

# BIDDING & CONTRACT DOCUMENTS

**GENERAL REQUIREMENTS, AND  
SITEWORK SPECIFICATIONS  
FOR  
SAFE ROUTES TO SCHOOL  
GRANITE STREET SIDEWALK CONSTRUCTION  
FROM RITE-AID TO PARKWOOD DRIVE  
SRTS #15991  
FEDERAL # X-A001(065)**

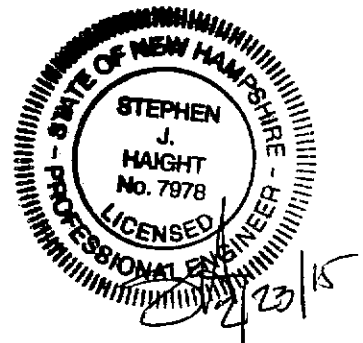
February 23, 2015

**Owner:**

TOWN OF ALLENSTOWN  
16 SCHOOL STREET  
ALLENSTOWN NH 03275  
MERRIMACK COUNTY

**Prepared By:**

HAIGHT ENGINEERING, PLLC  
P.O. BOX 1166  
181 WATSON ROAD  
DOVER, NH 03820



2/23/2015

**GRANITE STREET SIDEWALK CONSTRUCTION  
FROM RITE AID TO PARKWOOD DRIVE  
ALLENSTOWN, NH 03275  
SRTS # 15991  
FEDERAL # X-A001 (065)**

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**BIDDING AND CONTRACT DOCUMENTS**

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**DIVISION I - GENERAL PROVISIONS**

General Provisions as outlined in Division 100 of the Standard Specifications for Road and Bridge Construction, State of New Hampshire Department of Transportation, 2010 edition as amended.

**DIVISION II - SITEWORK SPECIFICATIONS**

Standard Specifications for Road and Bridge Construction,  
State of New Hampshire Department of Transportation, Latest edition as amended.

**SUPPLEMENTAL SPECIFICATIONS AND SPECIAL PROVISIONS**

by reference to the Standard Specifications for Road and Bridge Construction, State of New Hampshire Department of Transportation, Latest edition as Amended

**ADDITIONAL NHDOT/FEDERAL AID PROJECT SPECIAL  
ATTENTION AND SUPPLEMENTAL SPECIFICATIONS**

2/23/2015

**DOCUMENT 00100 – STANDARD FORM OF AGREEMENT**

**STANDARD FORM OF AGREEMENT**

**Granite Street Sidewalk Construction From Rite Aid to Parkwood Drive**

THIS AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, by and between the **Town of Allenstown, New Hampshire** (hereinafter call the Owner) and \_\_\_\_\_. (hereinafter called the Contractor),

WITNESSETH; that the Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**ARTICLE I- Work** - The Contractor shall perform all work as specified or indicated in the Contract Documents for the completion of the Project.

- A) The Contractor shall provide, at his expense, all labor, materials, equipment and incidentals as may be necessary for the expeditious and proper execution of the Project.

**ARTICLE II - ENGINEER** - The Town of Allenstown, or authorized representative will act as engineer in connection with completion of the Project in accordance with the Contract Documents.

**ARTICLE III - CONTRACT TIME** - The work will commence in accordance with the Notice to Proceed. The Contractor shall submit a critical path method (CPM) construction schedule to the Engineer that will be updated on a weekly basis. If the Contractor fails to complete the work on time, liquidated damages shall be assed in accordance with the schedule outlined in the Supplemental Specifications: Amend 108.09 Liquidated Damages Schedule.

**ARTICLE IV - CONTRACT PRICE** - Owner shall pay Contractor for performance of the work in accordance with the Contract Documents as shown under the lump sum price in the Bid Proposal.

**ARTICLE V - PAYMENT** - Partial payments will be made in accordance with the Contract Documents. Upon final acceptance of the work and settlement of all claims, Owner shall pay the Contractor the unpaid balance of the Contract Price, subject to additions and deductions provided for in the Contract Documents.

**ARTICLE VII - CONTRACT DOCUMENTS** - The Contract Documents which comprise the contract between Owner and Contractor are attached hereto and made a part hereof and consist of the following:

- Document 00100 - Standard Form of Agreement
- Document 00200 - Invitation to Bid
- Document 00300 - Instructions to Bidders
- Document 00400 - Prosecution of Work
- Document 00500 - Stipulated Sum Proposal Form
- Document 00600 - Statement of Bidders Qualifications

SRTS State Project # 15991

Document 00700 - General Conditions  
Document 00800 - Contract Forms  
Bid Security Bond  
Davis Bacon Wage Determination  
W-9 Request for Taxpayer Identification  
Insurance Certificates  
Notice of Intent to Award  
Notice to Proceed  
Application for Payment  
Change Order  
Performance Bond  
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Document 00900 - Additional Contract Forms

DIVISION I - GENERAL PROVISIONS

DIVISION II - SITEWORK SPECIFICATIONS

SUPPLEMENTAL SPECIFICATIONS AND SPECIAL PROVISIONS

ADDITIONAL NHDOT/FEDERAL AID PROJECT SPECIAL ATTENTION AND  
SUPPLEMENTAL SPECIFICATIONS

DRAWINGS: *"Safe Routes to School" Project #15991 Federal Project #X-A001 (065), Granite Street Sidewalk Construction From Rite Aid to Parkwood Drive, dated October 7, 2014, last revised January 26, 2015*

Any modifications, including change orders, duly delivered after execution of this agreement.

**ARTICLE VIII - TERMINATION FOR DEFAULT** - Should contractor at any time refuse, neglect, or otherwise fail to supply a sufficient number or amount of properly skilled workers, materials, or equipment, or fail in any respect to prosecute the work with promptness and diligence, or fail to perform any of its obligations set forth in the Contract, Owner may, at its election, terminate the employment of Contractor, giving notice to Contractor in writing of such election, and enter on the premises and take possession, for the purpose of completing the work included under this Agreement, of all the materials, tools and appliances belonging to Contractor, and to employ any other persons to finish the work and to provide the materials therefore at the expense of the Contractor.

**ARTICLE IX - INDEMNIFICATION OF OWNER** - Contractor will indemnify Owner against all suits, claims, judgments, awards, loss, cost or expense (including without limitation attorneys fees) arising in any way out of the Contractor's performance or non-performance of its obligations under this Contract. Contractor will defend all such actions with counsel satisfactory

to Owner at its own expense, including attorneys' fees, and will satisfy any judgment rendered against Owner in such action.

**ARTICLE X - PERMITS** - The Contractor will secure at its own expense, all permits and consents required by law as necessary to perform the work and will give all notices and pay all fees and otherwise comply with all applicable Town, State, and Federal laws, ordinances, rules and regulations.

**ARTICLE XI - INSURANCE** - The Contractor shall secure and maintain, until acceptance of the work, insurance with limits not less than those specified in the contract.

Workers Compensation: All bidders and subcontractors at every tier under the bidder will conform with the requirements of RSA 281 Title XXIII, Section 281-A:2 with close attention to sections VI(a), VI(c) and VII(a) as well as section 281-A:4

**ARTICLE XII - MISCELLANEOUS –**

- A. Neither Owner nor Contractor shall, without the prior written consent of the other, assign, sublet or delegate, in whole or in part, any of its rights or obligations under and of the Contract Documents; and, specifically not to assign any monies due, or to become due, without the prior written consent of the Owner;
- B. Owner and Contractor each binds himself, his partners, successors, assigns and legal representatives, to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents;
- C. The Contract Documents constitute the entire Agreement between Owner and Contractor and may only be altered amended or repealed by a duly executed written instrument;
- D. The laws of the State of New Hampshire shall govern this Contract without reference to the conflict of law principles thereof;
- E. Venue for any dispute shall be the Rockingham County Superior Court unless the parties otherwise agree

IN WITNESS WHEREOF, the parties hereunto executed this AGREEMENT the day and year first above written.

**CONTRACTOR**

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

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

**TOWN OF ALLENSTOWN, N.H.**

By: \_\_\_\_\_  
Shaun Mulholland

Title: Town Administrator

SRTS State Project # 15991

DOCUMENT 00200 - INVITATION TO BID

2/23/2015

## INVITATION TO BID

Date: February 23, 2015

To: Bidders for Granite Street Sidewalk Construction  
Allenstown, New Hampshire

Copies To: Town Administrator  
Town of Allenstown  
Allenstown, NH 03875

From: Stephen J. Haight, P.E.  
Haight Engineering, PLLC.

Re: **SRTS Project # 15991 Federal Project # X-A001 (065)  
Granite Street Sidewalk Construction from Rite Aid to Parkwood Drive  
Merrimack County  
Allenstown, NH**

**Sealed** bid proposals, **plainly marked**, (SRTS #15991 Federal # X-A001 (065) Granite Street Sidewalk Construction from Rite Aid to Parkwood Drive, Bid Proposal #01-2015) **on the outside of the mailing envelope as well as the sealed bid envelope**, addressed to the Town Administrator, Town of Allenstown, Town Hall, 16 School Street, Allenstown, New Hampshire, 03875.

Original Signed Bids will be accepted until **April 2, 2015 at 1:30pm**; at which time all bids will be publicly opened and read aloud. Fax transmission of the bid is not acceptable.

The bid must be submitted on the enclosed Stipulated Sum Proposal Form:

The work shall generally consist of constructing new bituminous concrete sidewalks with granite curbing, installation of pedestrian aids (tactile strips with concrete pads), , installation of traffic and pedestrian controls, pavement markings, signage, painted crosswalks, demolition of existing pavement and subgrade and reshaping for drainage improvements to eliminate low spots, installation of full depth pavement sections, soils testing (sieve analysis, proctor tests), concrete testing (air entrainment, slump, compressive tests), street and sidewalk paving, grinding and restoring bituminous driveway aprons, reinstallation of existing signage, loaming and seed and erosion and sedimentation controls and monitoring and final clean up.

The Bid Documents are available at Infinite Imaging, 933 Islington Street, Portsmouth, NH (603) 436.3030, [eric@infiniteimaging.com](mailto:eric@infiniteimaging.com), at Construction Summary of NH, 734 Chestnut Street, Manchester, NH 03104 (603) 627.8856, and at BidClerk.com, (312) 380.4839, [tdewindt@bidclerk.com](mailto:tdewindt@bidclerk.com) for a non-refundable fee.

There will be a mandatory pre-bid meeting at the Police Station on Granite Street on **March 12, 2015 at 10:00am**. All bidders are required to attend. Bidders who do not attend the meeting will not be allowed to submit a bid.

2/23/2015



The last day for questions will be **March 27, 2015**. All questions must be submitted in writing to Stephen J. Haight, P.E. at Haight Engineering, PLLC. It is preferred that questions be submitted via email to [shaight@haighteng.com](mailto:shaight@haighteng.com).

Original Signed Bids will be accepted until **April 2, 2015 at 1:30pm**; at which time all bids will be publicly opened and read aloud. Fax transmission of the bid is not acceptable.

**Bid award** will be on or about **April 30, 2015** with a **Notice to Proceed** on or about **May 13, 2015**, a **Preconstruction meeting** on or about **May 20, 2015** with a **Construction start** on or about **June 1, 2015** with **Completion of all Work** by **August 7, 2015**.

Bidders must determine the quantities of work required and the conditions under which the work will be performed.

The Town of Allentown reserves the right to reject any or all bids, to waive technical or legal deficiencies, to re-bid, and to accept any bid that it may deem to be in the best interest of the Town.

Each Bidder shall furnish a bid security in the amount of ten percent (10%) of the bid. The Bid Security may be in the form of a certified check drawn upon a bank within the State of New Hampshire or a bid bond executed by a surety company authorized to do business in the State of New Hampshire, made payable to the Town of Allentown, N.H.

The General Contractor will be permitted to subcontract portions of the work not to exceed an aggregate dollar value of 50% of the total contract bid amount in complete accordance with Section 108 of the State of New Hampshire Standard Specifications for Road and Bridge Construction.

Should the bidder find any discrepancies in, or omissions from, the drawings or specifications, or should be in doubt as to their meaning, the bidder should, at once, notify the engineer, who will send written instructions to all bidders.

All questions must be submitted in writing to Stephen J. Haight, P.E. at Haight Engineering, PLLC. It is preferred that questions be submitted via email to [shaight@haighteng.com](mailto:shaight@haighteng.com).

DOCUMENT 00300 INSTRUCTIONS TO BIDDERS

## **INSTRUCTIONS TO BIDDERS**

### **1. Defined Terms:**

Terms used in these Instructions to Bidders, which are defined in the Standard General Conditions of the construction contract, have the meanings assigned to them in the General Conditions.

Certain additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof.

- 1.1 Bidder: One who submits a bid directly to the Owner as distinct from a sub-bidder, who submits a bid to a bidder.
- 1.2 Issuing Office: The office from which the bidding documents are to be issued and where the bidding procedures are to be administered.
- 1.3 Successful Bidder: The lowest, responsible and responsive bidder to whom the Owner (on the basis of Owner's evaluation as hereinafter provided) makes an award.

### **2. BIDDING REQUIREMENTS AND CONDITIONS**

#### **1. Special Notice to Bidders**

Appended to these instructions is a complete set of bidding and general contract forms. These forms may be detached and executed for the submittal of bids. The plans, specifications, and other documents designated in the proposal form will be considered as part of the proposal, whether attached or not.

The bidders must submit a statement of bidder's qualifications.

#### **2. Interpretation of Quantities in Bid Schedules**

The quantities appearing in the bid schedule are approximate only and are prepared for the comparison of bids. Payment to the contractor will be made only for actual work performed and accepted in accordance with the contract. Any scheduled item of work to be done and materials to be furnished may be increased, decreased or omitted as hereinafter provided, and no claim for loss, anticipated profits or costs incurred in anticipation of work not ultimately performed will be allowed due to such increase or decrease.

#### **3. Examination of Plans, Specifications and Site Work**

The bidder is expected to examine carefully the site of the proposed work, the plans, standard specifications, supplemental specifications, special provisions and contract forms before submitting a proposal. The submission of a bid shall be considered conclusive evidence that the bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the contract. It will be conclusive evidence that the bidder has also investigated and is satisfied with the sources of supply for all materials.

Plans, surveys, measurements, dimensions, calculations, estimates and statements as to the condition under which the work is to be performed are believed to be correct, but the contractors must examine for themselves, as no allowance will be made for any errors or inaccuracies that may be found therein. If the bidder shall discover any errors or inaccuracies the bidder shall forthwith report it to the Engineer in writing to allow the Engineer the opportunity to provide clarification.

#### 4. Familiarity with Laws

The bidder is assumed to have made himself or herself familiar with all federal and state laws and all local by-laws, ordinances and regulations which in any manner affect those engaged or employed on the work or affect the materials or equipment used in the work or affect the conduct of the work, and the bidder, if awarded the contract, shall be obligated to perform the work in conformity with said laws, by-laws, ordinances and regulations notwithstanding its ignorance thereof. If the bidder shall discover any provision in the plans or specifications which is in conflict with any such law, by-law, ordinance or regulation the bidder shall forthwith report it to the engineer in writing.

#### 5. Preparation of Proposal

The bidder shall submit its proposal upon the forms furnished by the Owner. The bidder shall specify a lump sum price both in words and figures, for each pay item for which a quantity is given and shall also show the products of the respective prices and quantities written in figures in the column provided for that purpose and the total amount of the proposal obtained by adding the amount of the several items. All words and figures shall be in ink or typed.

