to aid in

our design recommendations. Detailed laboratory results are contained within Section III of the Appendices.

**TABLE 1: Summary of Laboratory Results**

Sample ID	Natural Moisture Content	Optimum Moisture Content	% Passing the No. 200 Sieve	CBR Value	Atterberg Limits		USCS Classification
					L.L.	P.I.	
B-1	23.5%	17.4%	74.6%	3.3	36	13	Lean CLAY w/ Sand(CL)
B-2	24.3%	19.1%	82.4%	2.4	46	24	Lean CLAY w/ Sand(CL)
B-3	38.3%	20.9%	98.5%	3.5	58	36	Fat CLAY (CH)

## 7. DESIGN RECOMMENDATIONS

### 7.1 General

Our recommendations and geotechnical evaluations are based on observations made during our subsurface explorations, results of the laboratory test program, our understanding of the proposed construction, and experience with similar projects. The following conclusions and recommendations are made subject to the limitations set forth in Section 9.0.

### 7.2 Pavement Recommendations

DAA evaluated the following asphalt section using the “Pavement Design Guide for ... Secondary Roads, 2009” published by VDOT Materials Division. We offer the following pavement sections based on the design CBR value of 2.0 and an estimated average daily traffic value of 150 vehicles per day.

**TABLE 2: Pavement Section for Parking Stalls and Drive Lanes**

Pavement Course	Thickness & Material Notation
Surface	2.0 inches VDOT SM-9.5A
Base	8.0 inches VDOT 21B

## **8. CONSTRUCTION CONSIDERATIONS**

### **8.1 Site Preparation**

Based on the results of our laboratory testing, the existing subgrade should be generally suitable for earthwork activity during periods of low precipitation. The existing subgrade soils, which are susceptible to moisture changes, are subject to loss of strength during wet weather and may become unsuitable for construction equipment. The construction area should be continually drained, and activities should be limited during periods of greater precipitation.

Prior to construction operations, all topsoil, roots, or other deleterious non-soil material should be stripped within the footprint of and five feet beyond the proposed paved areas. Approximately 6 inches of topsoil was encountered during our field explorations. The stripped topsoil may be stockpiled for later use in landscaping and non-load bearing areas. Approximately 8 inches of gravel was encountered within existing gravel drives on-site. In our opinion, the existing gravel layer may remain in place if it can successfully pass proofroll testing.

Proof rolling, observed and evaluated by a representative of the geotechnical engineer, should be performed on subgrade areas intended for support of new fill material and pavements. Soils designated as unsatisfactory following strength verification operations should be removed and replaced as recommended by the Geotechnical Engineer or their designated representative. Proof rolls should be performed using a 20- to 30-ton loaded truck or pneumatic-tired vehicle of similar weight. Proof rolling should not be performed while the site is wet, frozen, or severely dry. If conditions warrant, the extent of undercutting and/or in-place stabilization required can be best determined by the geotechnical engineer at the time of construction.

### **8.2 Reuse of Onsite Soils**

Based on the results of our borings and laboratory testing the upper on-site material, classified as Fat CLAY (CH) and Lean CLAY (CL), is not suitable for use as fill beneath proposed paved sections. All fill materials, obtained from an on- or off-site source should meet the requirements listed in section 8.3.

### 8.3 Fill Material

Fill material should meet the requirements indicated in the table below. When practical and at the discretion of the geotechnical engineer, soils that do not precisely meet requirements may be used.

**TABLE 4: Fill Material Requirements**

Fill Material Use	Recommended USCS Material Classifications	Index Property Limitations
Under Paved Sections	GW, GP, GC, GM, SW, SP, SC, SM, CL, & ML	Less than 65% passing the No. 200 sieve & L.L. ≤ 50
General Site Grading	GW, GP, GC, GM, SW, SP, SC, SM, CL, ML, CH, & MH	None

The maximum particle size of all fill material should be less than three inches largest dimension, except in the uppermost lift of fill, where the maximum particle size should be less than two inches largest dimension. Maximum sized particles should not be in excess of 20 percent of the volume of the fill material, and such particles shall be well distributed throughout the mass. Fill material shall not contain frozen masses of soil and shall not be placed on over-saturated, frozen, or frost-covered subgrade. Fill material should be placed in such a way to provide positive drainage from the fill area. Fill materials should be free of organics and debris.

Soil fill below pavements should be placed in a maximum of an 8 inch-thick loose lift and compacted to a minimum of 98 percent of its respective maximum dry density and within ±2 percentage points of its optimum moisture content as determined by a standard Proctor test (ASTM D 698).

### 8.4 Field Observation

We recommend that the earthwork and construction be observed by our Geotechnical Engineer or our qualified representative to observe that the required minimum soil requirements are met. For greater continuity and proper implementation of the recommendations contained herein, we recommend Draper Aden Associates be retained for construction observation services during this project.

## 9. LIMITATIONS

This report has been prepared for the exclusive use of The County of Bland, Virginia and their designated representatives for specific application to the Round Mountain Trail Head Parking Area at the Wolf Creek Indian Village in Bastian, Virginia. Our conclusions and recommendations have been rendered in a manner consistent with the level and skill ordinarily exercised by members of the geotechnical engineering profession in the Commonwealth of Virginia at the time of our study. We make no other warranty, express or implied.

Our conclusions and recommendations are based on design information furnished to us and our experience. They do not necessarily reflect variations in the subsurface conditions, which have potential to exist intermediate of the borings and in unexplored areas of the site due to inherent variability of the subsurface conditions in this geologic region, as well as past land use. Should such variations become apparent during construction, it will be necessary for us to re-evaluate our conclusions and recommendations based upon on-site observations of the conditions. We cannot be responsible for the accuracy of the exploration data or design plans presented in the building design drawings.

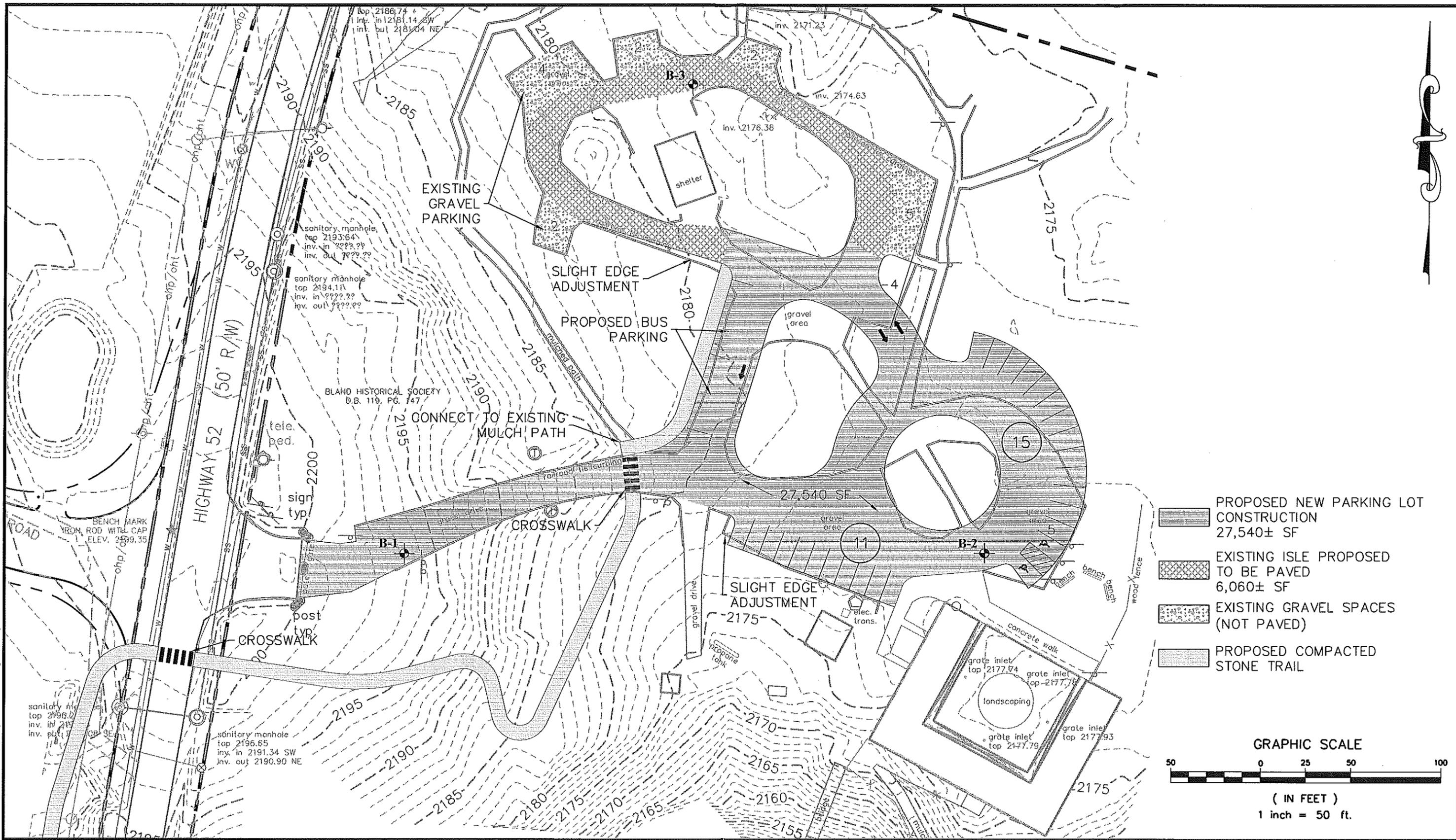
If changes are made in the location or nature of the structure, then the recommendations presented in this report must not be considered valid unless the changes are reviewed by Draper Aden Associates, and our recommendations are modified or verified in writing. We request the opportunity to review the foundation plan, grading plan and applicable portions of the project specifications when the design is finalized. This review will allow us to check whether these documents are consistent with the intent of our recommendations. Draper Aden Associates is not responsible for the conclusions, opinions or recommendations of others based on the data in this report.