If a unit price or a lump sum bid already entered by the bidder on the proposal form is to be altered it should be crossed out with ink, the new unit price or lump sum bid entered above or below it and initialed by the bidder, also with ink. In case of discrepancy between the prices written in words and those written in figures, the prices written in words shall govern.

The bidder's proposal must be signed with ink by the individual, by one or more general partners of a partnership, by one or more members or officers of each firm representing a joint venture; by one or more officers of a corporation, by one or more members (if member-managed) or managers (if manager-managed) of a limited liability company, or by an agent of the contractor legally qualified and acceptable to the owner. If the proposal is made by an individual, his or her name and post office address must be shown, by a partnership the name and post office address of each general and limited partner must be shown; as a joint venture, the name and post office address of each venture must be shown; by a corporation, the name of the corporation and its business address must be shown, together with the name of the state in which it is incorporated, and the names, titles and business addresses of the president, secretary and treasurer.

#### 6. Nonconforming Proposals

Proposals will be considered nonconforming and may be rejected in the Owner's sole discretion for any of the following reasons:

- If the proposal is on a form other than that furnished by the Owner, or if the form is altered or any portion thereof is detached;
- If there are unauthorized additions, conditional or altered bids, or irregularities of any kind which may tend to make the proposal or any portion thereof incomplete, indefinite or ambiguous as to its meaning;
- If the bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award; or

- If the proposal does not contain a unit price for each pay item listed except in the case of authorized alter pay items.

7. Proposal Guaranty

No proposal will be considered unless accompanied by a bid bond, surety, or similar guaranty of the types and in an amount not less than the amount indicated in the proposal form made payable to the "Town of Allenstown". If a bid bond is used by the bidder it shall be:

- In a form satisfactory to the Owner;
- With a surety company licensed, authorized to do business in, and subject to the jurisdiction of the courts of the State of New Hampshire; and
- Conditioned upon the faithful performance by the principal of the agreements contained in the sub-bid or the general bid.

In the event any irregularities are contained in the proposal guaranty, the bidder will have until 3:00 p.m. on the date five business days from the date on which bids are opened, to correct any irregularities. If such irregularities are not corrected to the satisfaction of the Owner in its sole discretion, the bid may be rejected.

8. Delivery of Proposals

When sent by mail, the sealed proposal shall be addressed to the Owner at the address and in the care of the official in whose office the bids are to be received. All proposals shall be filed prior to the time and at the place specified in the invitation for bids. Proposals received after the time for opening of the bids will be returned to the bidder, unopened.

9. Withdrawal of Proposals

A bidder will be permitted to withdraw his or her proposal unopened after it has been submitted if the Owner receives a request for withdrawal in writing prior to the time specified for opening the proposals.

10. Public Opening of Proposals

Proposals will be opened and read publicly at the time and place indicated in the invitation for bids. Bidders, their authorized agents, and other interested parties are invited to be present.

11. Disqualification of Bidders

Any or all of the following reasons may be deemed by Owner in its sole discretion as being sufficient for the disqualification of a bidder and the rejection of his proposal or proposals:

- More than one proposal for the same work from an individual, firm, or corporation under the same or different name;
- Evidence of collusion among bidders;
- Failure to submit all required information requested in the bid specifications;
- Lack of competency or of adequate machinery, plant or other equipment, as revealed by the statement of bidders qualification required under 1c of this page or otherwise following Owner's investigation;
- Uncompleted work which, in the judgment of the owner, might hinder or prevent the prompt completion of additional work if awarded;
- Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts;
- Default or unsatisfactory performance on previous contracts;

- Such disqualification would be in the best interests of the Owner; or

12. Material Guaranty and Samples

Before any contract is awarded, the bidder may be required to furnish a complete statement of the origin, composition and manufacture of any or all materials to be used in the construction of the work, and the Owner may, in its sole discretion, reject the bid based on the contents of the statement or as a result of the failure of the bidder to submit the statement.

13. Insurance Requirements

Insurance shall be in such form as will protect the Contractor from all claims and liabilities for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this contract whether such operation by himself or by anyone directly or indirectly employed by him.

Amount of Insurance

- A) Comprehensive General Liability:  
Bodily injury or Property Damage - \$2,000,000  
Per occurrence and general aggregate
- B) Automobile and Truck Liability:  
Bodily Injury or Property Damage - \$2,000,000  
Per occurrence and general aggregate

(As to items A and B above, 1 million per occurrence is acceptable if combined with sufficient excess policy.)

Additionally, the Contractor shall purchase and maintain the following types of insurance:

- A) Full Workers Comprehensive Insurance coverage for all people employed by the Contractor to perform work on this project. This insurance shall at a minimum meet the requirements of the most current laws of the State of New Hampshire. All bidders and subcontractors at every tier under the bidder will conform with the requirements of RSA 281 Title XXIII, Section 281-A:2 with close attention to sections VI(a), VI(c) and VII(a) as well as section 281-A:4
- B) Contractual Liability Insurance coverage in the amounts specified above under Comprehensive General Liability.
- C) Product and Completed Operations coverage to be included in the amounts specified above under Comprehensive General Liability.
- D) Owners Protective Liability Policy: A separate Owners Protective Liability Insurance policy issued to the Owner at the expense of the Contractor in the amount specified under Comprehensive General Liability.

Additional Insured

All liability policies (including any excess policies used to meet coverage requirements) shall include the Town of Allenstown, New Hampshire as named Additional Insured.

- 1) The contractor's insurance shall be primary in the event of a loss.
- 2) The Additional Insured endorsement must include language specifically stating that the entity is to be covered for all activities

performed by, or on behalf of, the contractor, including the Town of Allenstown's general supervision of the contractor.

- 3) Town of Allenstown shall be listed as a Certificate Holder. The Town shall be identified as follows:

Town of Allenstown  
16 School Street  
Allenstown, NH 03875  
Attn: Town Administrator

- 4) Additional Insured:

**DOCUMENT 00400 – PROSECUTION OF WORK**



## **PROSECUTION OF WORK**

### **SRTS PROJECT #15991: GRANITE STREET SIDEWALK CONSTRUCTION FROM RITE AID TO PARKWOOD DRIVE**

#### **Description of Work:**

Work proposed by this project includes the construction of approximately 1,300 feet of sidewalk under the Safe Routes to School program. The work begins at the Rite Aid on the north side of Granite Street, continues east along Granite Street across the intersection of Route 3, across the intersection of Granite Street and Chester Turnpike, and concludes at the entrance to Holiday Acres Park at Parkwood Drive. The project proposes shoulder widening and sidewalk construction along Granite Street with associated traffic and pedestrian control devices.

The work shall generally consist of the demolition of existing pavement and subgrade, grinding and restoration of driveway aprons, reshaping work for improved drainage, construction of new bituminous concrete sidewalks with granite curbing, paving (to include streets, driveways, and crosswalks), installation of pedestrian aides (to include concrete pads with tactile mats and pedestrian signals with pushbuttons), pavement markings, painted crosswalks, removal and reinstallation of signage, utility work including resetting of gates and valves as well as the relocation of utilities, and the loaming and seeding of lawn areas. The Contractor will be responsible for ensuring that appropriate traffic and pedestrian controls are in place, a Stormwater Pollution and Prevention Plan is implemented, erosion and sediment control practices are properly utilized, and site cleanliness is maintained at all times.

#### **Services Required of the Contractor:**

The Contractor shall consider survey, layout, coordination with the Owner, Utility Companies, and the Engineer, provide dumpsters, portable restroom facilities, daily sweeping and clean up, as well as the respective service costs to maintain these services as incidental to the work being performed under the Contract and shall understand there will be no additional compensation for this work or these services.

#### **Schedule of Work:**

All work shall be conducted during daylight conditions, Monday through Friday, excluding Holidays. The hours of work shall not be earlier than 7 AM nor later than 5:30 PM. Artificial lighting will not be allowed for use on this project without the Owner's written approval.

#### **Utilities:**

The Contractor shall provide written notice to all utility corporations or municipal and State officials owning or having charge of publicly or privately owned utilities at least one week in advance of the commencement of the operations that will affect the utilities. The Contractor shall, at the same time, file a copy of the notice with the Engineer. The Contractor shall contact Dig Safe to locate all underground utilities. Utility locations shall be confirmed by the Contractor prior to the commencement of work.

**Public Safety and Convenience:**

The Contractor shall provide necessary access for all emergency vehicles through the work area and to the abutting properties.

The Contractor shall be responsible for the proper and timely notification to local residents and businesses when temporary interruption of their access or services is necessary.

**Right-of-Way and Protection of Property:**

This work requires excavation, reclamation, and new construction within close confines of the right-of-way and in several instances easements have been requested and granted. All work shall be performed within the right-of-way and within the prescribed easements. The Contractor is responsible for establishing and maintaining the limits of work so that non Contracted work does not occur on private property, this work is considered incidental to the work being performed under the Contract and no additional compensation will be allowed.

The Contractor, in removing, constructing, or installing facilities alongside or near sewers, drains, water or gas pipes, electric or telephone conduits, utility poles, signs, sidewalks, walls, vaults, or other structures shall sustain them securely in place. The Contractor shall coordinate with the officers and agents of the various utility companies, municipal departments, or property owners to assure that services of these structures are maintained. The Contractor shall also be responsible for the repair or replacement, at no additional cost, of any damage to such structures caused by construction operations. The Contractor is responsible to leave them in the same condition as they existed prior to the commencement of work (unless otherwise directed by the Contract). In case of damage to utilities, the Contractor shall promptly notify the utility owner and shall, if requested by the Engineer, furnish labor and equipment to work temporarily under the utility owner's direction. Pipes or other structures damaged by the operation of the Contractor may be repaired by the public or private utility owner which suffers the loss. The costs for such repairs shall be borne by the Contractor, without compensation there for.

If during construction there is an existing utility and/or structure found to be in conflict with the proposed work under this Contract, the Contractor shall protect and maintain the services to the utilities and structures. The Engineer will, as soon as possible, identify the utilities to be relocated or other such activities deemed suitable for resolution.

If live services connections are to be interrupted, the Contractor shall not break the service until the new services are provided. Abandoned services shall be plugged off or made otherwise secure.

Full compensation for furnishing all labor, materials, tools, equipment, and incidentals for doing all the work involved in protecting or repairing property as specified in this Section, shall be included in the lump sum price bid and no additional compensation will be allowed therefore.

**Layout of Work:**

It will be the responsibility of the Contractor to have a licensed surveyor establish centerline stationing along Granite Street according to plans and drawings.

It will be the responsibility of the Contractor to lay out all lines and grade work in accordance with the drawings and specifications. The Contractor, at his/her own expense, shall be responsible for maintaining benchmarks and other survey marks and shall replace as directed any benchmarks or survey marks which have been disturbed or destroyed.

The Contractor shall compare all grades, lines, levels, and dimensions shown on the drawings with actual site conditions and shall promptly report to the Engineer, before commencing work, any inconsistencies that may be discovered.

No separate payment will be made for the work described in this section.

**Erosion and Sediment Control and Water Quality Management:**

The Contractor shall provide a Stormwater Pollution Prevention Plan (SWPPP), sediment and erosion control best management practices (BMP's), and monitoring of the BMP's. The SWPPP shall be revised as necessary throughout the project to reflect changes to the Contractor's work plan, BMP's, and changing site conditions. Maintain the BMP's, in good working order, throughout construction and until disturbed areas have been stabilized. BMP's that continually do not meet the intent of the SWPPP shall be replaced with alternative BMP's to ensure that there are no adverse impacts to water quality leaving the construction site.

**EPA Stormwater Discharge Permit:**

The Contractor is required to obtain a National Pollutant Discharge Elimination System Stormwater Construction General Permit (CGP) administered by the EPA. The project is subject to Notice of Intent, Notice of Termination, and other project records by the Contractor as required by the CGP. The Town will also need to apply for a CGP as the Owner of the project.

**Surplus Material:**

The Contractor shall be responsible for the disposal of surplus materials from the project. The disposal location shall be in accordance with all Federal, State, and Local laws and regulations.

No separate payment will be made for disposal of construction wastes, debris, or surplus material.

**Contract Documents:**

In the event of a conflict of interpretation in the Contract Documents, notify the Engineer immediately for clarification.

**Project Closeout:**

As built plans shall be maintained to reflect the as-built conditions on the site, and be made available for review by the Town or the Engineer upon request. The as-built plans shall be a complete set of plans that reflect what is built. The plans should include the words "AS-BUILT" in the lower right corner of each sheet, along with the date of as-built, and the company who prepared the as-built plans. As-built plans can be a red-lined plan markup or a reproducible marked up drawing with the changes. The as-built plans shall be submitted to the Engineer within 10 days after the completion of the project. The Engineer will review the plans prior to submission to the NHDOT and the Town.

No separate payment will be made for the work described in this section.

**Closeout forms are included in the Contract Documents. The Contractor will be responsible for completing their portions of these forms**

**DOCUMENT 00500 – STIPULATED SUM PROPOSAL FORM**

**STIPULATED SUM PROPOSAL FORM**

For: SRTS #15991  
 Granite Street Sidewalk Construction  
 From Rite Aid to Parkwood Drive  
 Allenstown, NH

To: Town Administrator  
 Town of Allenstown  
 16 School Street  
 Allenstown NH 03875

The undersigned hereby offers to furnish all plant, labor, materials, supplies, equipment, and other facilities and things necessary or proper for, or incidental to, the construction complete and in place for the sidewalks and ancillary work as described on the contract plans along Granite Street and the necessary site work construction for a SRTS #15991 grant project in Allenstown, NH as required by and in strict accordance with provisions of the plans dated October 7, 2014, last revised January 26, 2015, and specifications dated February 23, 2015, including any Addenda.

**1. BASE CONTRACT:**

<b>ITEM #</b>	<b>ITEM DESCRIPTION</b>	<b>UNITS</b>	<b>EST. QTY.</b>	<b>UNIT PRICE</b>	<b>TOTAL PRICE</b>
203.1	Common Excavation	CY	828		
304.1	Sand (F)	CY	14		
304.2	Gravel (F)	CY	486		
304.3	Crushed Gravel (F)	CY	296		
403.11	Hot Bit. Mix 2 1/2" Base Machine	TON	107		
403.11	Hot Bit. Mix 1 1/2" Wear Machine	TON	26		
403.12	Hot Bit. Mix 2 1/2" Base Hand	TON	19		
403.12	Hot Bit. Mix 1 1/2" Wear Hand	TON	13		
403.6	Pavement Joint Adhesive	LF	2100		
417	Cold Planing Bituminous Surfaces	SY	15		
604.45	Adjusting CB Drop Inlet Grate and Frame	EA	1		
608.12	2" Bituminous Sidewalk (F)	SY	704		
608.26	6" Concrete Sidewalk (F)	SY	95		
608.54	Detectable Warning Device, Cast Iron	SY	9		
609.01	Granite Curb (Straight) 7" Reveal	SY	1261		
609.02	Granite Curb (Curved) 7" Reveal	LF	77		

611.90001	Adj Water Gates & Shutoffs set by Others	LF	3		
	Adj Gas Valves set by Others	EA	3		
615.0071	Steel Sign Posts	EA	13		
615.021	Traffic Sign Type, B (R1-1) (F)	EA	1		
615.021	Traffic Sign Type, B (W11-2) (F)	EA	10		
615.021	Traffic Sign Type, B (W3-1) (F)	EA	2		
615.021	Traffic Sign Type, B (W16-7P) (F)	EA	6		
615.021	Traffic Sign Type, B (W16-9P) (F)	EA	4		
615.024	Relocating Traffic Sign, Type B	EA	4		
618.7	Flaggers	HR	250		
	Police Detail	HR	100		
619.1	Maintenance of Traffic	Unit	1		
628.2	Sawed Bituminous Pavement	LF	2100		
632.0104	Retro reflective Paint Marking, 4" Line	LF	2351		
632.3104	Retroreflective Thermoplas. Pave. Marking, 4" Line	LF	235		
632.3106	Retroreflective Thermoplas. Pave. Marking, 6" Line	LF	125		
632.3112	Retroreflective Thermoplas. Pave. Marking, 12" Line	LF	162		
632.3118	Retroreflective Thermoplas. Pave. Marking, 18" Line	LF	53		
632.021	Paint Mark, Word (STOP	EA	2		
641	Loam	CY	50		
646.31	Turf Estab. w/ Mulch and Tackifiers	SY	470		
645.7	Stormwater Pollution Prevention Plan	EA	1		
645.71	Monitoring SWPP & Erosion & Sediment	HRS	35		
692	Mobilization	UNIT	1		
699	Misc. Erosion Control	UNIT	1		
616.191	Alterations to Traffic Signals	UNIT	1		

All work to be completed in accordance with the Contract Documents for the Lump Sum price of \_\_\_\_\_ (\$ \_\_\_\_\_).