**APPENDIX**  
**Section I**

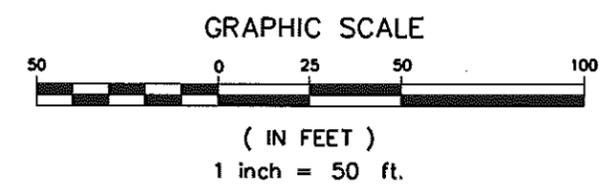
**Boring Location Plan**

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P:\B081600\B081600R\B081600R-01\CAD\Bland County Boring Location Plan.dwg February 27, 2012 5:02:47 PM



-  PROPOSED NEW PARKING LOT CONSTRUCTION  
27,540± SF
-  EXISTING ISLE PROPOSED TO BE PAVED  
6,060± SF
-  EXISTING GRAVEL SPACES (NOT PAVED)
-  PROPOSED COMPACTED STONE TRAIL



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Engineering • Surveying • Environmental Services  
2206 South Main Street  
Blacksburg, VA 24060  
540-552-0444 Fax: 540-552-0291  
Richmond, VA  
Charlottesville, VA  
Hampton Roads, VA

DESIGNED AVW/CBK  
DRAWN AVW  
CHECKED CBK  
DATE 2/27/2012

BORING LOCATION PLAN  
ROUND MT. TRAIL HEAD AT WOLF CREEK INDIAN VILLAGE  
BLAND COUNTY, VIRGINIA

SCALE: 1" = 50'  
PROJECT: B08160-01

FIGURE  
1

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**APPENDIX**  
**Section II**

**Key to Boring Logs**  
**Boring Logs B-1 through B-3**

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# Draper Aden Associates

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## Key to Boring Log

	Well Graded Sand (SW)		Silt (ML)		Lean Clay (CL)
	Poorly Graded Sand (SP)		Silt with Sand (ML)		Lean Clay with Sand (CL)
	Silty Sand (SM)		Sandy Silt (ML)		Sandy Lean Clay (CL)
	Clayey Sand (SC)		Elastic Silt (MH)		Fat Clay (CH)
	Silty-Clayey SAND (SC-SM)		Elastic Silt with Sand (MH)		Fat Clay with Sand (CH)
	Topsoil		Sandy Elastic Silt (MH)		Sandy Fat Clay (CH)
			Silty-Clay (ML-CL)		Weathered Rock

### Soil Description Format:

PRIMARY CONSTITUENT, color, major modifier, minor modifiers, moisture content,.

### Soil Strength

#### Relative Density

Coarse Grained Soil, SAND

N-Value	Relative Density
0-4	Very Loose
5-10	Loose
11-30	Medium Dense
31-50	Dense
>50	Very Dense

#### Consistency

Fine Grained Soil, SILT or CLAY

N-Value	Relative Density
0-1	Very Soft
2-4	Soft
5-8	Medium Stiff
9-15	Stiff
16-29	Very Stiff
>29	Hard

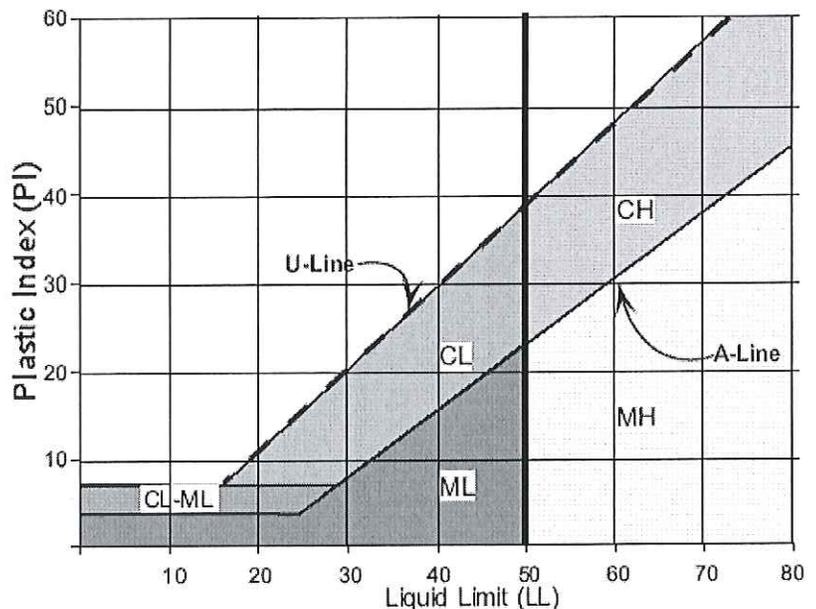
#### Moisture Content

Dry	No apparent moisture, dusty.
Damp	Apparent moisture, below the Plastic Limit
Moist	Significant moisture, at or above the Plastic Limit (can be rolled into a 1/8" thread).
Wet	Appears saturated, free water in voids and pores.

#### Further Descriptors

Mottled	Irregularly marked with patches of different colors, variegated.
Micaceous	Contains the mineral mica.
Relict Rock Structure	Distinct pattern of mineralization from parent rock.

### Cassagrande's Plasticity Chart





# Draper Aden Associates

Engineering • Surveying • Environmental Services

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 Richmond, Virginia 23228  
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 Fax: (804) 264-8773

# Boring Log

B - 1

Page 1 of 1

**Client:** The County of Bland, Virginia  
 P.O. Box 510, Bland, Virginia

**Project:** Round Mtn. Trail Head

**Date:** 1/27/12

**DAA No.** B08160-01G

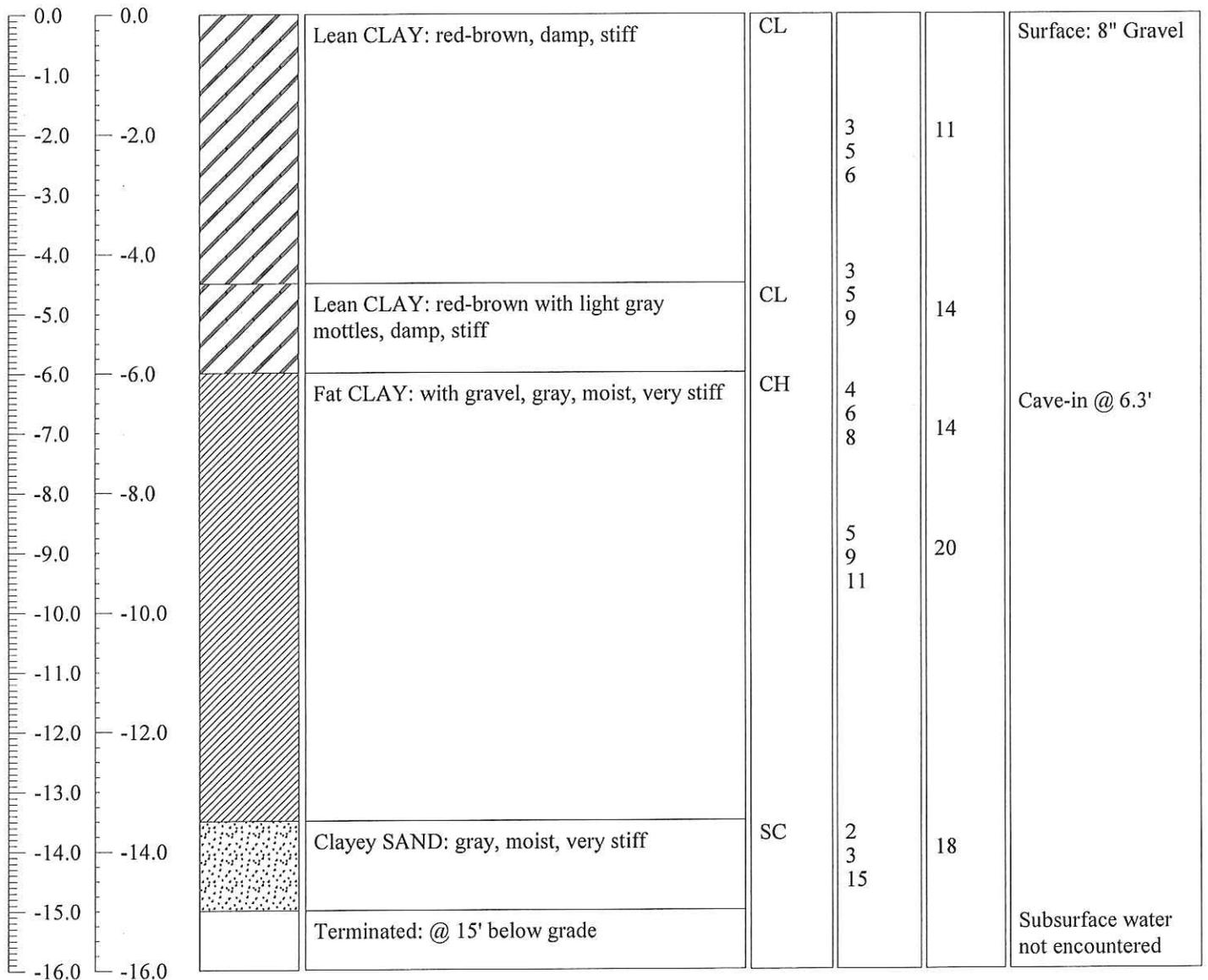
**Logged By:** JLE

**Drill Type:** 3 1/4" HSA w/ SPT

**Drilled By:** Blue Ridge Drilling

**Location:** See Location Plan

Depth ft.	Elevation ft.	Legend	Description	USCS Symbol	SPT Blow Count	N-Value	Notes
-----------	---------------	--------	-------------	-------------	----------------	---------	-------





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Engineering • Surveying • Environmental Services

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 Fax: (804) 264-8773

# Boring Log

B - 2

Page 1 of 1

**Client:** The County of Bland, Virginia  
 P.O. Box 510, Bland, Virginia

**Project:** Round Mtn. Trail Head

**Date:** 1/27/12

**DAA No.** B08160-01G

**Logged By:** JLE

**Drill Type:** 3 1/4" HSA w/ SPT

**Drilled By:** Blue Ridge Drilling

**Location:** See Location Plan

Depth ft.	Elevation ft.	Legend	Description	USCS Symbol	SPT Blow Count	N-Value	Notes
-----------	---------------	--------	-------------	-------------	----------------	---------	-------

0.0	0.0		SILT: yellow-brown, damp, medium stiff	ML			Surface: 6" Topsoil
-1.0	-2.0				2	7	
-2.0	-3.0		Lean CLAY: mottled red-brown and light gray, damp, stiff	CL	3		
-3.0	-4.0				4		
-4.0	-5.0		Lean CLAY: red-brown, damp, stiff	CL	3		
-5.0	-6.0				4	10	
-6.0	-7.0		Fat CLAY: with gravel, gray, moist, very stiff	CH	6		
-7.0	-8.0				5		
-8.0	-9.0				7	17	Cave-in @ 7.3'
-9.0	-10.0		Weathered Rock: gray, damp, very dense		11	SR	
-10.0	-11.0				21		
-11.0	-12.0				50/5		
-12.0	-13.0						
-13.0	-14.0				50/5	SR	
-14.0	-15.0				-		
-15.0	-16.0				-		
			Terminated: @ 15' below grade				Subsurface water not encountered