The lump sum price includes all tax as applicable.

All Bids are to be submitted on this form and in a sealed envelope, plainly marked on the outside with the Bidder's name and address and the Project name as it appears at the top of the Proposal Form

The undersigned agrees that for extra work, if any, performed in accordance with the terms and provisions of the Contract Documents, the bidder will accept compensation as stipulated therein.

It is understood by the Bidder that this is a "Lump Sum Bid" and that the Bidder is solely responsible for determining all quantities, means and methods for the work.

2. Construction Schedule:

- Bid Award will be on or about **April 30, 2015**
- A Notice to Proceed will be issued on or about **May 13, 2015**
- The work must be 100% complete and certified prior to **August 7, 2015**

The contractor's bid contains all contingencies for unsuitable materials and fully coordinating access and service for the traveling public during construction.

3. Limits of Site work

The contractor is responsible for completing all work detailed on the drawings and Contract Documents. A full description of the contractor's work at the building interfaces is contained on the Contract Plans and this document.

4. Guarantee:

The contractor shall guarantee the entire work to be free from defective or improper work or materials, and shall make good on any damage due to such work or materials for a term of one (1) year from the date of the satisfactory completion and acceptance of the work. In general, the commencement date for warranties and guarantees shall be the date of substantial completion. Under no circumstances shall any warranties or guarantees for any individual or collective materials or items of equipment commence prior to the date of substantial completion.

5. Final Cleanup:

As part of the base bid, the contractor's price includes removal of all rubbish on site as part of final cleanup. This includes all rubbish, litter, debris, etc. originating from his operations or not. This also includes a final sweeping of all the paved areas adjacent to the work area. The base bid shall include cleaning all existing catch basins, drainage pipes, swales within the work limits as part of the final cleanup regardless of whether the structure was impacted from construction or not.



Submitted this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

Company

\_\_\_\_\_.

Business Address

\_\_\_\_\_.

City, State, Zip Code

\_\_\_\_\_.

Telephone Number

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

Printed Name

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

Authorized Signature

**DOCUMENT 00600 – STATEMENT OF BIDDERS QUALIFICATIONS**

## **STATEMENT OF BIDDER'S QUALIFICATIONS**

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. Add separate sheets if necessary. **This statement to be submitted with Bid.**

1. Name of Bidder
2. Permanent Main Office Address
3. Form of Entity
4. When Organized
5. Where Organized
6. How many years have you been engaged in the contracting business under your present name; also state names and dates of previous firm names, if any.
7. Contracts on hand (schedule these, showing gross amount of each contract and the approximate anticipated dates of completion).
8. General character of work performed by your company.
9. Have you ever failed to complete any work awarded to you?  
\_\_\_\_\_ (no)\_\_\_\_\_ (yes). If so, where and why?
10. Have you ever defaulted on a contract?  
\_\_\_\_\_ (no)\_\_\_\_\_ (yes). If so, where and why?
11. Have you ever failed to complete a project in the time allotment according to the Contract Documents?  
\_\_\_\_\_ (no)\_\_\_\_\_ (yes). If so, where and why?
12. List the most important contracts recently executed by your company, stating approximate cost for each, and the month and year completed.
13. List your major equipment available for this contract.
14. List your key personnel such as project superintendent and foremen available for this contract.
15. List any subcontractors whom you would expect to use for the following (unless this work is to be done by your own organization).
  - a. Paving \_\_\_\_\_
  - b. Drainage Improvements \_\_\_\_\_
  - c. Pavement Markings & Signage \_\_\_\_\_
  - d. Environmental \_\_\_\_\_
  - e. Sidewalk/Pedestrian Ramps/Granite Curbing \_\_\_\_\_
  - f. Traffic/pedestrian signals (complete) \_\_\_\_\_

**STATEMENT OF BIDDERS QUALIFICATIONS** (continued)

16. With what banks do you do business?

a. Do you grant the Owner permission to contact this/these institutions?

\_\_\_\_\_(no)\_\_\_\_\_(yes).

b. Latest Financial Statements, certified audited if available, prepared by an independent certified public accountant, may be requested by Owner. If requested, such statements must be provided within five (5) business days or the bid proposal will be rejected. Certified Audited Statement are preferred. Internal statements may be attached only if independent statements were not prepared.

17. Please identify any adverse governmental/agency decisions or actions against the company within the last three years excluding: workers compensation claims, wage claims, and OSHA actions that did not involve a penalty, fine or sanction of over \$1,000.

BY SUBMITTING THIS QUALIFICATIONS STATEMENT YOU AUTHORIZE THE TOWN OF ALLENTOWN AND ITS CONSULTING ENGINEERS TO UNDERTAKE SUCH INVESTIGATION AS IS NECESSARY TO VERIFY THE STATEMENTS MADE AND TO CONFIRM THAT BIDDER HAS THE QUALIFICATIONS AND REPUTATION NECESSARY TO COMPLETE THE PROJECT. BIDDER MAY BE ASKED TO AUTHORIZE RELEASES TO OBTAIN INFORMATION FROM THIRD PARTIES. FAILURE TO EXECUTE AN AUTHORIZATION IF REQUESTED MAY RESULT IN DISQUALIFICATION.

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

Name of Bidder: \_\_\_\_\_

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

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

State of \_\_\_\_\_

County of \_\_\_\_\_

\_\_\_\_\_ being duly sworn, deposes and

says that the bidder is \_\_\_\_\_ of \_\_\_\_\_  
(title) (Name of Organization)

and answers to the foregoing questions and all statements contained therein are true and correct.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary of Public

My Commission expires: \_\_\_\_\_

**DOCUMENT 00700 – GENERAL CONDITIONS**

## **GENERAL CONDITIONS**

### **1. Consideration of Proposals**

After the proposals are opened and read, they will be compared on the basis of the total price to be charged to perform the work and any such additional considerations as may be identified in the bid documents. The results of such comparisons will be immediately available to the public. In case of a discrepancy between the prices written in words and those written figures, the prices written in words shall govern. In case of a discrepancy between the total shown in the proposal and that obtained by adding the products of the quantities of items and unit bid prices, the latter shall govern.

The Owner reserves the right to reject any or all proposals, to waive technicalities or to advertise for new proposals, if, in the sole discretion of the Owner, the best interest of the Town of Allenstown will be promoted thereby.

### **2. Award of Contract**

Within 30 calendar days after the opening of proposals, if a contract is to be awarded, the award will be made to the lowest responsible and qualified bidder whose proposal complies with all the requirements prescribed. The successful bidder will be notified, in writing, mailed to the address on his or her proposal, that his or her bid has been accepted and that the bidder has been awarded the contract.

### **3. Cancellation of Award**

The Owner reserves the right to cancel the award of any contract at any time before the execution of such contract by all parties without any liability of the Owner.

### **4. Return of Proposal Guaranty**

All proposal guaranties, except those of the three lowest bidders, will, upon request, be returned immediately following the opening and checking of the proposals. The proposal guaranties of the three lowest bidders will be returned within ten days following the award of the contract, if requested.

### **5. Contract Bonds**

At the time of the execution of the contract, the successful bidder shall furnish:

- A performance bond in the amount of 100 percent of the contract amount.
- Labor and materials payment bond in the sum equal to 100 percent of the contract amount.

At the time of project completion the successful bidder shall furnish a maintenance bond in an amount equal to 10 percent of the contract amount. Such bond shall guarantee the repair of all damage due to faulty materials or workmanship provided or done by the contractor. The guarantee shall remain in effect for a period of one year after the date of final acceptance of the job by the Owner.

Each bond shall be: (1) in a form satisfactory to the Owner; (2) with a surety company licensed and authorized to do business and with a resident agent designated for services of process in the State of New Hampshire; and (3) conditioned upon the faithful performance by the principal of the agreements contained in the original bid. All premiums for the contract bonds are to be paid by the contractor.

6. Execution and Approval of Contract

The successful bidder is required to present all contract bonds, to provide proof of insurance, and to execute the contract within 10 days following receipt of the Town's notification of acceptance of the bid. No contract shall be considered as in effect until it has been fully executed by all parties.

7. Failure to Execute Contract

Failure to execute the contract and file acceptable bonds within 10 days after notification of acceptance of bid shall be just cause for the cancellation of the award and the forfeiture of the proposal guarantee which shall become the property of the Owner, not as a penalty, but in liquidation of damages sustained. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised as the Owner may determine in its sole discretion.

- End of Section -

**DOCUMENT 00800 –CONTRACT FORMS**



- **Bid Security Bonds**

**BID SECURITY BOND**

(This format provided for convenience, actual Bid Bond is acceptable in lieu of, if compatible.)

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned

\_\_\_\_\_, as Principal, and

\_\_\_\_\_, as Surety, are hereby

held and firmly bound unto \_\_\_\_\_

IN THE SUM OF \_\_\_\_\_

as liquidated damages for payment of which, well and truly to be made we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

The condition of this obligation is such that whereas the Principal has submitted to the

\_\_\_\_\_

A CERTAIN Bid attached hereto and hereby made a part hereof to enter into a contract in writing, hereinafter referred to as the "AGREEMENT" and or "CONTRACT", for

\_\_\_\_\_

\_\_\_\_\_

NOW THEREFORE,

- (a) If said Bid shall be rejected or withdrawn as provided in the INFORMATION FOR BIDDERS attached hereto or, in the alternative,
- (b) If said Bid shall be accepted and the Principal shall duly execute and deliver the form of AGREEMENT attached hereto and shall furnish the specified bonds for the faithful performance of the AGREEMENT and/or CONTRACT and for the payment for labor and materials furnished for the performance of the AGREEMENT and or CONTRACT,

then this obligation shall be void , otherwise it shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder in no event shall exceed the amount of this obligation.

**BID SECURITY BOND** (continued)

The Surety, for value received, hereby agrees that the obligation of said surety and its bond shall be in no way impaired or affected by any extensions of the time within such BID may be accepted, and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the parties hereto have duly executed

this bond on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
L.S.

(Name of Principal)

(SEAL)

BY \_\_\_\_\_

(Name of Surety)

\_\_\_\_\_

BY \_\_\_\_\_

- **Davis Bacon Wage Determination**

General Decision Number: NH150030 01/02/2015 NH30

Superseded General Decision Number: NH20140030

State: New Hampshire

Construction Type: Highway

County: Merrimack County in New Hampshire.

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

\* SUNH2011-026 08/15/2011

	Rates	Fringes
CARPENTER (Excluding Form Work).....	\$ 24.63	3.45
CARPENTER (Form Work Only).....	\$ 18.63	1.61
CEMENT MASON/CONCRETE FINISHER...	\$ 18.50	0.00
INSTALLER - GUARDRAIL.....	\$ 22.28	8.09
IRONWORKER, REINFORCING.....	\$ 21.59	0.90
LABORER: Common or General.....	\$ 14.73	4.81
LABORER: Flagger.....	\$ 11.79	0.00
LABORER: Highway/Parking Lot Striping.....	\$ 16.38	0.00
OPERATOR: Backhoe.....	\$ 22.08	6.00
OPERATOR: Broom.....	\$ 15.65	2.89
OPERATOR: Bulldozer.....	\$ 20.08	0.00

OPERATOR: Cold Planer.....	\$ 18.42	3.38
OPERATOR: Crane.....	\$ 23.21	3.61
OPERATOR: Excavator.....	\$ 22.21	0.00
OPERATOR: Grader/Blade.....	\$ 23.64	0.53
OPERATOR: Loader.....	\$ 17.83	2.41
OPERATOR: Paver.....	\$ 17.92	5.77
OPERATOR: Roller.....	\$ 16.16	4.91
OPERATOR: Post Driver/Pounder....	\$ 30.73	13.90
TRUCK DRIVER, Includes Dump Trucks/All Axles.....	\$ 17.72	2.60
TRUCK DRIVER: Low Bed Truck.....	\$ 20.60	4.39

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

=====

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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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the

Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

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

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

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

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

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

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

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

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

=====

END OF GENERAL DECISION





- **W-9 Request for Taxpayer Identification**

- **Insurance Certificates**

- **Notice of Intent to Award**

**NOTICE OF INTENT TO AWARD**

Date:

TO:

IN AS MUCH as you were the low responsible bidder for work entitled:

You are hereby notified that the Town intends to award the aforesaid project to you.

Immediately take the necessary steps to execute the Contract and to provide required bonds and proof of insurance within ten (10) calendar days from the date of this Notice.

The Town reserves the right to revoke this Notice if you fail to take the necessary steps to execute this Contract.

CLIENT  
LOCATION

- **Notice to Proceed**

**NOTICE TO PROCEED**

DATE:

**PROJECT: GRANITE STREET SIDEWALK CONSTRUCTION FROM RITE AID  
TO PARKWOOD DRIVE, ALLENSTOWN, NH**

TO:

YOU ARE HEREBY NOTIFIED TO COMMENCE WORK IN ACCORDANCE

WITH THE AGREEMENT DATED \_\_\_\_\_, ON OR

BEFORE \_\_\_\_\_ AND THE DATE OF COMPLETION OF ALL WORK  
SHALL BE \_\_\_\_\_.

CLIENT

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

TITLE: \_\_\_\_\_

**ACCEPTANCE OF NOTICE**

RECEIPT OF THE ABOVE NOTICE TO  
PROCEED IS HEREBY ACKNOWLEDGED BY

\_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

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

\_\_\_\_\_

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

- **Application for Payment**

# AIA® Document G702™ - 1992

## Application and Certificate for Payment

TO OWNER: PROJECT: new sample APPLICATION NO: Distribution to: OWNER: ☐ ARCHITECT: ☐ CONTRACTOR: ☐ FIELD: ☐

FROM CONTRACTOR: VIA ARCHITECT:

PERIOD TO: CONTRACT FOR: General Construction CONTRACT DATE: PROJECT NOS: / /

### CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract, Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM..... \$0.00
2. NET CHANGE BY CHANGE ORDERS..... \$0.00
3. CONTRACT SUM TO DATE (Line 1 ± 2)..... \$0.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)..... \$0.00
5. RETAINAGE:

a. 0 % of Completed Work (Column D + E on G703: \$0.00) = \$0.00  
b. 0 % of Stored Material (Column F on G703: \$0.00) = \$0.00

Total Retainage (Lines 5a + 5b or Total in Column I of G703)..... \$0.00

6. TOTAL EARNED LESS RETAINAGE..... \$0.00  
(Line 4 Less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT..... \$0.00  
(Line 6 from prior Certificate)
8. CURRENT PAYMENT DUE..... \$0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \$0.00

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$0.00	\$0.00
Total approved this Month	\$0.00	\$0.00
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order		\$0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

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

State of: \_\_\_\_\_  
County of: \_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_  
Notary Public: \_\_\_\_\_

My Commission expires: \_\_\_\_\_

### ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$0.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

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

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.



APPLICATION NO:  
APPLICATION DATE:  
PERIOD TO:  
ARCHITECTS PROJECT NO.:

[illegible]

(876-769933)

- **Change Order**

**CHANGE ORDER**

Change Order Number\_\_\_\_\_ Date of Issuance\_\_\_\_\_

Owner: **TOWN OF ALLENSTOWN, NH**

Contractor:

You are directed to make the following changes in the Contract Documents:

Description:

Purpose of Change Order:

Attachments:

**CHANGE IN CONTRACT PRICE**

**CHANGE IN CONTRACT TIME**

Original Contract Price:  
\$\_\_\_\_\_

Original Contract Time:  
\_\_\_\_\_days

Contract Price prior to this  
Change Order:  
\$\_\_\_\_\_

Contract Time prior to this  
Change Order:  
\_\_\_\_\_days

Net Increase or Decrease of  
this Change Order:  
\$\_\_\_\_\_

Net Increase or Decrease of  
this Change Order:  
\_\_\_\_\_days

Contract Price with all  
approved Change Orders:  
\$\_\_\_\_\_

Contract Time with all  
approved Change Orders:  
\_\_\_\_\_days

**RECOMMENDED**

**APPROVED**

**APPROVED**

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

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

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

Engineer

Town Administrator

Contractor

- **Performance Bond**

**PERFORMANCE BOND**

(This format provided for convenience, actual Performance  
Bond is acceptable in lieu, if compatible)

Bond Number \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS

that \_\_\_\_\_ as Principal,  
hereinafter called Contractor, and \_\_\_\_\_ (Surety  
Company) a corporation organized and existing under the laws of the State  
of \_\_\_\_\_ and authorized to do business in the State of New  
Hampshire as surety, hereinafter called Surety, are held and firmly bound unto the Town of  
Allenstown, N.H. Obligee, hereinafter called Owner, in the amount of \_\_\_\_\_  
Dollars (\$ \_\_\_\_\_), for the payment whereof Contractor and Surety bind  
themselves, their heirs, executors, administrators, successors and assigns, jointly and  
severally, firmly by these presents. WHEREAS, Contractor has by written agreement  
dated \_\_\_\_\_ entered into a contract with Owner for  
\_\_\_\_\_ in accordance with drawings and specifications prepared by  
Haight Engineering, PLLC, 181 Watson Road, Dover, NH 03820 on behalf of the Town of  
Allenstown, NH, which contract is by reference made a part hereof, and is hereinafter  
referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the  
Contractor shall well and faithfully do and perform the things agreed by him to be done  
and performed, according to the terms of said Contract and such alterations as may be  
made in said Contract during progress work, and shall further indemnify and save harmless  
the said Owner in accordance with the Contract and shall remedy without cost to the  
Owner any defect which may develop within one year from the time of completion and  
acceptance of the work.

The Surety hereby waives notice of any alteration in work or extension of time made by  
the Owner or any of its agents or representatives.

Whenever Contractor shall be, and declared by Owner to be, in default under the Contract,  
the Owner having performed Owner's obligations thereunder, the Surety may promptly  
remedy the default, or shall promptly:

- (1) Complete the Contract in accordance with its terms and conditions, or
- (2) Obtain a bid or bids for submission to the Owner for completing the Contract in  
accordance with its terms and conditions, and upon determination by Owner and Surety  
of the lowest responsible bidder, arrange for a contract between such bidder and Owner  
and make available as work progresses (even though there should be a default or a  
succession of defaults under the contract of completion arranged under this paragraph)  
sufficient funds to pay the cost of completion less the balance of the contract price; but  
not exceeding, including other costs and damages for which the Surety may be liable  
hereunder, the amount set forth in the first paragraph hereof. The term "balance of the  
contract price", as used in this paragraph, shall mean the total amount payable by the  
Owner to Contractor under the Contract and any amendments thereto, less the amount  
paid by Owner to Contractor.

**PERFORMANCE BOND** (continued)

Any suit under this bond must be instituted before the expiration of (2) years from the date on which final payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of Owner.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.

In the presence of:

\_\_\_\_\_  
(Witness)                      (Principal)                      BY: \_\_\_\_\_  
(Seal)

\_\_\_\_\_  
(Surety Company)

\_\_\_\_\_  
(Witness)                      (Title)                      BY: \_\_\_\_\_  
(Seal)

**Note:**

If the Principal (Contractor) is a partnership, the Bond should be signed by each of the partners.

If the Principal (Contractor) is a corporation, the Bond should be signed in its correct corporate name by its duly authorized Officer or Officers.

If this bond is signed on behalf of the Surety by an attorney-in-fact, there should be attached to it a duly certified copy of his Power of Attorney showing his authority to sign such Bonds.

There should be executed an appropriate number of counterparts of the bond corresponding to the number of counterparts of the Agreement.

- **Labor and Material Payment Bond**

**LABOR AND MATERIAL PAYMENT BOND**

(This format provided for convenience, actual Labor and Material Bond is acceptable in lieu, if compatible)

Bond Number \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS:

that

\_\_\_\_\_  
as Principal, hereinafter called Contractor, and \_\_\_\_\_  
(Surety Company) a corporation organized and existing under the laws of the State of

\_\_\_\_\_ and authorized to do business in the State of New Hampshire hereinafter called Surety, are held and firmly bound unto the Town of Allenstown, N.H. Oblige, hereinafter called Owner, for the use and benefit of claimants as herein below defined, 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 Owner for \_\_\_\_\_ in accordance with drawings and specifications prepared by Haight Engineering, PLLC, 181 Watson Road, Dover, NH 03820 on behalf of the Town of Allenstown, NH, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract and for the hire of all equipment, tools, and all other things contracted for or used in connection therewith, then this obligation shall be void, otherwise it shall remain in full force and effect, subject however, to the following conditions:

- (1) A claimant is defined as one having a direct contract with the Principal or, with a subcontractor of the Principal for labor, material, equipment, or other things used or reasonably required for use in the performance of the Contract. "Labor and material" shall include but not be limited to that part of water, gas, power, light, heat, oil and gasoline, telephone service or rental of equipment applicable to the Contract.
- (2) The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such a claimant, may sue on this bond for the use of such claimant, prosecute the suit by final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any such suit or any costs or expenses of any such suit, and principal



and surety shall jointly and severally indemnify, defend and hold the Owner harmless for any such suit, costs or expenses. thereon.

(3) No suit or action shall be commenced hereunder by any claimant:

(a) Unless Claimant, other than one having a direct contract with the Principal, shall have given notice to all the following:

The Principal, the Owner and the Surety above named, within six (6) calendar months after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner, and Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the State of New Hampshire save that such service need not be made by a public officer.

(b) After the expiration of one (1) year following the date on which Principal ceased all work on said contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

(c) Other than in a State court of competent jurisdiction in and for the county or other political subdivision of the State in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere. (4) The amount of this bond may be reduced by and to the extent of any payment of payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed on record against said improvement, whether or not claim for the amount of such lien by presented under and against this bond.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. In the presence of:

\_\_\_\_\_  
(Witness) (Principal) BY: \_\_\_\_\_  
(Seal)

\_\_\_\_\_  
(Surety Company)

\_\_\_\_\_  
(Witness) (Title) BY: \_\_\_\_\_  
(Seal)

**LABOR AND PAYMENT BOND** (continued)

Note:

If the Principal (Contractor) is a partnership, the Bond should be signed by each of the partners.

If the Principal (Contractor) is a corporation, the Bond should be signed in its correct corporate name by its duly authorized Officer or Officers.

If this bond is signed on behalf of the Surety by an attorney-in-fact, there should be attached to it a duly certified copy of his Power of Attorney showing his authority to sign such Bonds.

There should be executed an appropriate number of counterparts of the bond corresponding to the number of counterparts of the Agreement.

- **Maintenance Bond**

**MAINTENANCE BOND**

A maintenance bond in the amount of **10%** of the contract price with a corporate surety approved by the Owner shall be provided at the time of Contract completion and shall guarantee the repair of all damage due to faulty materials or workmanship provided or done by the Contractor. This guarantee shall remain in effect for a period of one year after the date of final acceptance of the job by the Owner

- **Contractor's Affidavit**

**CONTRACTOR'S AFFIDAVIT**

STATE OF \_\_\_\_\_:

COUNTY OF \_\_\_\_\_:

Before me, the undersigned, a \_\_\_\_\_  
(Notary Public, Justice of the Peace)

in and for said County and State personally appeared, \_\_\_\_\_  
(Individual, Partner, or duly authorized representative of Corporate)

who being duly sworn according to law deposes and says

that the cost of labor, material, and equipment and

outstanding claims and indebtedness of whatever nature

arising out of the performance of the Contract between

(Client)  
and \_\_\_\_\_  
(Contractor)

of \_\_\_\_\_

Dated: \_\_\_\_\_

has been paid in full for Construction of:

\_\_\_\_\_  
(Individual, Partner, or  
duly authorized  
representative of  
Corporate Contractor)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

- **Final Waiver of Liens (Contractor)**

**CONTRACTOR'S FINAL LIEN WAIVER**

(page 1 of 2)

OWNER'S CONTRACT NO.: \_\_\_\_\_ ENGINEER' PROJECT NO.: \_\_\_\_\_

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

CONTRACT TITLE: \_\_\_\_\_

To: \_\_\_\_\_ (Owner)

**APPLICATION FOR FINAL PAYMENT**

The undersigned hereby certifies that the amount owed set forth below constitutes the entire value of all work performed and services rendered by, through or under the undersigned with respect to the project not heretofore paid for up to and including the period covered by the above Application for Final Payment; that all work covered by such Application has been incorporated into the project and title thereto has passed to the Owner free and clear of all liens, claims, security, interests or encumbrances; and that no work covered by such Application has been acquired subject to an agreement under which any interest therein or an encumbrance thereon is retained by the seller or any other person. In consideration of payment of the requisition, the undersigned hereby releases the Owner from all claims of lien which the undersigned has regarding the Project.

The undersigned, in order to induce the Owner to pay the requisition, hereby represents that it has paid or will pay from the proceeds of the requisition all sums due to those parties who have performed work or provided materials to the undersigned in connection with the Project, and that it will on request of the Owner provide written evidence of the discharge by the undersigned of its obligations to such parties.

Executed under seal as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Amount Owed to Contractor by Owner as Final Payment:

\$ \_\_\_\_\_ (total value of project including change orders)

Amount Unpaid From Previous Application for Payment:

\$ \_\_\_\_\_

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2/23/2015



**CONTRACTOR'S FINAL LIEN WAIVER**  
(page 2 of 2)

From: \_\_\_\_\_ (Contractor)

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

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

\_\_\_\_\_  
Name and Title (printed)

**NOTARY:**

Then personally appeared the above named \_\_\_\_\_ and  
acknowledged the foregoing to be the free act and deed of the above-named Contractor, before  
me.

Subscribed and sworn to on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

9/07

- **Certificate of Final Completion of work**

PROJECT CLOSE-OUT FORMS

**CERTIFICATE OF FINAL COMPLETION OF WORK**  
(page 1 of 2)

OWNER'S CONTRACT NO.: \_\_\_\_\_ ENGINEER' PROJECT NO.: \_\_\_\_\_  
AGREEMENT DATE: \_\_\_\_\_

CONTRACT TITLE: \_\_\_\_\_

FINAL COMPLETION DATE PER AGREEMENT AND CHANGE ORDERS: \_\_\_\_\_  
ACTUAL DATE OF FINAL COMPLETION: \_\_\_\_\_

**FINAL CERTIFICATION OF CONTRACTOR**

I hereby certify that the Work as identified in the Final Payment Request dated \_\_\_\_\_  
\_\_\_\_\_ for the above-noted construction Contract represents full compensation for the actual  
value of work completed. Additionally, all work completed conforms to the terms of the  
Agreement and authorized changes.

\_\_\_\_\_  
CONTRACTOR Date

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Name & Title

**FINAL CERTIFICATION OF ENGINEER**

I have reviewed the Contractor's Final Payment Request dated \_\_\_\_\_ and hereby  
certify that to the best of my knowledge, the cost of the work identified on the Final Payment  
Request represents full compensation for the actual value of work completed and that the work  
has been completed in accordance with the terms of the Agreement and authorized changes.

\_\_\_\_\_  
ENGINEER Date

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Name & Title

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2/23/2015

**CERTIFICATE OF FINAL COMPLETION OF WORK**

(page 2 of 2)

**FINAL ACCEPTANCE OF OWNER**

I, as representative of the Owner, accept the above Final Certifications and authorize Final Payment in the amount of \$\_\_\_\_\_ and direct the Contractor's attention to the General Conditions. The guaranty for all Work completed subsequent to the date of Substantial Completion, expires \_\_\_\_\_ year from the date of this Final Acceptance.

At a meeting of the \_\_\_\_\_ (Town Council/Selectmen/Alderman), the Owner,  
\_\_\_\_\_ (Name of the community) has accepted the constructed project.

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Name & Title

**END OF SECTION**

- **Consent of Surety Company to Final Payment Bid Security**

PROJECT CLOSE-OUT FORMS

**CONSENT OF SURETY COMPANY  
TO  
FINAL PAYMENT**

OWNER'S CONTRACT NO.: \_\_\_\_\_ ENGINEER' PROJECT NO.: \_\_\_\_\_

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

BOND NUMBER: \_\_\_\_\_

CONTRACT TITLE: \_\_\_\_\_

To: \_\_\_\_\_ (Owner)

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

From: \_\_\_\_\_ (Contractor)

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

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the \_\_\_\_\_ (Surety) on the bond of \_\_\_\_\_ (Contractor) hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of it's obligations to the \_\_\_\_\_ (Owner) as set forth in the said Surety Company's Bond.

IN WITNESS WHEREOF, the Surety Company has hereunto set its hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Surety Company

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Name & Title

Attest: (Seal)

Note: Power of Attorney should be attached in instances where same applies.

9/07

2/23/2015

**DOCUMENT 00900 – ADDITIONAL CONTRACT FORMS**

## **DIVISION I**

### **GENERAL PROVISIONS**

**DIVISION 100, Sections 101 through 109.11  
inclusive, except as modified or supplemented  
within these contract documents and as follows**



**The following General Provisions supplement the standard NHDOT Division 100 General Provisions, and where conflicts exist the below General Provisions shall govern.**

Work under this contract shall be performed in accordance with the Standard Specifications for Road and bridge Construction, State of New Hampshire Department of Transportation, Latest Edition, as amended, which are incorporated herein by reference. These specifications, herein after referred to as the NHDOT Standard Specifications, are hereby made a part of this document as if there were reprinted herein in their entirety, including without limitation, Division 100, section 101 through 109.11 inclusive, except as modified or supplemented within these contract documents and as follows:

Whenever the work “State” or “department” appears, substitute the words “Town of Allenstown, NH”, or its agents, as in “Project Engineer” below.

Wherever the word “Commissioner” appears, substitute the words “Town Administrator”.

Wherever the words “Bureau of Materials and Research” appear, substitute the words “Project Engineer”.