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 Fax: (804) 264-8773

# Boring Log

B - 3

Page 1 of 1

**Client:** The County of Bland, Virginia  
 P.O. Box 510, Bland, Virginia

**Project:** Round Mtn. Trail Head

**Date:** 1/27/12

**DAA No.** B08160-01G

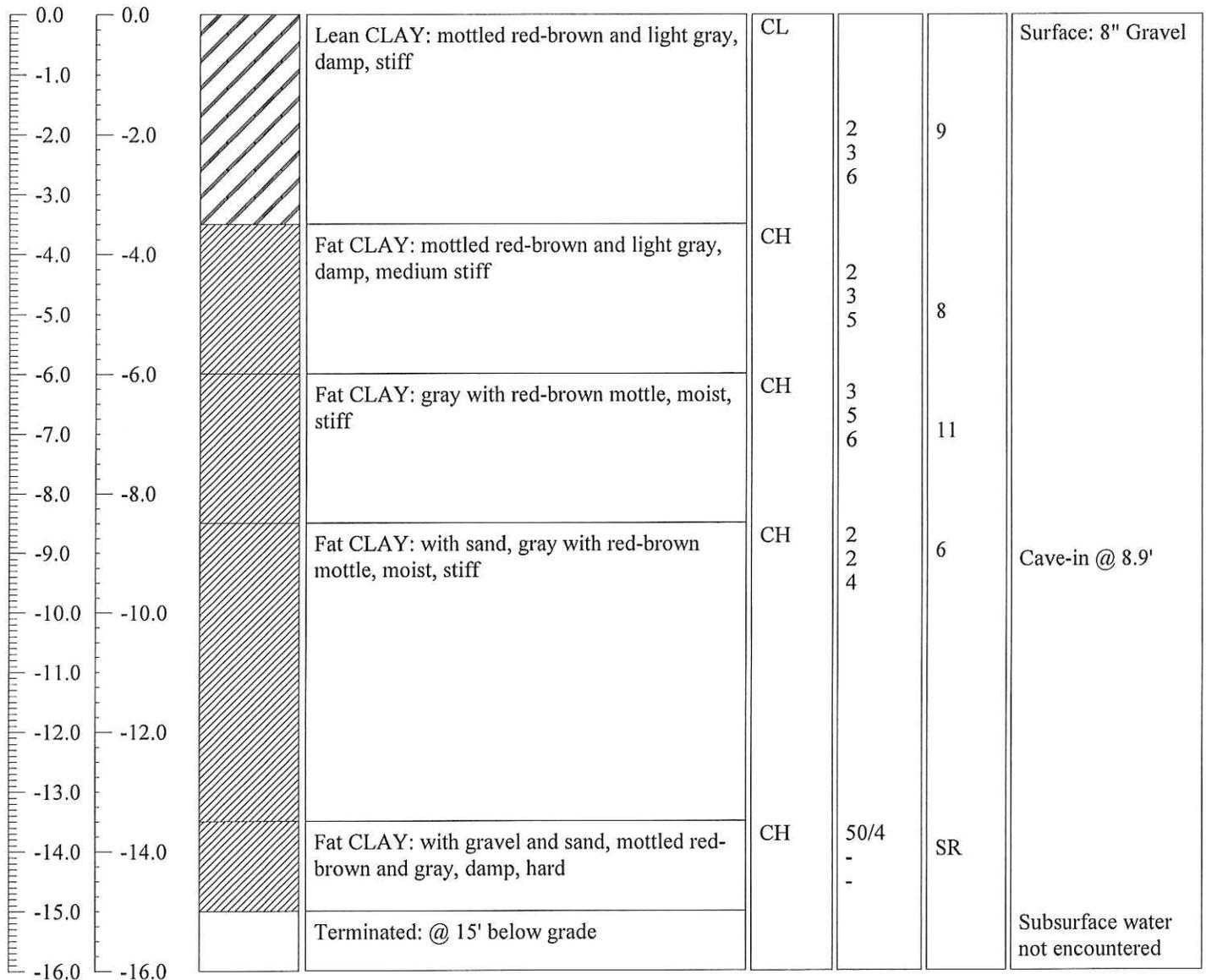
**Logged By:** JLE

**Drill Type:** 3 1/4" HSA w/ SPT

**Drilled By:** Blue Ridge Drilling

**Location:** See Location Plan

Depth ft.	Elevation ft.	Legend	Description	USCS Symbol	SPT Blow Count	N-Value	Notes
-----------	---------------	--------	-------------	-------------	----------------	---------	-------



**APPENDIX  
Section III**

**Soil Laboratory Test Results**

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**Lab Data Summary**

**Bland County - Round Mtn Trailhead - Geotechnical**

**DAA # B08160R-01G**

Prepared by: ADC



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**Sample Data**

Sample ID	B-1	B-2	B-3
Sample Depth	0'-15'	0'-15'	0'-15'
Sample Type	Bulk	Bulk	Bulk

**Classification Data**

Natural Moisture Content, %	23.5%	24.3%	38.3%
Liquid Limit	36	46	58
Plastic Limit	23	22	22
Plastic Index	13	24	36
Passing No. 200 Sieve, %	74.6%	82.4%	98.5%
USCS Group Symbol	CL	CL	CH

**Standard Proctor Data**

Maximum Dry Density, pcf	107.1	106.2	101.1
Optimum Moisture Content, %	17.4%	19.1%	20.9%

**CBR Data**

Compacted Dry Density, pcf	105.3	104.9	100.1
Compacted Moisture Content, %	20.2%	21.0%	22.5%
Deviation from Optimum, %	2.8%	1.9%	1.6%
Compaction, %	98%	99%	99%
Swell, %	1.9%	0.2%	0.5%
<b>CBR Value @ 0.1"</b>	3.3	2.4	3.5
<b>CBR Value @ 0.2"</b>	3.3	2.6	3.5

# Soil Classification Calculations

Bland County - Round Mtn Trailhead - Geotechnical

DAA # B08160R-01G

Prepared By: ADC



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Sample ID B-1

Sample Depth 0'-15'

Visual Sample Description Brown Lean CLAY with Sand

## Natural Moisture Content: ASTM D 2216

Pan ID	29
Pan Wt	192.00 grams
Pan + Soil (wet)	315.38 grams
Pan + Soil (dry)	291.93 grams
Natural Moisture Content	23.5%

## Coarse or Fine Grained: ASTM D 422

Pan + Soil retained on No. 200 sieve  
(dry) 217.38 grams

Percent Passing No. 200 Sieve 74.6%

Pan + Soil retained on No. 4 sieve  
(dry) 192.54 grams

Percent Passing No. 4 Sieve 99.5%

Soil Classifies as *Fine-Grained Soil*

## Atterberg Limits: ASTM D 4318

### Liquid Limit

No of Blows	17	29	35
Pan ID	10	12	70
Pan Wt	11.37	11.34	11.06
Pan + Soil (wet)	29.14	32.23	28.99
Pan + Soil (dry)	24.31	26.82	24.41
Moisture Content	37%	35%	34%
Liquid Limit	36	36	36
Liquid Limit	36		

### Plastic Limit

Pan ID	33	48
Pan Weight	2.44	2.40
Pan + Soil (wet)	12.70	13.39
Pan + Soil (dry)	10.75	11.32
Moisture Content	23%	23%
Plastic Limit	23	
Plastic Index	13	

## JSCS Classification: ASTM D 2487

Group Symbol

CL

Group Name

Lean CLAY with Sand

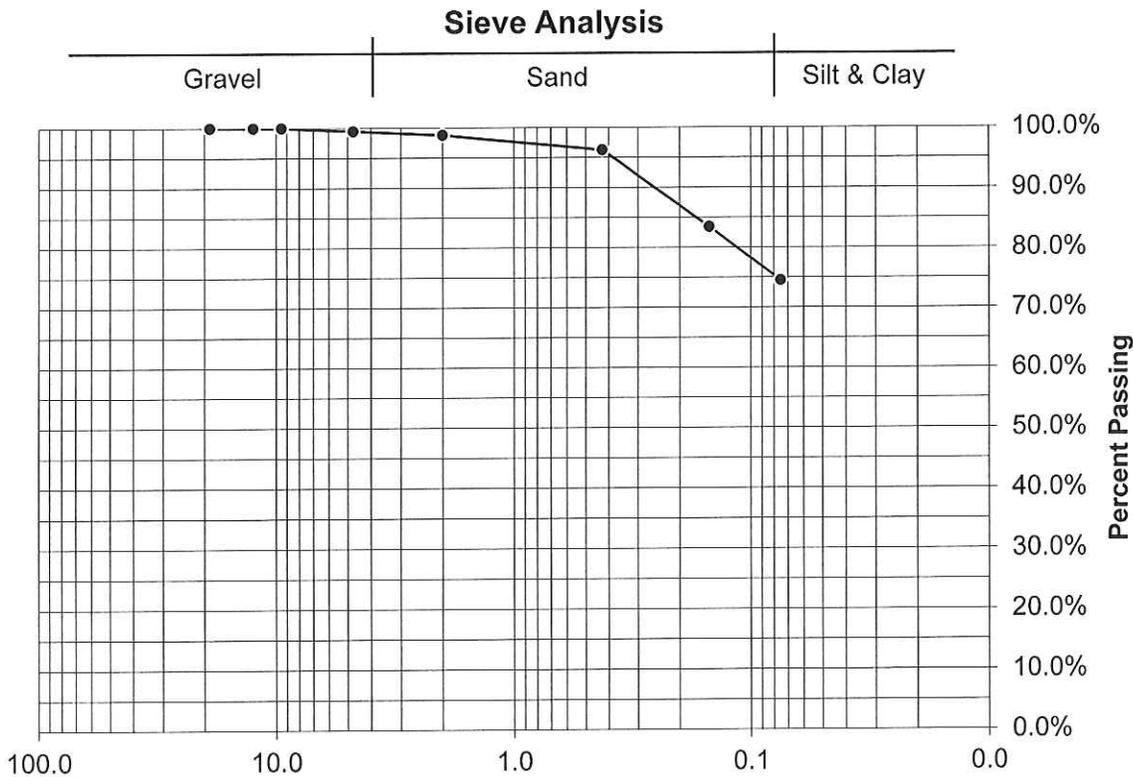
**Grain Size Distribution Calculations**  
**Bland County - Round Mtn Trailhead - Geotechnical**  
**DAA # B08160R-01G**  
**Prepared By: ADC**



Sample ID B-1  
 Sample Depth 0'-15'

**Mechanical Sieve Analysis: ASTM D 422**

Sieve Size	Weight Retained	Percent Retained	Sieve Size, mm	Percent Passing
3/4"	0.00	0.0%	19.0	100.0%
1/2"	0.00	0.0%	12.5	100.0%
3/8"	0.00	0.0%	9.5	100.0%
No. 4	0.54	0.5%	4.75	99.5%
No. 10	0.68	0.7%	2.0	98.8%
No. 40	2.52	2.5%	0.425	96.3%
No. 100	12.81	12.8%	0.15	83.4%
No. 200	8.92	8.9%	0.075	74.5%
Pan	0.27	0.3%		
<b>Total</b>	<b>25.74</b>	<b>25.5%</b>		



**Proctor Test Report**  
**Bland County - Round Mtn Trailhead - Geotechnical**  
**DAA # B08160R-01G**  
**Prepared by ADC**



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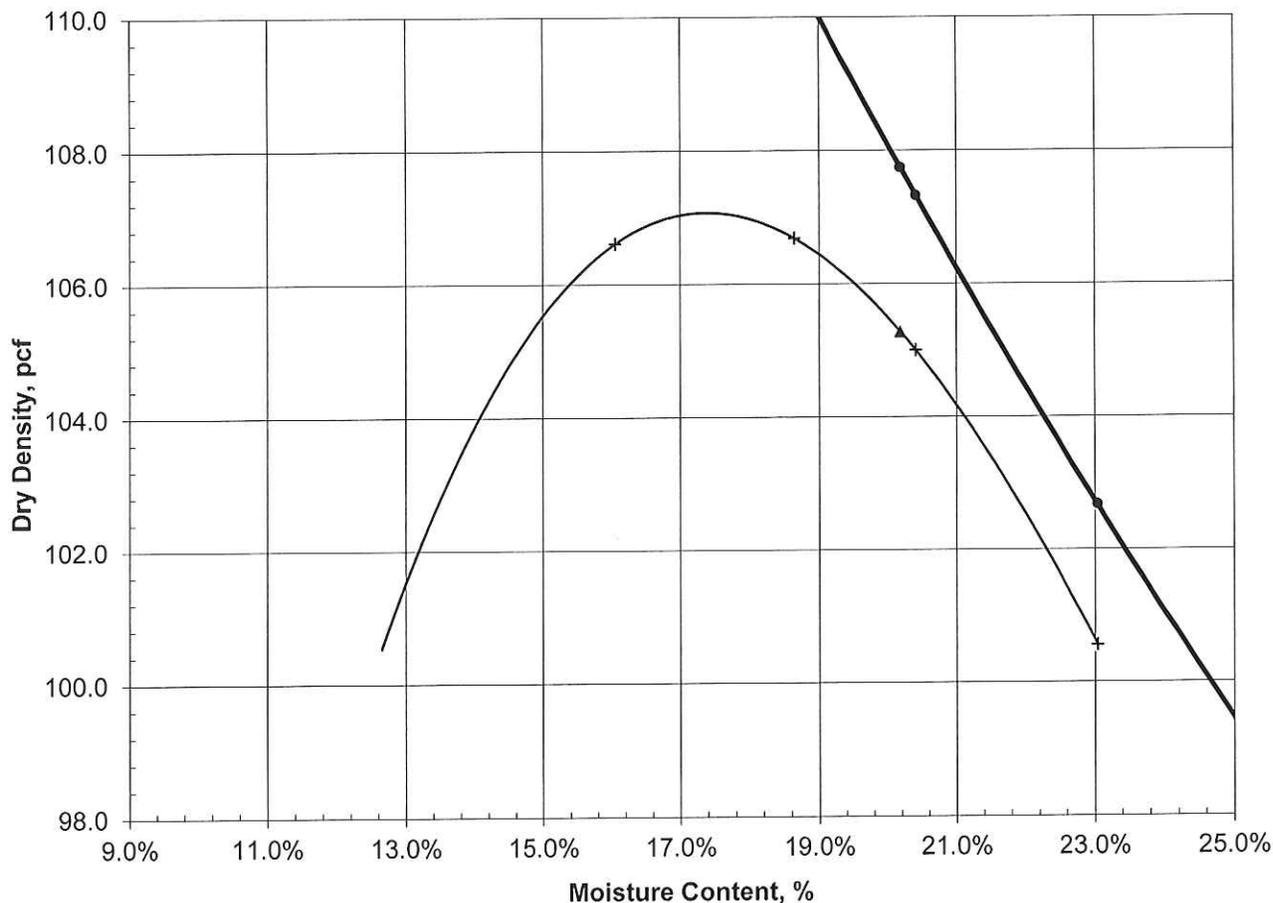
**Soil and Test Method Data**

Sample ID B-1  
 Sample Depth 0'-15'  
 Sample Classification Lean CLAY with Sand  
 USCS Group Symbol CL  
 Test Method ASTM D698, Method B, with mechanical hammer  
 Sample Preparation Air dried and sieved through a 3/8" sieve.  
 Mold Size, in 4.0

Test Data	#1	#2	#3	#4	#5
Moisture Content	16.1%	18.6%	20.4%	23.0%	
Dry Density, pcf	106.6	106.7	105.0	100.6	

**Moisture-Density Curve**

Maximum Dry Density, pcf = 107.1, Optimum Moisture, % = 17.4



• Zero Air Voids + Proctor Points ▲ CBR Points

**CBR Test Report**  
**Bland County - Round Mtn Trailhead - Geotechnical**  
**DAA # B08160R-01G**  
**Prepared by ADC**



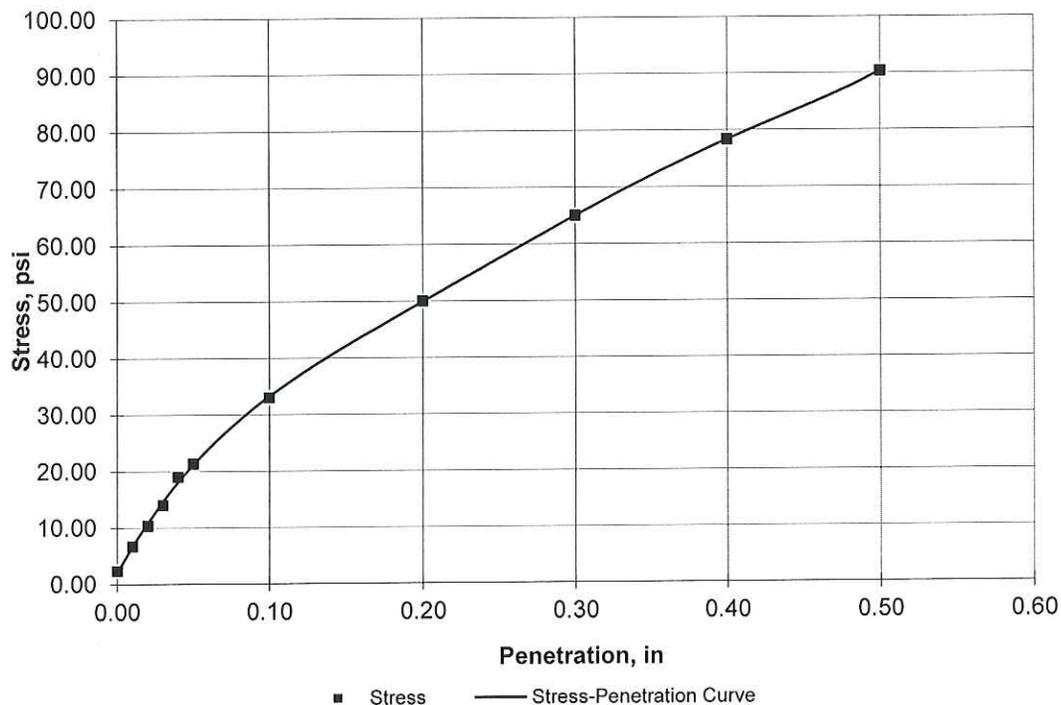
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**Soil and Test Method Data**

Sample ID B-1  
 Sample Depth 0'-15'  
 Sample Classification Lean CLAY with Sand  
 USCS Group Symbol CL  
 Test Method ASTM D1883, compacted with mechanical hammer  
 Sample Preparation Air dried, sieved through a 3/8" sieve and moisture conditioned.  
 Soak >96 hours

**Test Data**

Compacted Moisture Content	20.2%
Compacted Dry Density	105.3
Percent Compaction	98%
Percent Swell	1.9%
<b>CBR @ 0.1"</b>	<b>3.3</b>
<b>CBR @ 0.2"</b>	<b>3.3</b>



# Soil Classification Calculations

Bland County - Round Mtn Trailhead - Geotechnical

DAA # B08160R-01G

Prepared By: ADC



Draper Aden Associates

Blacksburg • Richmond, Virginia  
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Sample ID B-2

Sample Depth 0'-15'

Visual Sample Description Brown Lean CLAY with Sand

## Natural Moisture Content: ASTM D 2216

Pan ID	34
Pan Wt	192.85 grams
Pan + Soil (wet)	391.28 grams
Pan + Soil (dry)	352.47 grams
Natural Moisture Content	24.3%

## Coarse or Fine Grained: ASTM D 422

Pan + Soil retained on No. 200 sieve  
(dry) 220.92 grams

Percent Passing No. 200 Sieve 82.4%

Pan + Soil retained on No. 4 sieve  
(dry) 194.13 grams

Percent Passing No. 4 Sieve  
99.2%

Soil Classifies as *Fine-Grained Soil*

## Atterberg Limits: ASTM D 4318

### Liquid Limit

No of Blows	18	24	33
Pan ID	6	12	65
Pan Wt	11.30	11.33	11.08
Pan + Soil (wet)	26.39	25.99	25.37
Pan + Soil (dry)	21.51	21.37	21.06
Moisture Content	48%	46%	43%
Liquid Limit	46	46	45
Liquid Limit	46		

### Plastic Limit

Pan ID	35	359
Pan Weight	1.94	1.93
Pan + Soil (wet)	11.26	11.35
Pan + Soil (dry)	9.56	9.61
Moisture Content	22%	23%
Plastic Limit	22	
Plastic Index	24	