Whenever the words “Governor and Council” or “General Court” appears, substitute the words “Town of Allenstown, NH”, or its agents as designated by him/her as representatives of the Town, or the “Project Engineer”.

All Contractor’s bidding on this project, or performing work under the contract, are required to familiarize themselves with the NHDOT Standard Specifications, Standard Details and all Standard plans for his/her use.

If the NHDOT Standard Specifications conflict with these General provisions, the General Provisions shall control.

The price bid shall not include Federal or State taxes. If such are applicable, the successful bidder shall furnish the Town with the necessary tax exempt forms in triplicate upon submission of their invoice

Bids, when opened shall be irrevocable for a period of sixty (60) calendar days following bid opening date. Following review of all bids by the Town, that official will award the Contract to the lowest responsible bidder.

The successful bidder shall not use the name of the Town in any advertisement without first obtaining the written consent of the Town.

Should the Bidder find during his examination of the Contract Document/Bid Specifications, any discrepancies, omissions, ambiguities or conflicts in or among the documents, or be in doubt as to their meaning, shall, in writing, bring the question to the Town’s attention not later than five (5) working days before the bid due date. The Town will review the question(s) and, where

information sought in not clearly indicated or specified, the Town will issues a clarifying addendum which will become part of the bid.

The bidder's attention is directed to the fact that they shall observe and comply with all applicable Federal and State Laws and Regulations, Town Ordinances and the rules and regulations of the authorities having jurisdiction over the project, and these shall apply to the Contract the same as though written in full, and the Contractor shall indemnify the Town, and its representatives against any claim or liability arising from or based on any law, ordinance, rule and regulation by themselves or their employees. The successful bidder shall notify the Town immediately if these bid documents are at variance with any laws or regulations.

The Town may make such investigations as it may deem necessary to determine the ability of the bidder to perform the services, and the bidder shall furnish the Town all such information for this purpose that the Town may request.

The Contractor shall be responsible for all damage or loss of property, or injury to persons arising out of their actions or failure to act. The Contractor does hereby indemnify and hold the Town harmless from any liability which the Town may have, if any, for damages or claims for damages which may arise from the Contractor's performance of the contract. The Contractor undertakes to indemnify the Town and its officers and agents from any liability, loss or damages it may suffer as a result of any and all claims, demands, costs, or judgments against it arising from the performance of the contract. The Contractor agrees to defend against any and all claims brought or actions files against the Town, its officers and agents with respect to the subject of the indemnity provided for herein, whether such claims or actions are rightly or wrongfully brought or filed. In a case a claim should be brought or an action filed with respect to the subject of the indemnity provided for herein, the Contractor agrees that the Town may employ attorneys of its own selection to appear and defend the claim or action on behalf of the Town, at the expense of the Contractor. The Town at its option, shall have the sole authority for the direction of the defense and shall be the sole judge of the acceptability of any compromise or settlement of any claim or actions against the Town.

The Bidder will guarantee the work and materials and the work and the materials of all subcontractors for a period of one (1) year from the date of acceptance of the work by the Town and agrees to leave the work in perfect order at completion. Neither final certificate of payment nor any provisions in the Contract Documents shall relieve the bidder of responsibility for negligence, or faulty materials, or workmanship within the extent and period provided by laws, and upon written notice shall remedy any defaults due thereto, and pay all expenses for any damage to work resulting therefrom. It is hereby specifically agreed and understood that this guarantee shall not include any cause or causes other than defective work or materials. It is further understood that the Town Administrator shall be the final judge as to whether or not any defect is a defect in workmanship and/or materials, which is the bidder's responsibility. It is hereby specifically agreed and understood that this guarantee shall not include any repairs made necessary by any cause or causes other than work or materials.

The Contract Documents shall include the "Invitation to Bid", "Instructions to Bidders", "Stipulated Sum Proposal Form", "Statement of Bidders Qualifications", "Standard Form of Agreement", "General Conditions", "Contract Forms", "General Provisions", "Special

Provisions”, “Special Attentions”, “Specifications”, “Drawings”, and any issued addenda, “Performance and Maintenance Securities” and the final executed Contract Agreement. The intent of these documents is to include all labor, materials, application and services of every kind necessary for the proper execution of the work and the terms and conditions of payment therefore. The documents are to be considered as one, and whatever is called for by any one of the documents shall be binding as if called for by all.

The Contract shall be interpreted as a Town Contract and in accordance with the ordinances of the Town.

After execution of the Contract, there shall be no change in the Bid Documents or Specification except by written amendment executed in the same manner as the Contract or by Change Order.

The Contractor shall submit a construction schedule for the first thirty (30) calendar days of work within five (5) calendar days of Contract Award. Schedule to be revised every two (2) weeks thereafter.

## **RESPONSIBILITIES OF CONTRACTOR**

### **DISCOVERY**

It was not possible for the Owner and/or engineer to observe all existing conditions in the completion of these documents. Unforeseen conditions are expected to be discovered. The accuracy of the existing condition's data is not guaranteed to the contractor. During the execution of the work, it shall be the contractor's responsibility to discover, identify and observe existing conditions not anticipated by the Construction Documents, and promptly notify the engineer of such conditions and proposed solutions at no additional cost to the Owner. The contractor's bid shall anticipate that test pits shall be required and provide contingencies for delays associated with conflicts with existing utilities.

The engineer's services include preparation of the Construction Documents, limited site visits to provide requested clarifications and observe the progress of the work. In consideration of this limited scope of services, it shall be the contractor's responsibility to notify the engineer, in writing, of any substantive changes to the work, or discovery of existing conditions, which may affect the integrity of the proposed design. Such notice shall be served prior to proceeding with work. No extra work or changes in the design intent shall be commenced without written authorization of engineer or Owner.

### **COORDINATION**

The contractor shall be fully responsible for coordinating all construction activities, verifying dimensions and existing field conditions, establishing on-site lines of authority and communication, monitoring schedules and progress, monitoring quality, maintaining records and reports and in general assuring the proper administration of the work. Disruptions and inconveniences to the activities of adjacent facilities to remain in operation during construction shall be minimized, and shall be subject to the prior approval of the Owner. The contractor shall cooperate with the Owner to the greatest extent possible. The contractor's cooperative efforts shall include, but shall not necessarily be limited to:

1. Protecting existing building, landscaping, site utilities, site improvement and features, and all other improvements within and about the project area.
2. Storing on-site materials at locations acceptable to the governing authorities.
3. Controlling construction parking and traffic and limiting it to areas acceptable to the Owner and governing authorities.
4. Accommodate existing traffic along adjacent roadways.

### SAFETY

The contractor shall assume full responsibility for all means, methods, procedures, sequences and techniques of construction employed and shall take all measures required to ensure the public's safety. The contractor shall take into full consideration and assure himself that all necessary barricades and fencing are provided and that they comply with applicable regulations and standards of good practice. The public shall be guarded from all construction hazards and/or attractive nuisances. The contractor shall pay all costs necessary for temporary partitioning, barricading, fencing, security and safety devices required for the maintenance of a clean and safe construction site.

### JOB SITE LAYOUT, CONDITIONS AND MEASUREMENTS

The contractor shall determine all lines and grades and field verify existing job conditions and measurements shown on the drawings. All discrepancies shall be reported to the engineer for clarification. The contractor shall carefully examine the site and Contract Documents prior to proceeding with the work and satisfy himself as to the conditions under which he must operate to perform the work. No additional compensation will be made to the contractor for any error or negligence on his part, nor for discrepancies between actual conditions found at the site and as indicated in the Contract Documents, after the work has commenced.

Temporary benchmarks will be provided in the field. It is the contractor's responsibility to protect, maintain, transfer, and offset the traverse points and benchmarks as required throughout the construction period. Should the traverse points and/or benchmarks be lost or destroyed, the Owner will provide additional layout at a cost to the contractor.

### PROTECTION OF ADJOINING PROPERTY

The contractor shall provide all shoring, fencing, and other work necessary to support, protect and keep unharmed all walls, buildings, walks, roadways and all other parts of any existing buildings, facilities, site improvements, land forms, trees and plant materials, etc. The contractor shall hold the Owner harmless from any such damage due to any operations under this contract. Any existing work or property damaged or disrupted as a result of this contract shall be replaced or repaired to match original existing conditions at no additional cost to the Owner.

## UTILITIES

The contractor shall send proper notices, make all necessary arrangements and perform all other services required for the relocation or the care, protection and maintenance of all utilities, including, but not limited to: electric, gas, alarm, television, telephone and telegraph poles and wires, and all other items of this character above or below the ground, on and around the site, assuming all responsibility and paying all costs related thereto. Related services to any existing facilities shall not be disrupted without the prior approval of the Owner, and then only to the minimum extent required. The contractor shall call **Dig Safe at least seventy-two (72) working day hours in advance** of excavating.

## SUPERINTENDENT/FOREMAN - SUPERVISION

The contractor shall place and maintain a competent, experienced construction superintendent/foreman in charge of the work, on the job site at all times while work is in progress, including overtime operations by the contractor's forces or by subcontractors. No changes in this position shall be made without the Owner's prior approval. The Owner shall have the right to review the qualifications of the proposed superintendent/foreman and ask for a replacement if in his opinion the person does not meet the qualifications, which the project will demand.

The superintendent shall be responsible to make satisfactory arrangements with the Owner to service emergencies or complaints which may occur at night, over the weekend, holidays or when the job is shut down. The superintendent shall notify the engineer and Owner immediately of any emergency affecting the safety or protection of persons or the work.

## TRAFFIC REGULATIONS AND PARKING

The contractor shall provide adequate personnel, flagmen, signs, barricades and equipment to properly regulate traffic at times when the work interferes with the normal flow of traffic. Parking for workmen and construction vehicles shall be limited. Parking areas and roadways outside the limits of the contract shall be kept free of debris resulting from construction related traffic. If at any time the Owner determines that additional traffic control personnel are required to execute the work, the contractor shall provide additional personnel at no additional expense.

## VANDALISM/ACCIDENTS

The contractor shall take all reasonable precautions necessary to prevent loss or damage caused by vandalism, theft, burglary, pilferage, or unexplained disappearance of property of the Owner, whether or not forming part of the work, located within those areas of the project to which the contractor has access until the work has been substantially completed and accepted by the engineer.

The contractor shall be responsible for all costs required to repair or replace all losses from vandalism or accidents including resetting of damaged curb and repair of lawn areas at no additional cost to the Owner until the project is substantially complete.

EXISTING MATERIALS AND EQUIPMENT

All materials scheduled for removal shall become the property of the contractor unless otherwise specified. The contractor shall dispose of all material off-site in accordance with all federal, state and local regulations, ordinances, and codes.

- End of Section -

## **DIVISION II**

### **SITEWORK SPECIFICATIONS**

Work under this contract shall be performed in accordance with the Standard Specifications for Road and bridge Construction, State of New Hampshire Department of Transportation, Latest Edition, as amended, which are incorporated herein by reference. These specifications, herein after referred to as the NHDOT Standard Specifications, are hereby made a part of this document as if there were reprinted herein in their entirety

## **SUPPLEMENTAL SPECIFICATIONS AND SPECIAL PROVISIONS**

Work under this contract shall be performed in accordance with the Supplemental Standard Specifications for Road and bridge Construction, State of New Hampshire Department of Transportation, Latest Edition, as amended, which are incorporated herein by reference. These specifications, herein after referred to as the NHDOT Standard Specifications, are hereby made a part of this document as if there were reprinted herein in their entirety.



04/14/14  
SSD: 10/05/10

Page 1 of 1

**S U P P L E M E N T A L   S P E C I F I C A T I O N**

**SECTION 108 -- PROSECUTION AND PROGRESS**

**SUBSECTION 108.09 - FAILURE TO COMPLETE ON TIME**

**Amend** 108.09 Liquidated Damages Schedule to read:

Liquidated damages shall be assessed in accordance with the following schedule:

<u>Original Contract Amount</u>		<u>Daily Charge</u>	
From more than	To and including	Calendar Day	Working Day
\$ 0	\$ 100,000	\$ 260	\$ 370
100,000	750,000	520	740
750,000	2,000,000	780	1,110
2,000,000	5,000,000	1,040	1,480
5,000,000	10,000,000	1,550	2,210
10,000,000	20,000,000	2,070	2,950
20,000,000	----	2,580	3,690

## TECHNICAL SPECIFICATIONS

### **GENERAL REQUIREMENTS**

#### **SITE CONDITIONS**

The Contractor shall promptly, and before such conditions are disturbed, notify the Town or their authorized representative of:

1. Subsurface or latent physical conditions at the site differing materially from those indicated on the plans;
2. Unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent to work of the character provided for in the plans and specifications, or;
3. Encounters with a utility, whether damaged or simply unearthed. Should that utility be mislocated or missing on the plans or the Dig Safe layout, the utility company shall be notified also.

#### **DIG SAFE**

The Contractor shall be responsible for contacting Dig Safe (1-888-344-7233) at least 72 hours prior to commencement of work, and for notifying the following City Departments: Fire, Police, and the General Services Department. The location of all utility facilities shall be determined sufficiently ahead of excavation work to avoid damage and permit their relocation if necessary.

### **Item #619.1 MAINTENANCE OF TRAFFIC**

#### **SCOPE:**

This work shall consist of providing and maintaining safe and passable traffic accommodations for public travel, preventing dust nuisance, furnishing, erecting and maintaining construction signs, barricades, delineator lights, flashers and other warning devices as shown on the plans or as required by the Town's Engineer. All traffic control devices used on street and highway construction, maintenance, utility or incident management operations shall conform to the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways. Temporary sidewalk ramps may be required during construction to assist pedestrians through the work areas and these ramps must adhere to ADA requirements.

**GRANITE STREET SIDEWALK CONSTRUCTION  
FROM RITE AID TO PARKWOOD DRIVE  
SRTS # 15991 FED # X-A001 (065)**

October 6, 2014

**SPECIAL PROVISION  
AMENDMENT TO SECTION 616 – TRAFFIC SIGNALS  
Item 616.191 – Alterations To Traffic Signals**

This special provision provides for the reconstruction of the existing traffic signal system at the intersection of *GRANITE STREET* with *ALLENSTOWN ROAD (RTE. 3)* in the *town or city* of *ALLENSTOWN*. The system is coordinated with the following intersections:

- A crosswalk with pedestrian signals and pushbuttons is proposed at the intersection of Granite Street and Allenstown Road (Rte. 3). The proposed crosswalk is located on the northern side of Granite Street, spanning across Rte. 3, just south of the existing painted STOP bar.

**GENERAL:**

All provisions of Section 616, except as modified or changed below, shall apply.

1. The Contractor shall be responsible for signal operation and maintenance once alterations to the existing signals, excavation or other work within 75 feet of the stop bar at any leg of the intersection has begun. At this point in time the Contractor shall notify the Bureau of Traffic and furnish the Contract Administrator and the *Transportation Management Center (TMC)* (tel. 603-271-6862) with names and phone numbers of persons to be contacted in case of a malfunction. . The Contact person must be available 24 hours a day, seven days a week. The Contractor shall also keep a signal log in the cabinet to track all maintenance work they complete on the signal system. This log shall be placed within a plastic cover and shall at least include the description of the trouble call, corrective action taken, date, time, and personnel who completed the work.
2. The traffic signal must be inspected and approved by the Bureau of Traffic prior to placing in flash operation. The Contractor shall contact Peter Crouch at the Bureau of Traffic at (603) 271-2291 one week prior to turning the signals on flash. If the Contractor does not speak directly with Peter Crouch they must leave a detailed message with the Administrative Assistant and expect a call back. Leaving a message does not constitute an approval.