## JSCS Classification: ASTM D 2487

Group Symbol

CL

Group Name

Lean CLAY with Sand

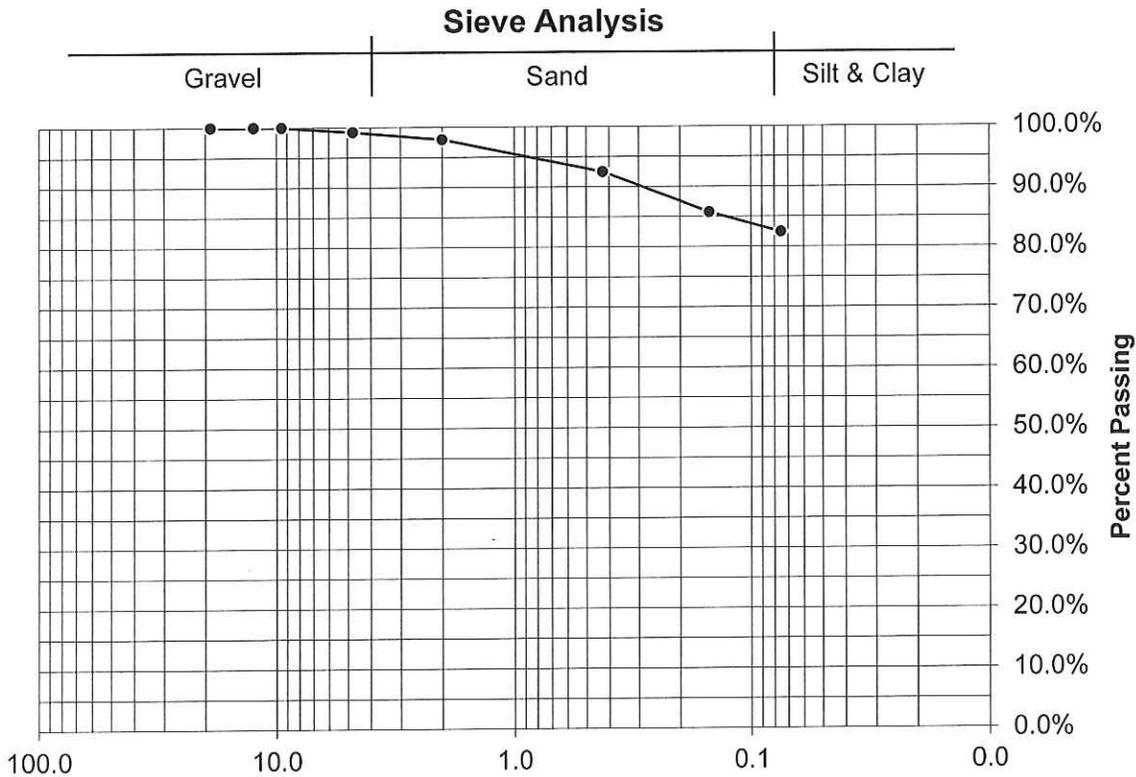
**Grain Size Distribution Calculations**  
**Bland County - Round Mtn Trailhead - Geotechnical**  
**DAA # B08160R-01G**  
**Prepared By: ADC**



Sample ID B-2  
 Sample Depth 0'-15'

**Mechanical Sieve Analysis: ASTM D 422**

Sieve Size	Weight Retained	Percent Retained	Sieve Size, mm	Percent Passing
3/4"	0.00	0.0%	19.0	100.0%
1/2"	0.00	0.0%	12.5	100.0%
3/8"	0.00	0.0%	9.5	100.0%
No. 4	1.28	0.8%	4.75	99.2%
No. 10	1.98	1.2%	2.0	98.0%
No. 40	8.74	5.5%	0.425	92.5%
No. 100	10.78	6.8%	0.15	85.7%
No. 200	5.25	3.3%	0.075	82.4%
Pan	0.10	0.1%		
<b>Total</b>	<b>28.13</b>	<b>17.6%</b>		



**Proctor Test Report**  
**Bland County - Round Mtn Trailhead - Geotechnical**  
**DAA # B08160R-01G**  
Prepared by ADC



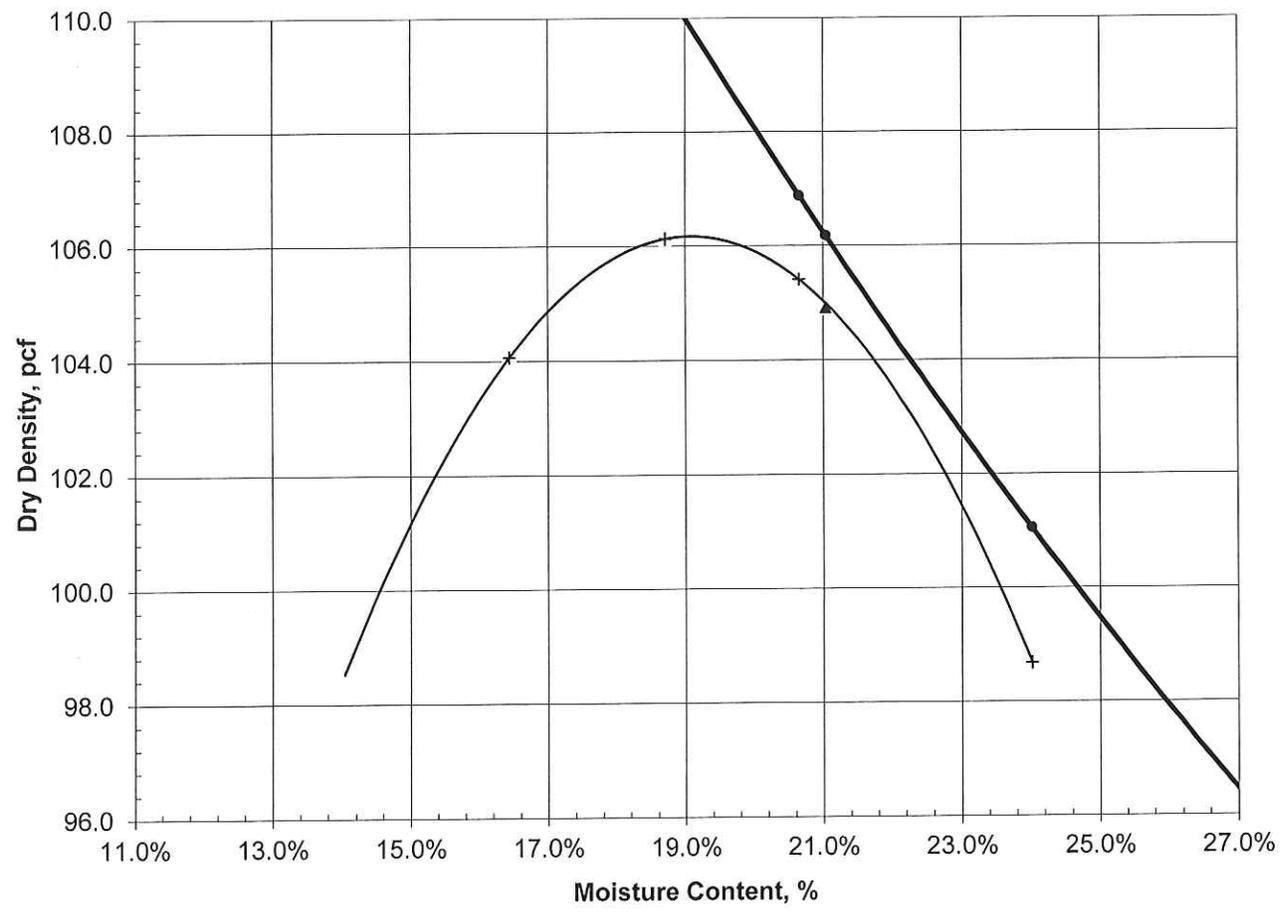
**Soil and Test Method Data**

Sample ID B-2  
Sample Depth 0'-15'  
Sample Classification Lean CLAY with Sand  
USCS Group Symbol CL  
Test Method ASTM D698, Method B, with mechanical hammer  
Sample Preparation Air dried and sieved through a 3/8" sieve.  
Mold Size, in 4.0

Test Data	#1	#2	#3	#4	#5
Moisture Content	16.4%	18.7%	20.6%	24.0%	
Dry Density, pcf	104.1	106.1	105.4	98.7	

**Moisture-Density Curve**

Maximum Dry Density, pcf = 106.2, Optimum Moisture, % = 19.1



• Zero Air Voids + Proctor Points ▲ CBR Points

**CBR Test Report**  
**Bland County - Round Mtn Trailhead - Geotechnical**  
**DAA # B08160R-01G**  
**Prepared by ADC**

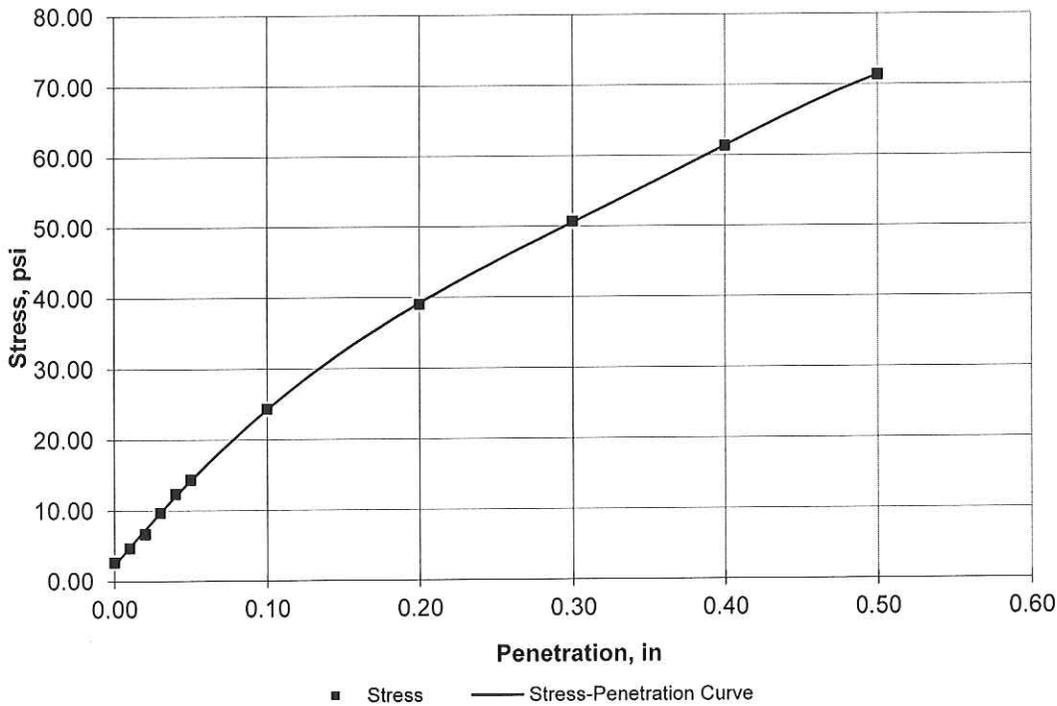


**Soil and Test Method Data**

Sample ID B-2  
 Sample Depth 0'-15'  
 Sample Classification Lean CLAY with Sand  
 USCS Group Symbol CL  
 Test Method ASTM D1883, compacted with mechanical hammer  
 Sample Preparation Air dried, sieved through a 3/8" sieve and moisture conditioned.  
 Soak >96 hours

**Test Data**

Compacted Moisture Content	21.0%
Compacted Dry Density	104.9
Percent Compaction	99%
Percent Swell	0.2%
<b>CBR @ 0.1"</b>	<b>2.4</b>
<b>CBR @ 0.2"</b>	<b>2.6</b>



# Soil Classification Calculations

Bland County - Round Mtn Trailhead - Geotechnical

DAA # B08160R-01G

Prepared By: ADC



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Sample ID B-3

Sample Depth 0'-15'

Visual Sample Description Light Brown Fat CLAY

## Natural Moisture Content: ASTM D 2216

Pan ID	23
Pan Wt	194.11 grams
Pan + Soil (wet)	396.03 grams
Pan + Soil (dry)	340.13 grams
Natural Moisture Content	38.3%

## Coarse or Fine Grained: ASTM D 422

Pan + Soil retained on No. 200 sieve (dry)	196.23 grams
Percent Passing No. 200 Sieve	98.5%
Pan + Soil retained on No. 4 sieve (dry)	194.11 grams
Percent Passing No. 4 Sieve	100.0%

Soil Classifies as *Fine-Grained Soil*

## Atterberg Limits: ASTM D 4318

### Liquid Limit

No of Blows	15	23	32
Pan ID	401	423	416
Pan Wt	1.56	1.59	1.58
Pan + Soil (wet)	16.98	16.63	13.91
Pan + Soil (dry)	10.97	11.09	9.50
Moisture Content	64%	58%	56%
Liquid Limit	60	58	57
Liquid Limit	58		

### Plastic Limit

Pan ID	231	209
Pan Weight	1.60	1.53
Pan + Soil (wet)	11.68	12.48
Pan + Soil (dry)	9.86	10.48
Moisture Content	22%	22%
Plastic Limit	22	
Plastic Index	36	

## JSCS Classification: ASTM D 2487

Group Symbol

CH

Group Name

Fat CLAY

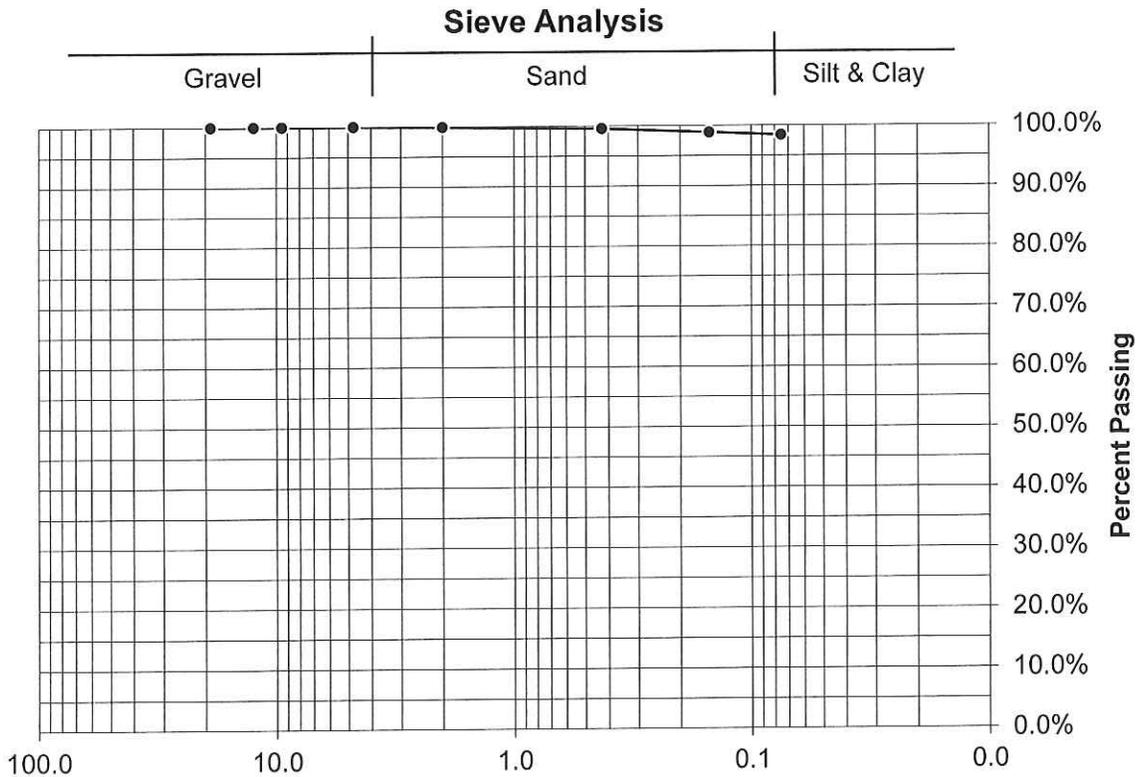
**Grain Size Distribution Calculations**  
**Bland County - Round Mtn Trailhead - Geotechnical**  
**DAA # B08160R-01G**  
**Prepared By: ADC**



Sample ID B-3  
 Sample Depth 0'-15'

**Mechanical Sieve Analysis: ASTM D 422**

Sieve Size	Weight Retained	Percent Retained	Sieve Size, mm	Percent Passing
3/4"	0.00	0.0%	19.0	100.0%
1/2"	0.00	0.0%	12.5	100.0%
3/8"	0.00	0.0%	9.5	100.0%
No. 4	0.00	0.0%	4.75	100.0%
No. 10	0.16	0.1%	2.0	99.9%
No. 40	0.50	0.3%	0.425	99.5%
No. 100	0.99	0.7%	0.15	98.9%
No. 200	0.68	0.5%	0.075	98.4%
Pan	0.10	0.1%		
<b>Total</b>	<b>2.43</b>	<b>1.6%</b>		



**Proctor Test Report**  
**Bland County - Round Mtn Trailhead - Geotechnical**  
**DAA # B08160R-01G**  
**Prepared by ADC**



**Draper Aden Associates**  
 Blacksburg • Richmond, Virginia  
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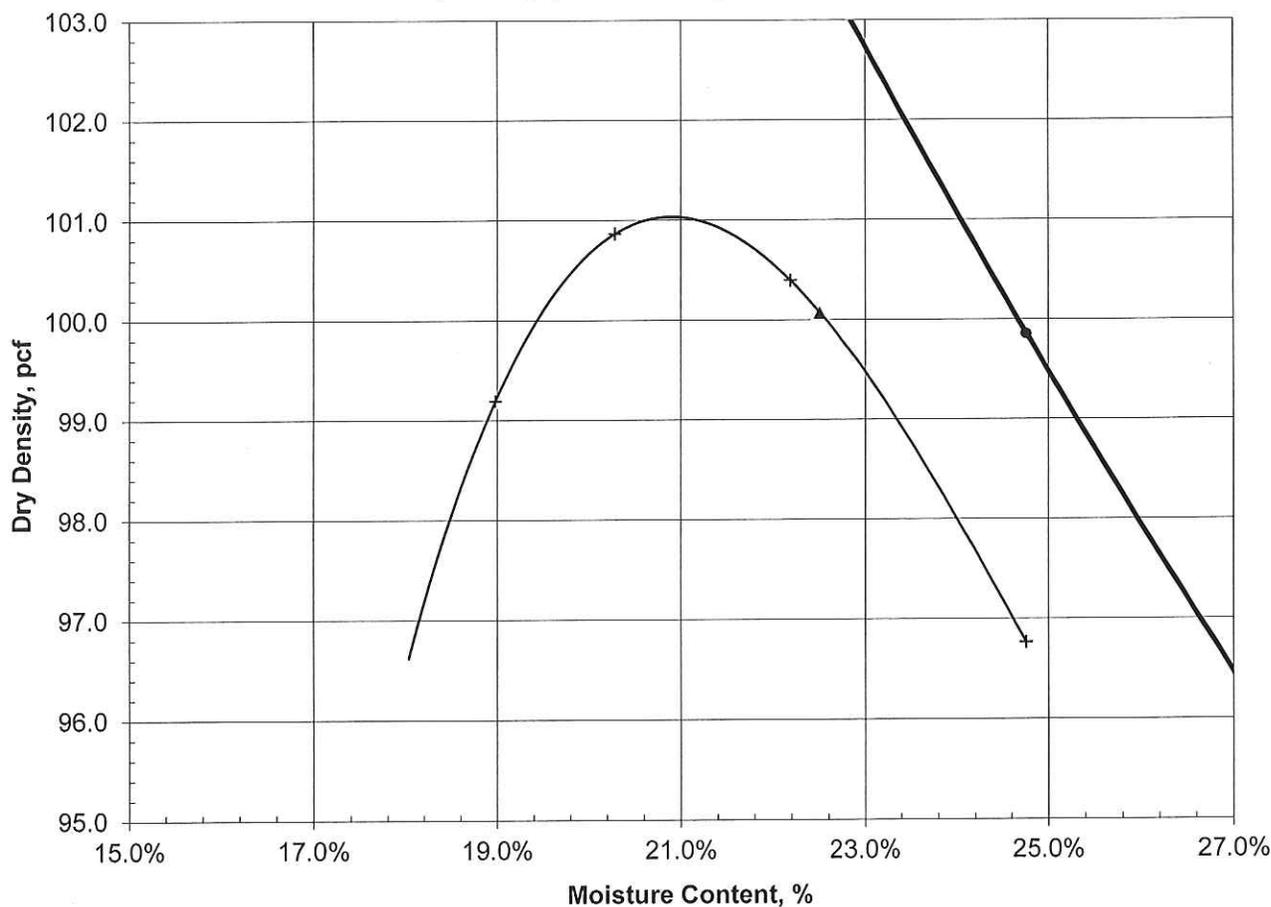
**Soil and Test Method Data**

Sample ID B-3  
 Sample Depth 0'-15'  
 Sample Classification Fat CLAY  
 USCS Group Symbol CH  
 Test Method ASTM D698, Method B, with mechanical hammer  
 Sample Preparation Air dried and sieved through a 3/8" sieve.  
 Mold Size, in 4.0

Test Data	#1	#2	#3	#4	#5
Moisture Content	19.0%	20.3%	22.2%	24.8%	
Dry Density, pcf	99.2	100.9	100.4	96.8	