3. The Contractor shall be responsible for the dismantling and removing of controller cabinet components. All surplus equipment shall be salvaged and delivered to the Department of Transportation, Bureau of Traffic in Concord, within normal business hours.

**Add** to 2.1:

### **2.1.3 List of Major Materials:**

- X –Programming controller with new settings.
- X - 8-phase programmable traffic – actuated signal controller of current NEMA specifications with internal time base coordination and internal fire pre-emption. Overlaps shall be internally generated as per NEMA Standard TS-1 using wire jumpers on a printed circuit board. Equipment to be housed in a P Type cabinet assembled by the equipment manufacture which will include telemetry harness and panel and 12-inch extension base. The exterior of the Controller Cabinet shall be natural aluminum finish.
- X – 30 Amp 125 V semi-flush Traffic Signal Generator Transfer switch with confirmation pilot light to indicate restored power mounted to the controller cabinet.
- X - Quadrupole roadway loop detectors, 6.0 ft x 50.0 ft, with 2-4-2 turns as per plan.
- X - 8 ft signal pole.
- 2 - Pedestal mounted, 16-inch x 18-inch, LED pedestrian signal heads with solid hand symbol and solid walking symbol with countdown timer display.
- 2 - Pedestrian push buttons.
- 2 – 9 inch by 12 inch Aluminum Blank Face Station, with pedestrian push-button housing.
- 2 – 9 inch by 15 inch Adapter Plate Assembly.
- 2 - R10-3e (No Arrow), 9 inch by 15 inch, Count-Down Pedestrian Sign.

**Add** to 5.1

**5.1.1** All work for failures due to pre-existing conditions will be negotiated and paid for as extra work as provided in 109.04. The labor and equipment necessary to complete this application will be subsidiary.

### **5.1.2 3” Schedule 40 PVC Conduit**



**ADDITIONAL NHDOT/FEDERAL AID PROJECT  
SPECIAL ATTENTION AND SUPPLEMENTAL  
SPECIFICATIONS**

06/24/08

Supersedes: 9/11/06, 12/5/90

**WAGE RATES**  
**FEDERAL AID PROJECTS**

This proposal contains minimum wage determinations as specified by the U.S. Secretary of Labor. Copies of the attached wage determination(s) shall be posted on the bulletin board at the work site and furnished to employees upon request. Furthermore, the wage determination(s) shall be incorporated into all subcontract agreements.

If the Contractor, any subcontractor or lower-tier contractor intends to employ a classification of labor not listed in the attached determination(s), it shall submit a Request for Additional Work Classification(s) to the New Hampshire Department of Transportation, Labor Compliance Office at (603) 271-2467. The Contractor is responsible for ensuring that a Request is submitted for any additional classification of work to be employed by itself, any subcontractor or lower-tier contractor 3-4 weeks before the classification is utilized.

This contract is subject to the Work Hours Act of 1962, P.L. 87-581 and implementing regulations.

## **NOTICE TO ALL BIDDERS**

In accordance with the section "NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)", the New Hampshire Department of Transportation has the authority and responsibility to notify the Office of Federal Contract Compliance Programs of the United States Department of Labor if they become aware of any possible violations of Executive Order 11246 and 41 Code of Federal Regulation Chapter 60.

The Office of Federal Contract Compliance Programs is the sole authority for determining compliance with Executive Order 11246 and 41 Code of Federal Regulation Chapter 60 and the Contractor should contact them regarding related compliance issues.



## Source 41 CFR 60-4 Affirmative Action Requirements

Source: 41 CFR 60-4.2 Solicitations

### NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

	Goals for minority participation for each trade	Goals for female participation in each trade
<b><u>STANDARD METROPOLITAN STATISTICAL AREAS (SMSA)</u></b>		
SALEM-PLAISTOW:	4.0	6.9
MANCHESTER-NASHUA	0.7	6.9
<b><u>NON-SMSA COUNTIES</u></b>		
COOS, GRAFTON, SULLIVAN:	0.8	6.9
BELKNAP, MERRIMACK, CARROLL, STRAFFORD:	3.6	6.9
CHESHIRE:	5.9	6.9
ROCKINGHAM:	4.0	6.9
HILLSBOROUGH:	0.7	6.9

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

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

The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation addressed as follows:

Director  
Federal Contract Compliance Program  
US Department of Labor  
JFK Building, Room 1612-C  
Boston, MA 02203

The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed **as noted within the Contract Special Provisions** for Affirmative Action to ensure Equal Employment Opportunity..

## Source 41 CFR 60-4 Affirmative Action Requirements

### Source 41 CFR 60-4.3 Equal Opportunity Clauses

#### Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

[1]. As used in these specifications:

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 and which is set forth in the solicitations from which this contract resulted.

[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 or 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 covered 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, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, 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 or 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

## Source 41 CFR 60-4 Affirmative Action Requirements

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 with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman 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, annual report, etc.; 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, General Foremen, etc., 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 it in any advertising in the news media, specifically including minority and female news media, 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. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female 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 any 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 a Contractor's work force.

k. Validate all tests and other selection requirements where there

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

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. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take

## Source 41 CFR 60-4 Affirmative Action Requirements

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 (for example, even though the Contractor has achieved its goals for women generally, 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 national 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 of 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 shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official 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 shall 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).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45

FR 65978, Oct. 3, 1980]

## REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

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

### ATTACHMENTS

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

#### I. GENERAL

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

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

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

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

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

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

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

#### II. NONDISCRIMINATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**6. Training and Promotion:**

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

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

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

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

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

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

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

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

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

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

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

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

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

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

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

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

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

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

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

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

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

### III. NONSEGREGATED FACILITIES

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

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

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

#### 1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

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

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

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

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

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

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

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



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

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

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

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

## **2. Withholding**

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

## **3. Payrolls and basic records**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

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

#### 4. Apprentices and trainees

##### a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

##### b. Trainees (programs of the USDOL).

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

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

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

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

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

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

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

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

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

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

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

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

**10. Certification of eligibility.**

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

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

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

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

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

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

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

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

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

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

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

## VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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

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

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

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

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

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

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

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

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

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

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

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

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

\*\*\*\*\*

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

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

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

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

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

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

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

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

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

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

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

this transaction originated may pursue available remedies, including suspension and/or debarment.

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

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

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

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

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

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

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

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

\* \* \* \* \*

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

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

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

\* \* \* \* \*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



**DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See Reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known:		<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>   Congressional District, if known:
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable:	
<b>8. Federal Action Number, If known:</b>	<b>9. Award Amount, If known:</b> \$	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(If individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(Including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred, Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward receipt. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g. "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in Item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Certifying official shall sign and date the form, print his/her name, title and telephone number.

*According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.*

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SSD: 06/28/04

ALL FA PROJECTS

**SPECIAL ATTENTION**

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) DIRECTORY**

The current New Hampshire Unified Disadvantaged Business Enterprise (DBE) Directory is available on the NHDOT website at <http://www.nh.gov/dot/business/contractors.htm>. If you have questions or do not have access to the Internet, the directory may be obtained from DBE Coordinator, located at 7 Hazen Drive, Concord, NH 03302, Tel: (603) 271-6612.

## **SPECIAL ATTENTION**

### **Disadvantaged Business Enterprise (DBE)**

**Disadvantaged Business Enterprise (DBE) Policy.** It shall be the policy of the New Hampshire Department of Transportation (NHDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's) to participate in the performance of all contracts and subcontracts financed with Federal funds as specified by the regulations of the United States Department of Transportation (USDOT), Federal Highway Administration and as set forth below.

**1. Policy.** It is the policy of the United States Department of Transportation to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 Code of Federal Regulation (CFR) Part 26, to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 applies to this contract.

**2. Disadvantaged Business Enterprise (DBE) Obligation.** The State and its Contractor agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. **Prime Contractors and subcontractors who further sublet must include this assurance in every subcontract:** *The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by any 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 NHDOT deems appropriate.*

**3. Sanctions of Non-Compliance.** The Contractor is hereby advised that failure of the Contractor, or any Subcontractor performing work under this Contract, to carry out the requirements set forth in paragraphs 1 and 2 above shall constitute a breach of contract and, after notification of the United States Department of Transportation, may result in termination of this Contract or such remedy as the State deems appropriate.

**Overall Statewide DBE Goals.** The NHDOT currently employs a race/gender neutral DBE policy to attain its overall statewide DBE goals. This means that unless otherwise stated in the Contract, the NHDOT relies on the voluntary cooperation of all contractors to utilize DBE's on every project, sufficient to meet or exceed the current statewide DBE goal. Although the majority of statewide DBE goals are currently voluntary, failure of the NHDOT to meet or exceed the overall statewide DBE goal as required by the Federal Highway Administration (FHWA), could necessitate placement of mandatory DBE participation requirements on all future statewide projects.

**Disadvantaged Business Enterprise (DBE) Program Goals.** The New Hampshire Department of Transportation is required to set an overall DBE goal for participation in all transportation related Federal-aid projects. The goal is determined following guidelines set forth in 49 CFR 26.45, and based on the availability of ready, willing and able DBE's who submitted bids for transportation related projects, compared as a percentage of all available contractors who submitted bids for transportation related projects during the same time period. The DBE goal may be adjusted to take into account other factors impacting DBE utilization, in an effort to narrowly tailor the overall DBE goal. The detailed goal setting methodology and current overall DBE goal may be viewed on the NHDOT website at [www.nh.gov/dot](http://www.nh.gov/dot).

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**Disadvantaged Business Enterprise (DBE) Definition.** A DBE is defined as a business that is owned and controlled by one or more socially and economically disadvantaged person(s). For the purpose of this definition:

- A. "Socially and economically disadvantaged person" means an individual who is a citizen or lawful permanent resident of the United States and who is a Woman, Black, Hispanic, Portuguese, Native American, Asian American, or a member of another group, or an individual found to be disadvantaged by an individual determination of social disadvantage as described in 49 CFR 26 appendix E, determinations of social and economic disadvantage.
- B. "Owned and controlled" means a business which is:
  - (1) A sole proprietorship legitimately owned and controlled by an individual who is a disadvantaged person.
  - (2) A partnership, joint venture or limited liability Company in which at least 51% of the beneficial ownership interests is legitimately held by a disadvantaged person(s).
  - (3) A corporation or other entity in which at least 51% of the voting interest and 51% of the beneficial ownership interests are legitimately held by a disadvantaged person(s).

The disadvantaged group owner(s) or stockholder(s) must possess control over management, interest in capital, and interest in earnings commensurate with the percentage of ownership. Disadvantaged participation in a joint venture must also be based on the sharing of real economic interest and must include proportionate control over management, capital, and earnings, as above. If the disadvantaged group ownership interests are real, substantial and continuing and not created solely to meet the requirements of this program, a firm is considered a bona fide DBE.

**Certified DBE Directory.** The current New Hampshire Unified Disadvantaged Business Enterprise (DBE) Directory is available online at [www.nh.gov/dot](http://www.nh.gov/dot). This directory contains all currently certified DBE's available for work in New Hampshire, and is updated monthly. Only firm's listed in this directory are eligible for DBE credit on NH Federal-aid projects. If you have questions about DBE certification, or do not have access to the Internet, please call the DBE Coordinator at (603) 271-6612 for assistance.

**Counting DBE Participation For Project Goals.** In order for payments made to DBE contractors to be counted toward DBE goals, the DBE contractors must perform a commercially useful function (CUF). The DBE must be responsible for execution of the work of the contract and must carry out its responsibilities by actually performing, managing, and supervising the work involved, consistent with standard industry practices. This means that:

- A. The DBE must also be responsible for ordering its own materials and supplies, determining quantity and quality, negotiating price, installing (where applicable) and paying for the material itself;
- B. The DBE must perform work commensurate with the amount of its contract;
- C. The DBE's contribution cannot be that of an extra participant or a conduit through which funds are passed in order to obtain the appearance of DBE participation;
- D. The DBE must exercise responsibility for at least fifty percent of the total cost of its contract with its own work force;
- E. None of the DBE's work can be subcontracted back to the Prime Contractor, nor can the DBE employ the prime's, or other subcontractor's supervisors currently working on the project;
- F. The DBE's labor force must be separate and apart from that of the Prime Contractor or other subcontractors on the project. Transferring crews between primes, subcontractors, and DBE contractors is not acceptable;

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- G. The DBE owner must hold a Public Works license and any other professional or craft licenses required for the type of work he/she performs on the project;
- H. The DBE may rent or lease, at competitive rates, equipment needed on the project from customary leasing sources or from other subcontractors on the project.

**Allowable credit for payments made to DBEs for work performed.** A contractor may take credit for payments made to a certified DBE that satisfies (CUF) requirements at the following rate.

- A. A DBE Prime Contractor; count 100% of the value of work performed by own forces, equipment and materials count towards DBE goals.
- B. An approved DBE subcontractor; count 100% of the value of work performed by the DBE's own forces, equipment and materials, excluding the following:
  - The cost of materials/supplies purchased from a non-DBE Prime Contractor.
  - The value of work provided by non-DBE lower tier subcontractors, including non-DBE trucking to deliver asphalt to a DBE contractor.
- C. A DBE owner-operator of construction equipment; count 100% of expenditures committed.
- D. A DBE manufacturer; count 100% of expenditures committed. The manufacturer must be a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Prime Contractor.
- E. A regular DBE dealer/supplier; count 60% of expenditures committed.  
A regular dealer/supplier is defined as a firm that owns, operates, or maintains a store, warehouse or other establishment, in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. A person may be a dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business, if the person both owns and operates distribution equipment for the products, by the means of a long term agreement, and not by a contract by contract basis.
- F. A DBE Broker; count for DBE credit only the fees or commissions charged for assistance in the procurement, and, fees and transportation charges for the delivery of materials or supplies required at the job site, but not the cost of materials procured. A broker is defined as any person(s) or firm who arranges or expedites transactions for materials or supplies, and does not take physical possession of the materials or supplies at their place of business for resale.
- G. A DBE renter of construction equipment to a contractor; count 20% of expenditures committed, with or without operator.
- H. A bona fide DBE service provider; count 100% of reasonable fees or commissions.  
Eligible services include professional, technical, consultant, or managerial, services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of the contract. Eligible services also include agencies providing bonding and insurance specifically required for the performance of the contract.
- I. A trucking, hauling or delivery operation, count 100% of payments when trucks are owned, operated, licensed and insured by the DBE and used on the contract and, if applicable, includes the cost of the materials and supplies. 100% of payments when the DBE leases trucks from another DBE firm including an owner-operator. 100% of reasonable fees, or commissions, the DBE receives as a result of a lease arrangement for trucks from a non-DBE, including an owner-operator.
- J. Any combination of the above.

**Reporting Requirements for Payments Made To DBE's:** On all Federal-aid projects, the Prime Contractor is required to report payments made to DBE's during the life of the contract, on a quarterly basis, for the periods covering January 1st-March 31st, April 1st-June 30th, July 1st-September 30th and October 1st-December 31st, The NHDOT will provide the Prime Contractor with a quarterly DBE

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payments report, detailing all DBE's subcontracted by the Prime Contractor, per project. The Prime Contractor shall report any payments made to DBE's during the requested reporting period. This documentation shall be submitted to the Office of Federal Compliance within the time period stated on the NHDOT quarterly request. Failure of the Prime Contractor to submit this information may result in the Department withholding progress payments.

**Removal of Approved DBE From Transportation Related Project:** Contractors may not terminate for convenience, any approved DBE subcontractor and perform the work with their own forces, without prior written consent from the NHDOT.

**MUNICIPAL PROJECTS ONLY: Timely submission of invoices to Municipalities:** Prime Contractors must submit all invoices received for satisfactorily completed work, from any subcontractor/lower-tier subcontractor/material supplier, to Municipalities for payment within 30 days of receipt.

## ALL FA PROJECTS (STEEL &amp; IRON PRODUCTS)

**SPECIAL ATTENTION****BUY AMERICA**

In accordance with the **BUY AMERICA** requirements of the Federal regulations, all manufacturing processes for steel and iron materials furnished for permanent incorporation into the work on this project shall occur in the United States. The only exception to this requirement is the production of pig iron and the processing, pelletizing and reduction of iron ore, which may occur in another country. Other than these exceptions, all melting, rolling, extruding, machining, bending, grinding, drilling, coating, etc. must occur in the United States.

Products of steel include, but are not limited to, such products as structural steel, piles, reinforcing steel, structural plate, steel culverts, guardrail and steel supports for signs, signals and luminaires. Products of iron include, but are not limited to, such products as cast iron frames and grates. Coatings include, but are not limited to, the applications of epoxy, galvanizing and paint. The coating material is not subject to this clause, only the application process.

A Certificate of Compliance, conforming to the requirements of Section 106.04, shall be furnished for steel and iron materials. Records to be maintained by the contractor for this certification shall include a signed mill test report and a signed certification by each supplier, distributor, fabricator, and manufacturer that has handled the steel or iron product affirming that every process, including the application of a coating, performed on the steel or iron product has been carried out in the United States of America, except as allowed by this Special Attention. The lack of these certifications will be justification for rejection of the steel or iron product.

The requirements of said law and regulations do not prevent a minimal use of foreign steel and iron materials if the cost of such materials used does not exceed one-tenth of one percent (0.1%) of the total contract price or \$2,500.00, whichever is greater.

Upon completion of the project, the Contractor shall certify in writing as to compliance with this Special Attention and also provide the total project delivered cost of all foreign steel and/or iron permanently incorporated into the project. The form for this certification is entitled "Buy America Certificate of Compliance" and can be found at [www.NHDOT.com](http://www.NHDOT.com).



December 24, 1998  
Supersedes Spec. Attn. dated 3/29/88 & 12/5/90

FHWA Projects

**SPECIAL ATTENTION**

**CONTRACT AFFIDAVIT - CERTIFICATION REGARDING DEBARMENT  
SUSPENSION**

The separate form entitled, CONTRACT AFFIDAVIT (As Required by Section 112(c) of Title 23 USC) has been deleted from this proposal.

Bidders are advised that the last page of the bidding proposal has been revised to include the same reference, **IN BOLD PRINT**, relative to the non-collusion statement included on the discontinued form.

X X X X X X X X X X X X X

The Contractor is advised that 49 CFR 29.510, Appendix A, requires that the Contractor, including all principals, certify that they are not currently under debarment or suspension or have not been under debarment or suspension within the past three years. (For certification instructions see next page).

The certification has been added, **IN BOLD PRINT**, onto the next to the last page of the bidding proposal.

The Contractor is further advised that Appendix B of 49 CFR 29.510 regarding certification of lower tier transactions has been added to Form FHWA-1273.

Appendix A - Certification regarding Debarment, Suspension, and other Responsibility Matters - Primary Covered Transactions.

Instruction for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective 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 primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.
6. The prospective primary 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.
7. The prospective primary 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 Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. 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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 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.

1/2001  
Supersedes 3/90  
ALL FA PROJECTS

## **SPECIAL ATTENTION**

### **LOBBYING**

#### **UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION**

#### **SUBJECT: LIMITATION ON USE OF GRANT OR CONTRACT FUNDS FOR LOBBYING**

The lobbying restrictions were established by Section 319 of Public Law 101-121 (Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990).

The law prohibits Federal funds from being expended by the recipient or any lower tier subrecipients of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, or the entering into of any cooperative agreement. The extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement is also covered.

Federal-aid contractors, and consultants, as well as lower tier subcontractors and subconsultants are also subject to the lobbying prohibition. To assure compliance, a certification provision is included in all Federal-aid construction solicitations and contracts, and consultant agreements exceeding \$100,000 in Federal funds.

The Contractor shall be aware that by signing and submitting this proposal, he or she is attesting to the requirements of the certification provisions.

During the period of performance of a grant or contract, recipients and subrecipients must file disclosure form (Standard Form LLL) at the end of each calendar year quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any previously filed disclosure form.

Lower tier certifications should be maintained by the next tier above (i.e., prime contractors will keep the subcontractors' certification on file, etc.). Copies of Standard Form LLL will be included in the subcontract package for distribution to successful bidders.

## **SPECIAL ATTENTION**

### **SUMMARY OF REQUIREMENTS FOR FEDERAL-AID PROJECTS**

#### **1. Subletting On Federal-aid Contracts.**

- a. On Federal-Aid projects, the following documents are required to be incorporated in and made a part of every subcontract agreement (including lower-tier subcontract agreements):
  - NHDOT Policy on Subcontracting
  - Required Contract Provisions (FHWA-1273)
  - Disadvantaged Business Enterprise (DBE) Program Requirements (Standard Spec 103.06)
  - \*41 CFR 60-4 Affirmative Action Requirements
  - \*\*U.S. Department of Labor (USDOL) wage rates entitled "GENERAL WAGE DECISION" (as contained in the contract)

\*Applicable only to contracts or subcontracts in excess of \$10,000

\*\*Does not apply to companies performing non-Davis Bacon type work (testing, monitoring, and inspection services).
- b. Subcontractor Approvals for Companies Who Perform Testing, Monitoring, Inspection Services
  - 1) Companies and/or independent contractors performing testing, monitoring, or inspection, such as ground penetrating radar, erosion control monitoring, video inspection, SWPPP, environmental testing/monitoring or vibration monitoring, for example, require subcontractor approval (NHDOT must verify Workers Compensation (WC) Insurance coverage).
  - 2) The following subcontractor approval documentation is required:
    - OFC Form 15 (15a for a State managed project and 15b for Local Public Agency (LPA) projects), Transmittal
    - OFC Form 26, Work Certificate
    - Proof of Workers Compensation Insurance coverage (if not already on file)
- c. Contractors will not be approved/authorized to work until the Department's Annual Assurances requirements have been fulfilled.
- d. RSA 228:4-b shall apply to any work done by an individual contractor on any state transportation project.
- e. Prime Contractors shall submit consent to sublet packages to the NHDOT at least 5 working days prior to said subcontractor (or lower-tier subcontractor)

performing work on site. On LPA projects, the Prime Contractor shall also provide a courtesy copy to the town or the town's consultant, if applicable.

- f. LPA Projects Only: NHDOT Office of Federal Compliance (OFC) is the sole approval authority for all LPA construction projects. Consents to sublet shall be submitted directly to the OFC.

2. **FHWA Form 1273, Required Contract Provisions.**

- a. The Prime Contractor shall insert in each subcontract all the stipulations contained in the Required Contract Provisions. Primes shall further require their inclusion in any lower-tier subcontract or purchase order that may in-turn be made. The Required Contract Provisions shall not be incorporated by reference in any case.
  - b. In accordance with Section I, Paragraph 1, the Prime Contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. This shall include any unpaid wages found to be owed that is not paid by a subcontractor or lower-tier subcontractor.
  - c. In accordance with Section I, Paragraph 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."
3. **Submission of Payrolls**: Payrolls, as required by FHWA Form 1273, shall be submitted electronically (email) as a pdf document to the NHDOT Contract Administrator, named in the following format: Contractor's name (abbreviated is acceptable) followed by the "week ending" date (year/month/day). The Contractor's and each Sub-contractor's payroll shall be submitted as separate, individual files. Example: PrimeContr – 2014-12-03; SubcontraA – 2014-12-03; SubcontraB – 2014-12-03.
4. **Sign-In Sheets**. Use of daily sign-in sheets is **mandatory** on all LPA projects. Every worker must sign in, on a daily basis, prior to performing work on site. The OFC Form 20 shall be used for this purpose. The Prime Contractor is responsible to ensure sign-in sheet requirements are met and are turned in to the Contract Administrator on a daily basis. Contract Administrators shall review and initial sign-in sheets daily cross matching what employees have indicated for their work classification and what employers are indicating on certified payroll reports, and verifying employers of workers signing in have been approved to work by the NHDOT. Sign-in sheets shall be co-located with certified payrolls and filed in a 3-ring binder, newest sign-in sheets on top. Sign-in sheets are an inspection item. Note: Use of sign-in sheets may also be directed by the OFC on State managed projects for any contractor who does not accurately report all workers performing work on site on their payrolls.

**5. Requesting Work Classifications, Classifying Workers, and/or Payment of Wages.**

- a. The Prime Contractor is required to submit an additional request to the NHDOT for any classification of labor/equipment that they or their subcontractors shall be utilizing under the contract that is not contained in the proposal's Federal General Decision.
- b. Unless otherwise instructed by the OFC, a SF 1444 shall be used for this purpose.
- c. Requests must be submitted to the NHDOT prior to any work being performed in the classification(s).
- d. Contractors who do not receive a USDOL conformance decision from the OFC within 45 days of submission should follow-up with the OFC.
- e. Once a decision is received from the USDOL, the OFC will, in-turn, notify the Prime Contractor. In cases when the USDOL stipulates a higher rate of pay than the one proposed by a contractor, and the Contractor elects not to submit an appeal, restitution, if due, shall be paid to employees within 10 calendar days of being notified by the OFC. Restitution requirements of the NHDOT shall apply.
- f. Appeals shall be filed with the USDOL within 30 calendar days and a courtesy copy forwarded to the OFC at the same time. Restitution, if applicable, does not need to be paid during the time the appeal is under review by the USDOL.
- g. Contractors shall immediately inform the OFC whenever appeal decisions (including reconsideration requests) are received from the USDOL.
- h. In those cases when a contractor indicates to the OFC he/she plans to appeal the USDOL decision but fails to provide the OFC proof of submission within 30 calendar days, the contractor shall comply with the original USDOL decision. The OFC will subsequently notify the Contractor that proof of an appeal was not received within 30 days and restitution, if applicable, must be paid to workers within 10 calendar days. Contractors who fail to provide restitution will be deemed "in non-compliance."
- i. Time Sheets: Every contractor shall create and maintain time sheets for every worker performing work on the project. This includes salaried employees who perform work in a classification, either intermittingly or full time. Time sheets shall record all work performed during the work week, both Federal and non-Federal, shop time, travel time considered work time, including any time considered "hours worked" as described under the Fair Labor Standards Act, Part 785. When requested, Contractors shall provide copies of time sheets to the OFC in support of certified payroll report information being provided. Time sheets, payroll records, and other 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 work.

- j. OFC payment release authorization letters (Ok to Pay letters) cannot be accomplished until all wage conformances have been deemed closed (USDOL responses have been received and there are no pending contractor wage appeals).
- k. Job Classifications Descriptions (Laboring Category): While most of skilled and unskilled crafts appearing in Wage Determinations are self-explanatory, the below classifications (not all inclusive) have been described by the NHDOT and are consistent with USDOL requirements. Workers performing in these classes, according to the description, will be classified by contractors accordingly:
  - 1) Asbestos Abatement: All work associated with asbestos abatement shall be classified as "Laborer," unless said work involves piping that will be reinsulated. In these cases, "Asbestos Abatement Worker" shall be used.
  - 2) Blaster: Supervises and assists in locating, loading, and firing blast holes with explosives to break up hard materials. This work includes any of the following duties on-site: determining the spacing and depth of drilled holes; determining the amount of explosives, timing and placement of detonators; handling blasting materials in the work area; loading holes with detonators, primers and explosives; tamping and stemming holes; directing the placement of blasting mats or other flyrock controls; and detonating the charges.
  - 3) Brick Mason (also called Brick Layers): Builds and repairs walls, floors, paths/sidewalks, partitions, fireplaces, chimneys, and other structures with brick, pavers, precast masonry panels, concrete block, and other masonry materials, with or without mortar.
  - 4) Drill Operator: Unless a hand held tool, which can then be classified and performed as a Common/General Laborer, all drill work shall be performed in the "Drill Operator" classification. Conformances, if needed, shall be consistent with this requirement.
  - 5) Guardrail Installer: Except for the "pounder," each person performing guardrail installation work shall be classified as "Guardrail Installer."
  - 6) Ironworker (Reinforcing): Positions and secures steel bars to placement of reinforced concrete; determines number, size, shape and location of reinforcing rods from plans, specifications, sketches and/or oral instructions; places and ties reinforcing steel using wire and pliers, sets rods in place, spaces and secures reinforcing rods. May bend steel rods with hand tools or operate a rod-bending machine; may reinforce concrete with wire mesh; may perform other related duties.
  - 7) Ironworker (Structural): Performs any combination of the following duties to set beams, hang diaphragms, install bolts, torque bolts, test bolts, raise, place and unite girders, columns and other structural steel members to form completed structures or structure frameworks, working as a member of a crew; sets up hoisting equipment for raising and placing structural

steel members; fastens steel members to cable of hoist using chain, cable or rope; signals worker operating hoisting equipment to lift and place steel members. Guides member using guy line (rope) or rides on member to guide it into position. Reads plans; rigs, assembles and erects structural members requiring riveting or welding. May perform other related duties.

- 8) Lead Abatement Worker: All work associated with lead abatement shall be classified as "Lead Abatement Worker."
- 9) Stone Mason: Builds stone walls, as well as set stone exteriors and floors, lays/sets all cut stone, marble, slate, or stone, with or without mortar. They work with natural cut stone, such as marble, granite, limestone and artificial stone made of concrete, marble chips, or other masonry materials.
- 10) Sweeper/Broom Operators: Whenever Sweeper or Broom does not appear in the Wage Determination, contractors may use the Truck Driver classification for this service if the equipment used is of the over the road type (only). However, anytime the contract has an established classification/rate for "Sweeper or "Broom," this classification must be used and the minimum rate, as it appears in the contract, shall apply.
- 11) Traffic Coordinator: Performs sign placement and maintenance, including proper set up and relocation of construction sign packages and message boards; designs lane closures in accordance with local, state, and Federal requirements. Please do not confuse this classification with Flagger.

6. **Mandatory Training.** Prime Contractors who fail to obtain an annual average (based on the calendar year) of at least 50% "Satisfactory" ratings on all OFC Compliance Field Audit Reports will be required to attend a mandatory 4-hour Contractor Compliance Training Class each spring (as scheduled by the OFC). A principal owner (or executive officer of the company) and his/her payroll accountant shall attend. Note: Compliance ratings on all projects will be averaged whenever a Prime Contractor has multiple projects.

7. **Temporary Suspensions.**

- a. Any Contractor, Subcontractor, or Lower-tier Subcontractor found to be in violation of FHWA Form 1273, Required Contract Provisions, made part of its contract, or has failed to comply with OFC Field Audit requirements, will be required to take corrective action before participating in future projects funded by the Department. Corrective action will include, but not limited to, the submission of certified payrolls or other records and reports necessary to verify compliance with the Provisions.
- b. Any Contractor, Subcontractor or Lower-tier Subcontractor found to have repeatedly violated the FHWA Form 1273, Required Contract Provisions, may be required to complete 4-hours of Federal Contract Compliance Training conducted by the NHDOT Office of Federal Compliance. When mandated, a principal owner and/or company executive and his/her payroll accountant shall attend. Federal Contract Compliance Training must be completed before participation on future projects is authorized. This requirement does not relieve the Contractor of its



obligations under the prime contract, nor does it prevent the Department from seeking other remedies or enforcement action, as provided by the governing Rules, Laws, and Federal Regulations.