**Moisture-Density Curve**

Maximum Dry Density, pcf = 101.1, Optimum Moisture, % = 20.9



• Zero Air Voids + Proctor Points ▲ CBR Points

**CBR Test Report****Bland County - Round Mtn Trailhead - Geotechnical****DAA # B08160R-01G****Prepared by ADC****Draper Aden Associates**Blacksburg • Richmond, Virginia  
Engineering • Surveying • Environmental Services**Soil and Test Method Data**

Sample ID B-3

Sample Depth 0'-15'

Sample Classification Fat CLAY

USCS Group Symbol CH

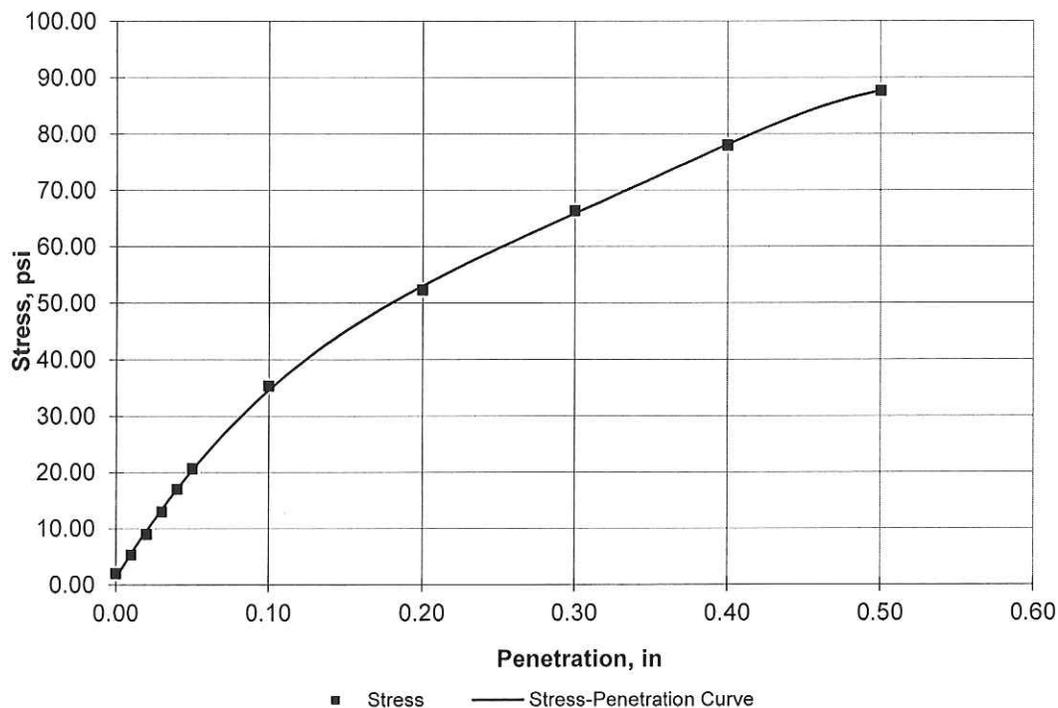
Test Method ASTM D1883, compacted with mechanical hammer

Sample Preparation Air dried, sieved through a 3/8" sieve and moisture conditioned.

Soak &gt;96 hours

**Test Data**

Compacted Moisture Content	22.5%
Compacted Dry Density	100.1
Percent Compaction	99%
Percent Swell	0.5%
<b>CBR @ 0.1"</b>	<b>3.5</b>
<b>CBR @ 0.2"</b>	<b>3.5</b>



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**APPENDIX**  
**Section IV**

**Geotechnical Test Methods**

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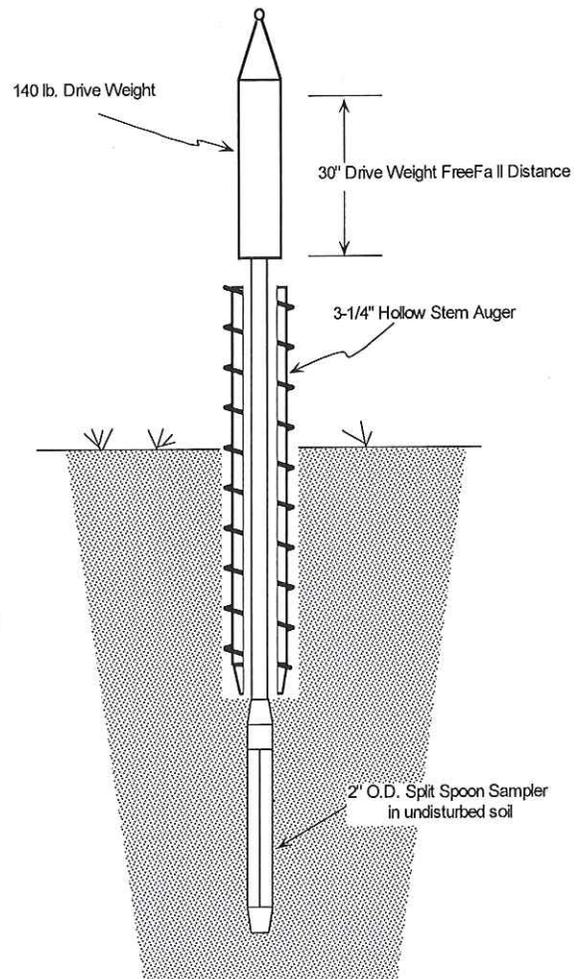
## Standard Penetration Test

Split Spoon Sampling is an in-situ technique of obtaining samples of both cohesive and cohesionless soils. The sample is taken by actually driving the split spoon sampler into the “undisturbed” soil at the bottom of the bore hole. The bore hole is advanced using a hollow stem auger.

The Split Spoon Sampler is made up of a split steel barrel with a ball check valve in the head for venting and a hardened steel shoe for driving. A spring sample retainer is used between the shoe and the barrel to retain any loose or flowing materials. After the sampler is driven, the head and the shoe are removed and the barrel opens into two halves exposing the entire sample.

The use of a 140 lb. drive weight falling freely 30" to drive the 2" O.D. (1-3/8" I.D.) split spoon sampler a distance of one foot is known as the Standard Penetration Test. Once the sampler is lowered to the bottom of the borehole, the sampler is driven continuously for 18". The number of blows required by the 140 lb. weight to drive the sampler is recorded. Separate counts are made for the second 6" and the third 6" with the first 6" considered to be seating the sampler. An N-Value is obtained by adding the second and third 6" intervals and recorded. The N-Value correlation is shown below:

### Standard Penetration Test Diagram



### Soil Strength

#### Relative Density

Coarse Grained Soil, SAND

N-Value	Relative Density
0-4	Very Loose
5-10	Loose
11-30	Medium Dense
31-50	Dense
>50	Very Dense

#### Consistency

Fine Grained Soil, SILT or CLAY

N-Value	Relative Density
0-1	Very Soft
2-4	Soft
5-8	Medium Stiff
9-15	Stiff
16-29	Very Stiff
>29	Hard

SPT performed in accordance with ASTM D1586, Standard Method for Penetration Test and Split-Barrel Sampling of Soils.



Naturally occurring soils nearly always contain water as part of their structure. The moisture content of a soil is assumed to be the amount of water within the pore space between the soil grains which is removable by oven drying at 110°C, expressed as a percentage of the mass of dry soil. By 'dry' is meant the result of oven drying at that temperature to constant mass, usually for a period of about 12-14 hours. In non-cohesive granular soils, this procedure removes all water present.

There are several ways in which water is held in cohesive soils, which contain clay minerals existing as plate-like particles of less than 2µm across. The shape and very small size of these particles, and their chemical composition, enable them to combine with or hold on to water by several complex means as follows:

- 1) Adsorbed water is held on the surface of the particle by powerful forces of electrical attraction and virtually in a solid state. This water cannot be removed by oven drying at 110°C, and may, therefore, be considered a part of the solid soil grain.
- 2) Water which is not so tightly held and can be removed by oven drying, but not by air drying.
- 3) Capillary water, held by surface tension, generally removable by air drying.
- 4) Gravitational water, which can move within the voids between soil grains, is removable by drainage.
- 5) Chemically combined water, in the form of water of hydration within the crystal structure. Except for gypsum, and some tropical clays, this water is not generally removable by oven drying.

Moisture content is usually expressed as a percentage, always on the basis of oven-dry mass of soil. The equation for the determination of moisture content is:

$$w(\%) = \frac{m_w}{m_d} \times 100$$

where ,

$m_w$  = mass of water removed at 110°C.

$m_d$  = mass of dried soil

The following ASTM (American Society for Testing and Materials) apply to moisture content determinations:  
ASTM D2216-90 Laboratory Determination of Water Content of Soil and Rock  
ASTM D4959 -89 Determination of Water Content of Soil By Direct Heating Method  
ASTM D4643-87 Determination of Water Content of Soil by the Microwave Oven Method  
ASTM D3017-88 Water Content of Soil and Rock in Place by Nuclear Methods



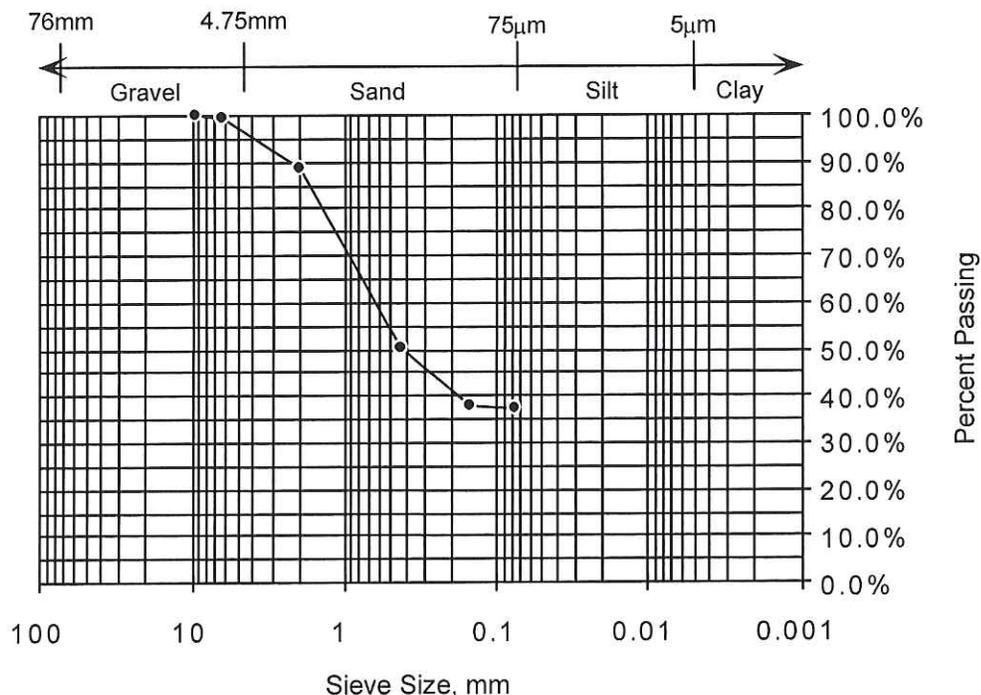
A soil consists of an assemblage of discrete particles of various shapes and sizes. The object of a particle size analysis is to group these particles into separate ranges of sizes, and so determine the relative proportions, by dry weight, of each size range.