- c. Companies will be notified of suspensions in writing. Actions the company must take to have participation privileges restored will be clearly indicated. Companies will also be advised that if a satisfactory response is not received within 30 days of receipt of the suspension notice, the company will be considered "non-responsive." In cases where companies are non-responsive, and unpaid wages on the part of the subcontractor or lower-tier subcontractor are involved, the matter will then be deferred to the Prime Contractor for payment of wages as provided in Form FHWA 1273, Required Contract Provisions, Section I, Paragraph 3.

8. **Right To Withhold Payments.** The Department may withhold payments claimed by the Contractor on account of:

- a. Failure of the Contractor to make payments to Subcontractors for materials or labor.
- b. Regulatory non-compliance or enforcement.
- c. Failure to comply with NHDOT Office of Federal Compliance Field Audit Report requirements.
- d. Failure to comply with monthly reporting requirements, as applicable.
- e. For projects with an OJT requirement, failure to submit OJT 1, On-The-Job Training Acknowledgement and Statement of Intent within 30 days of the project start date.
- f. Failure to submit closeout documentation.
- g. All other causes that the Department reasonably determines negatively affect the State's interest.

9. **Final Payment Release.** Once final project records are transferred to the NHDOT Office of Federal Compliance, a final review shall be performed to determine compliance with the Federal provisions. Release of any final payment shall not be made to the Contractor until the Office of Federal Compliance issues a payment release letter (ok to pay) certifying:

- a. All required payrolls, labor, and EEO documentation have been received and deemed complete and correct.
- b. DBE requirements stipulated in the Contract and/or the Required Contract Provisions have been fulfilled.

10. **Deposits and Escrows.** Every attempt is made to complete compliance actions and resolve any disputes before the project is completed and final payments are made. Sometimes, however, corrective actions or disputes continue after completion and provisions must be made to ensure that funds are available to pay any wage restitution that is ultimately found due. In these cases, the project can proceed to final closing provided the Prime Contractor, from payments already provided him/her, provides written evidence a deposit of an amount equal to the potential liability for wage restitution and liquidated damages, if applicable, has

been deposited in an *escrow account*. When a final decision is rendered, the Prime Contractor makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

- a. Where the parties have agreed to amounts of wage restitution that are due but the employer has not yet furnished evidence that all the underpaid workers have received their back wages. The deposit is equal to the amount of restitution due to workers lacking payment evidence. As proper documentation is received, an amount corresponding to the documentation is returned to the depositor. Amounts for any workers who cannot be located are held in the escrow account for three (3) years. Amounts remaining in the account not disbursed by the end of this three-year period shall be returned to the Prime Contractor.
- b. Where underpayments are suspected or alleged and an investigation has not yet been completed. The deposit is equal to the amount of wage restitution and liquidated damages, if applicable, that is estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the depositor. If the parties agree to the investigative findings, the amounts due to workers will be disbursed from the escrow account in accordance with the schedule of wages due. Amounts for unfound workers will be retained for a period of three (3) years and subsequently disbursed to the depositor as described above in Paragraph 7a.
- c. Where the parties are waiting for the outcome of an administrative hearing that has been or will be filed contesting a final determination of wages due. The deposit shall be equal to the amount of wage restitution and liquidated dates, if applicable, that have been determined to be due. Once the final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

**Direct questions relating to any of the information above to the NHDOT Office of Federal Compliance (603-271-6752).**

**SUPPLEMENTAL SPECIFICATION****AMENDMENT TO SECTION 109 -- MEASUREMENT AND PAYMENT****AMENDMENT TO SUBSECTION 109.09 -- PAYMENTS TO SUBCONTRACTORS****109.09 Prompt Payment to Subcontractors.**

The Prime Contractor shall pay all Subcontractors for the work performed no later than 21 calendar days from the date the Prime Contractor received payment from the Department for said work, including materials in accordance with 109.07 and/or 109.08 paid for in the progress payments. Subcontractors are required to pay their Subcontractors and/or material suppliers, within 21 calendar days from the date they receive payment for satisfactory work performed or supplies received. This Prompt Pay requirement shall be made part of all subcontracts and agreements.

If the Prime Contractor believes that any portion of the payment should be withheld from the Subcontractor, the Prime Contractor shall notify the NHDOT Contract Administrator in writing, prior to the estimate being processed. The NHDOT Office of Federal Compliance shall be made part of this notification. The NHDOT may withhold payment for the portion of work in dispute pending resolution.

This prompt payment provision is a requirement of 49 CFR 26.29 and does not confer third-party beneficiary right or other direct right to a Subcontractor against the Department. This provision applies to both DBE and non-DBE Subcontractors.

**Satisfactory Work Performed.** Satisfactory work performed shall be defined for purposes of this prompt payment provision as:

1. Upon review, the Engineer finds the work completed in accordance with the contract, plans and specifications, and;
2. Required paperwork, for Progress and Partial payments, including material certifications and payrolls, has been received.

The determination of whether work meets the standards set forth above is the responsibility of the Engineer. If the Subcontractor becomes insolvent after it satisfactorily performs work as defined above but before payment is due, the obligation to pay is not extinguished. (Payment may have to be made to the bankruptcy trustee or to an escrow account for the benefit of creditors.)

The Prime Contractor must include, in all subcontract agreements, notices to Subcontractors of their right to prompt payment, and of the Department's policy prohibiting Prime Contractor's from holding retainage from Subcontractors under 49 CFR 26.29.

Failure of a Prime Contractor or a Subcontractor to comply with these prompt payment provisions may result in sanctions.

**Non-Payment Claims.** All notifications of failure to meet prompt payment provisions shall be referred by Subcontractors, in writing, to the NHDOT Office of Federal Compliance with a copy supplied to the respective Contract Administrator.

**Payment Certifications.** The Prime Contractor or any Subcontractor who receives payment for work and/or materials (specifically supplied to the project in excess of \$10,000) shall submit a "Monthly Prompt Pay Certification," OFC Form 18, to the NHDOT Office of Federal Compliance no later than the 10<sup>th</sup> calendar day of each month.

TE/CMAQ Program  
Construction Proposal

It is proposed:

To execute the Contract and begin work within 10 days from the date specified in the "Notice to Proceed" and to prosecute said work so as to complete the \_\_\_\_\_ and its appurtenances on or before \_\_\_\_\_.

To furnish a Contract Bond in the amount of 100 per cent of the Contract award, as security for the construction and completion of the \_\_\_\_\_ and its appurtenances in accordance with the Plans, Specifications and Contract. The Contractor's attention is called to Section 103.05 of the NHDOT Standard Specifications for road and bridge construction which provides the following guidance: unless specifically waived in the Proposal, upon execution of the Contract, the successful Bidder shall furnish the Agency a surety bond or bonds equal to the sum of the Contract amount. The form of the bond(s) shall be acceptable to the Agency and the bonding Company issuing the bond(s) shall be licensed to transact business in the State of New Hampshire, and....

To certify that the Bidder, in accordance with the requirements of 103.06 and 108.01, intends to sublet, assign, sell, transfer or otherwise dispose of one or more portions of the work and (1) has contacted the appropriate listed disadvantaged businesses and afforded such disadvantaged businesses equal consideration with non-disadvantaged business for all work the Bidder currently proposes to sublet, assign, sell, transfer or otherwise dispose of, (2) may contact additional appropriate disadvantage businesses and will afford such businesses equal consideration with non-disadvantaged businesses for all work the Bidder in the future proposes to sublet, assign, sell, transfer or otherwise dispose of, and (3) will complete enclosed "DISADVANTAGED BUSINESS ENTERPRISE COMMITMENT FORM" and Letters of Intent for each disadvantaged business. The name of the person in the Bidder's organization who has been designated as the liaison officer to administer the disadvantaged business enterprise program is:

\_\_\_\_\_  
(To be completed by the Bidder)

To guarantee all of the work performed under this Contract to be done in accordance with the Specifications and in good and workmanlike manner, and to renew or repair any work which may be rejected, due to defective materials or workmanship, prior to final completion and acceptance of the project.

Enclosed herewith find certified check or bid bond in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), made payable to the Agency as a proposal guarantee which it is understood will be forfeited in the event the Contract is not executed, if awarded by the Agency to the undersigned.

**Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions.**

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

Contract Affidavit

I/We declare under penalty of perjury under the laws of the United States and the State of New Hampshire that, in accordance with the provisions of Title 23 USC, Section 112(c), have not either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this Proposal.

Dated: \_\_\_\_\_

(If a firm or individual)

Signature of Bidder \_\_\_\_\_

By \_\_\_\_\_

Address of Bidder \_\_\_\_\_

Names and Addresses of Members of the Firm:

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

(If a Corporation)

Signature of Bidder \_\_\_\_\_

Title \_\_\_\_\_

By \_\_\_\_\_

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

Incorporated under the laws of the State of \_\_\_\_\_

Names of Officers:

President \_\_\_\_\_  
Name Address

Secretary \_\_\_\_\_  
Name Address

Treasurer \_\_\_\_\_  
Name Address

11/07/12

Page 1 of 2

**SUPPLEMENTAL SPECIFICATION****SECTION 107 -- LEGAL RELATIONS AND RESPONSIBILITIES TO PUBLIC****SUBSECTION 107.01 – LAWS TO BE OBSERVED**

*The intent of this Supplemental Specification is to clarify Bulletin Board requirements.*

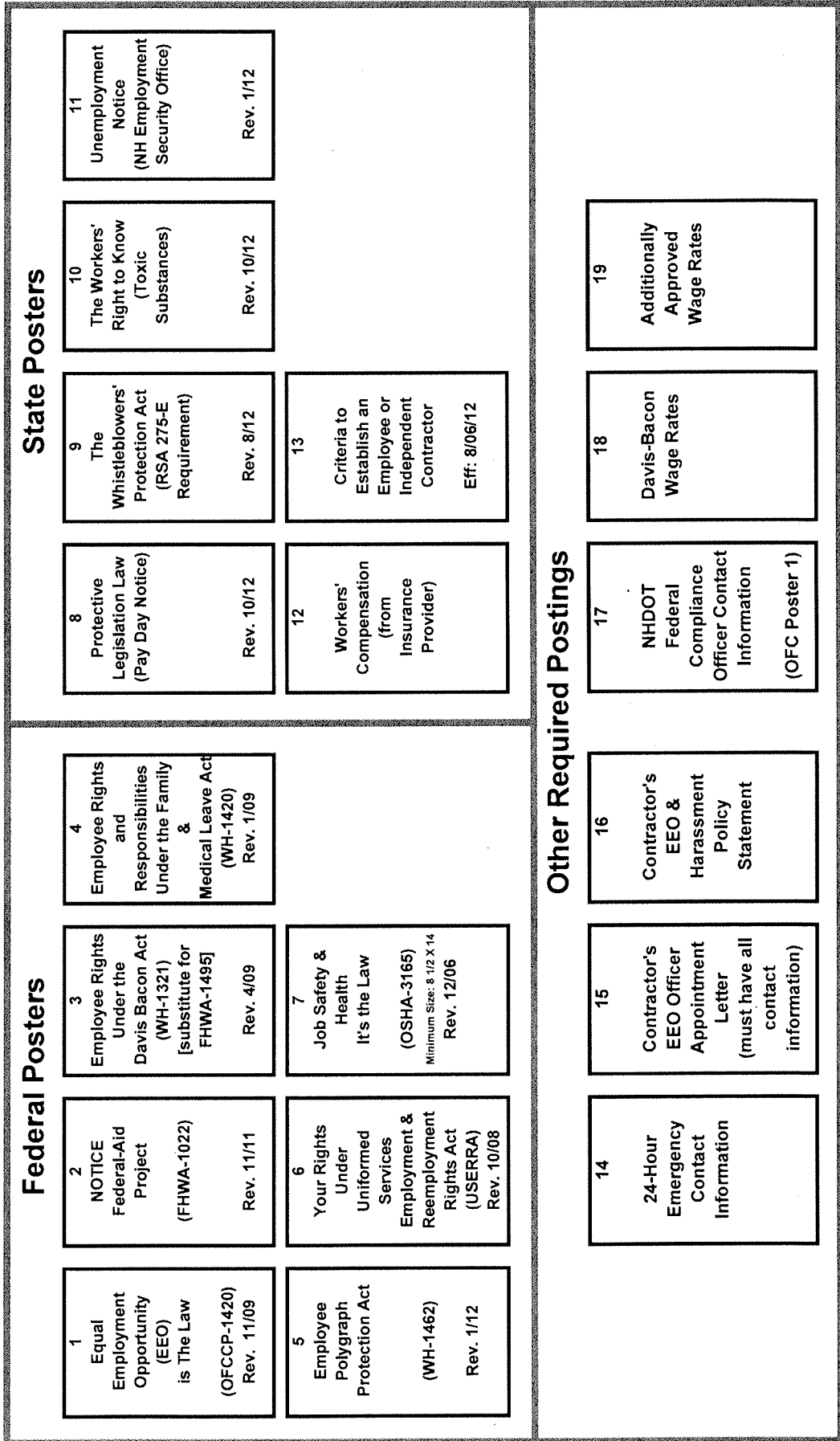
**Replace** 107.01's third paragraph titled *Bulletin Board Requirements* with the following:

**Bulletin Board Requirements:** The Contractor shall erect and maintain a bulletin board on which to post the notices, rates, and related items that are required to be posted. The board shall be a **minimum of 4 foot by 8 foot in order to** allow sufficient space, without overlapping, for both State and Federal poster/information, as required. Additional work classifications and their rates, requested by the Contractor and subsequently approved by the USDOL, shall also be posted. Bulletin boards shall be an enclosure and the posted documents shall be protected from the elements by glass or Plexiglas. Boards shall be erected on the site of work, be placed in a conspicuous and accessible location where it can be easily seen by all workers. **If placing the bulletin board on the site of work is not feasible, either for safety reasons or due to the work taking place, the Contractor may recommend placing it in an adjacent location subject to NHDOT approval. If the NHDOT deems the alternate location as unsuitable (the location is too distant or will not be utilized by all subcontractors, etc.), the NHDOT may instead require the use of employee bulletin board handouts in accordance with FHWA policy. Contractors have two options for posters: Option 1 - Using "all-in-one" Federal and State posters; or Option 2 - Arranging posters in a predetermined manner (see attached) as provided by the NHDOT. The bulletin board shall remain the property of the Contractor and shall be removed upon completion of the Work.**

# New Hampshire Department of Transportation Bulletin Board Diagram

(Revision 11-8-12)

NHDOT PROJECT: (NAME) (NUMBER)





12/05/12

**SPECIAL ATTENTION****CONVICT PRODUCED MATERIAL**

In accordance with the requirements of the Federal regulations (23 U.S.C. 114(b)(2), 23 CFR 635.417), essentially all convict produced material is prohibited from Federal-aid highway construction projects. More specifically, materials produced after July 1, 1991, by convict labor, may only be incorporated in a Federal-aid construction projects if: 1) such materials have been produced by convicts who are on parole, supervised release, or probation from a prison; or 2) such material has been produced in a qualified prison facility, e.g., prison industry, with the amount produced during any 12-month period, for use in Federal-aid projects, not exceeding the amount produced, for such use, during the 12-month period ending July 1, 1987\*.

\* Because the Department, Federal Highway Administration, nor New Hampshire Correctional Industries can produce documents to meet condition 2 above, this condition cannot be met for New Hampshire convict produced material.