Particle size analyses consist of two separate and quite different procedures in order to span the very wide range of particle sizes which are encountered. These are sieving and sedimentation procedures. Sieving is used for gravel and sand size (coarse) particles, which can be separated into different size ranges with a series of standard aperture openings. Sieving cannot be used for the very much smaller silt and clay size (fine) particles, so a sedimentation procedure is used instead. Measurements of the density of the suspension are made using a hydrometer.

For soils containing both coarse and fine particles, composite tests using both sieving and sedimentation methods may be used if a full particle size distribution analyses is required. Particle size testing can range from a simple sieving test on a 'clean' sand and gravel, to elaborate composite tests on clay-silt-sand-gravel mixtures.

Presentation of particle size distribution data may include a table showing the percentages, by dry weight, of particles finer than certain standard sizes and may include a graphical presentation of the percentages plotted against the particle size on a logarithmic scale. An example of the graphical presentation with respective particle sizes follows:

## Sieve Analysis



Particle size analyses are performed in accordance with ASTM D422-63, Standard Test Method for Particle-Size Analysis of Soils or ASTM C136-84, Standard Method for Sieve Analysis of Fine and Coarse Aggregates.

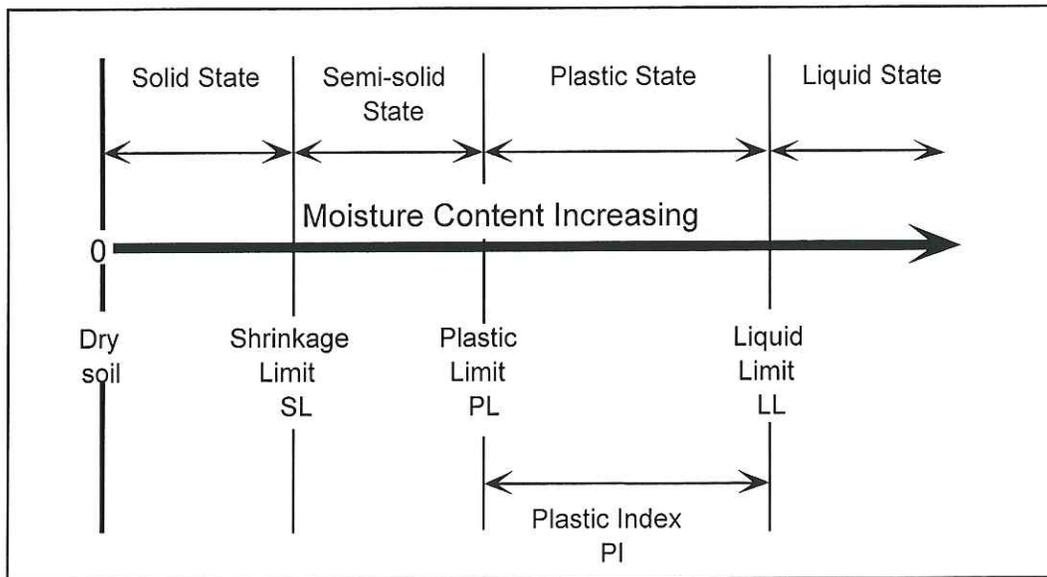


The condition of a clay soil can be altered by changing the moisture content; the softening of clay by the addition of water is a well known example. For every clay soil there is a range of moisture contents within which the clay is of a plastic consistency, and the Atterberg limits provide a means of measuring and describing the plasticity range in numerical terms.

If sufficient water is mixed with a clay, it can be made into a slurry, which behaves as a viscous liquid. This is known as the 'liquid' state. If the moisture content is gradually reduced by allowing it to dry out slowly, the clay eventually begins to hold together and to offer some resistance to deformation; this is the 'plastic' state. With further loss of water the clay shrinks and the stiffness increases until there is little plasticity left, and the clay becomes brittle; this is the 'semi-solid' state. As drying continues, the clay continues to shrink in proportion to the amount of water lost, until it reaches the minimum volume attainable by this process. Beyond that point further drying results in no further decrease in volume, and this is called the 'solid' state.

These four states, or phases, are shown diagrammatically below. The change from one phase to the next is not observable as a precise boundary, but takes place as a gradual transition. Nevertheless three arbitrary but specific boundaries have been established empirically, as indicated below, and are universally recognized. The moisture contents at these boundaries are known as the Liquid Limit (LL), Plastic Limit (PL) and the Shrinkage Limit (SL).

The moisture content range between the PL and the LL is known as the Plastic Index (PI), and is a measure of the plasticity of the clay. Cohesionless soils have no plasticity phase, so their PI is zero.



Atterberg limits are performed in accordance with ASTM D4318-84, Standard Test Method for Liquid Limit, Plastic Limit and Plasticity Index of Soils.



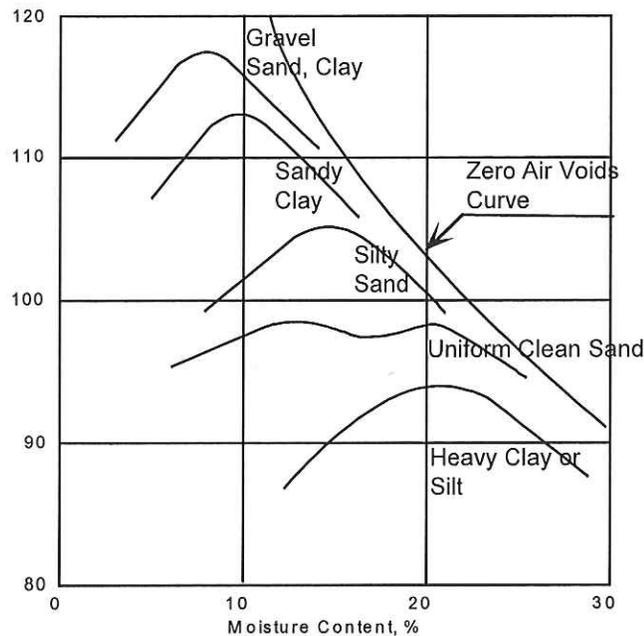
## Moisture-Density Relationships

Compaction of soil is the process by which the solid soil particles are packed more closely together by mechanical means, thus increasing the dry density. It is achieved through the reduction of air voids in the soil, with little or no reduction in the water content. The air voids cannot be eliminated altogether by compaction, but with proper control they can be reduced to a minimum. The effect of the amount of water present in a fine-grained soil on its compaction characteristics is significant.

At low moisture content the soil grains are surrounded by a thin film of water, which tends to keep the grains apart even when compacted. If the moisture content is increased, the additional water enables the grains to be more easily compacted together. Some of the air is displaced and the dry density is increased. The addition of more water, up to a certain point, enables more air to be expelled during compaction. At that point the soil grains become as closely packed together as they can be under application of a specific compactive effort. When water exceeds that required to achieve this condition, the excess water begins to displace the soil particles so that the dry density is reduced. At higher moisture contents little or no more air is expelled and the resulting dry density continues to decrease.

At each stage the compacted dry density is calculated and plotted against moisture content, a graph similar to that presented below. This graph is the 'moisture-density relationship' curve. The moisture content at which the greatest value of dry density is reached for the given amount of compaction is the optimum moisture content and the corresponding dry density is the maximum dry density.

A moisture-density relationship curve is not complete without the addition of a zero air voids line. A zero air voids line is a line (curve) showing the dry density-moisture content relation for a soil theoretically containing zero air voids. It is impossible for a point on a compaction curve to lie to the right of this line, whatever the degree of compactive effort applied.



Compaction Curves for Typical Soils

Compaction tests are performed in accordance with ASTM D698-91, Test Method for Laboratory Compaction Characteristics of Soil Using Standard Effort (12,400 ft-lbs) and ASTM D1557-91, Test Method for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbs).



## California Bearing Ratio

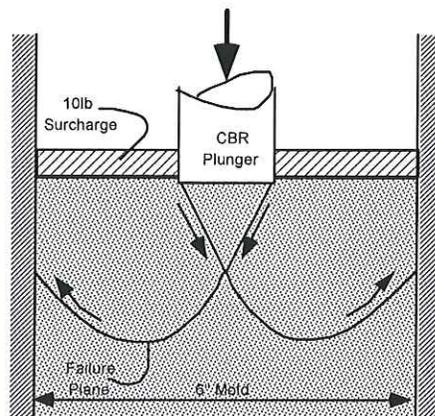
The California Bearing Ratio (CBR) test is an empirical test for estimating the bearing value of highway sub-bases and subgrades. The test follows a standardized procedure which includes pushing a plunger into the soil at a fixed rate of penetration and measuring the force required to maintain that rate. From the resulting load vs. penetration relationship, the CBR value can be derived. It is important to appreciate that this test, being of an empirical nature, is valid only for the application for which it was developed, i.e. the design of pavement cross sections.

A CBR test is normally carried out on a sample of soil which reproduces as closely as possible the conditions likely to occur in the field. If the in-situ density and moisture content are known, a test specimen can be prepared to fulfill these conditions. However, specifications for road embankments and sub-bases are often worded in terms of a permitted moisture content range and acceptable density range. The CBR value for a specific soil depends upon its in place dry density and moisture content.

A typical CBR test consists of determining the moisture-density relationship for the specific soil to be tested. Once the maximum dry density and optimum moisture content are determined, the soil is compacted into a 6" diameter mold at a minimum density of 97% near the optimum moisture content. A surcharge weight equivalent to about 50psf is placed on top of the compacted sample. The sample is then submerged for a period of 4 days and allowed to swell. The sample is removed from the water bath and the penetration resistance is determined using a constant rate shear test. The load-penetration relationship is drawn as a graph and the CBR value is determined as follows:

$$\text{CBR} = \frac{\text{Force @ 0.10" Penetration}}{\text{Standard Force} = 1000\text{psi}}$$

An assumed failure mechanism beneath the CBR plunger is presented below:



CBR tests are performed in accordance with ASTM D1883, Test Method for CBR of Laboratory Compacted Soils or Virginia Test Method, VTM-8, Conducting California Bearing Ratio Tests.

**Drawings – See Attached Plan Set**

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