

**STATE OF LOUISIANA  
DEPARTMENT OF TRANSPORTATION AND  
DEVELOPMENT**

**CONSTRUCTION PROPOSAL**



**FEDERAL AID PROJECT**

**STATE PROJECT NO. 695-06-0004  
MOUND REST AREA IMPROVEMENTS  
I-20 AT MOUND  
ROUTE I-20  
MADISON PARISH**



*Edwin Lantzer*  
5 MAY 2009

**STATE PROJECT NO. 695-06-0004**

**TABLE OF CONTENTS**

	Page No.
Title Sheet .....	A-1
Table of Contents .....	B-1
Notice to Contractors .....	C-1 thru C-2
Special Provisions .....	D-1 thru D-67
Supplemental Specifications:	
Supplemental Specifications for 2006 Standard Specifications (08/08) .....	E-1 thru E-33
Female and Minority Participation in Construction (01/83).....	E-34 thru E-41
Specific Equal Employment Opportunity Responsibilities (06/84) .....	E-42 thru E-47
Required Contract Provisions, Federal-Aid Construction Contracts (04/93) (Rev. 05/94) .....	F-1 thru F-10
DBE Participation in Federal Aid Construction Contracts (06/08).....	G-1 thru G-13
Project Sign Detail .....	H-1
Minimum Wage Determination .....	I-1 thru I-9
Supplementary Conditions .....	J-1 thru J-20
AIA Document A201 .....	K-1 thru K-39
Construction Proposal Information:	
Title Sheet.....	L-1
Bid Bond.....	M-1
Schedule of Items .....	N-1
Construction Proposal Signature and Execution Form.....	O-1 thru O-2

## NOTICE TO CONTRACTORS (11/08)

Electronic bids and electronic bid bonds for the following project will be downloaded by the Department of Transportation and Development (DOTD) on **Wednesday, June 17, 2009**. **Paper bids and paper bid bonds will not be accepted.** Electronic bids and electronic bid bonds must be submitted through [www.bidx.com](http://www.bidx.com) prior to the electronic bidding deadline. Beginning at 10:00 a.m., all bids will be downloaded and posted online at <http://www.dotd.la.gov/cgi-bin/construction.asp>. No bids are accepted after 10:00 a.m.

### **DBE GOAL PROJECT**

**STATE PROJECT NO. 695-06-0004**

FEDERAL AID PROJECT NO. 20-4(049)174

DESCRIPTION: REST AREA IMPROVEMENTS, I-20 AT MOUND

ROUTE: I-20

PARISH: MADISON

TYPE: GRADING, DRAINAGE STRUCTURES, PORTLAND CEMENT CONCRETE PAVEMENT, BUILDING CONSTRUCTION, LANDSCAPING, AND RELATED WORK.

LIMITS: State Project No. 695-06-0004: LOCATED ON ROUTE I-20 AT THE CURRENT MOUND REST AREA.

ESTIMATED COST RANGE: \$1,000,000 to \$2,500,000

PROJECT ENGINEER: RODI, RONALD; CSRS, Inc, 6767 Perkins Road, Ste 200, Baton Rouge, LA 70808, (225) 769-0546.

DOTD COORDINATOR: STODGHILL, BILL, (318) 574-4661.

PROJECT MANAGER: FLETCHER, CURTIS.

Bids must be prepared and submitted in accordance with Section 102 of the 2006 Louisiana Standard Specifications for Roads and Bridges as amended by the project specifications, and must include all information required by the proposal.

## NOTICE TO CONTRACTORS (CONTINUED)

Paper plans and/or proposals may be obtained in Room 101-A of the DOTD Headquarters Administration Building, 1201 Capitol Access Road in Baton Rouge, or by contacting the DOTD; Email: [sharonknight@dotd.la.gov](mailto:sharonknight@dotd.la.gov), Phone (225) 379-1111, FAX: (225) 379-1714, or by written requests sent to the Louisiana Department of Transportation and Development, Project Control Section, P. O. Box 94245, Baton Rouge, LA 70804-9245. Proposals will not be issued later than 24 hours prior to the time set for opening bids. All Addenda, Amendments, Letters of Clarification, and Withdrawal Notices will be posted online. **Paper notices will not be distributed.** Construction proposal information may be accessed via the Internet at [www.dotd.la.gov](http://www.dotd.la.gov). From the LA DOTD home page, select the following options: **Doing Business with DOTD**, then **Construction Letting Information**. Once the **Construction Letting Information** page appears, find the **Notice to Contractors** box. From the drop down menu, select the appropriate letting date and press the "Go To" button to open the page, which provides a listing of all projects to be let and a **Construction Proposal Documents** link for each project. All project specific notices are found here. **It will be the responsibility of the bidder to check for updates.** If paper copies of the proposal are desired, the proposal cost is \$25.00. If paper copies of the plans are desired, the cost of the plans is \$6.00 for complete plans. Paper copies of the plans are included in the proposal (no additional charge). The purchase price for paper plans and proposals is non-refundable. Additionally, plans and specifications may be seen at the Project Engineer's office or in Room 101-A of the DOTD's Headquarters Administration Building in Baton Rouge. Upon request, the Project Engineer will show the work.

All questions concerning the plans shall be submitted via the Electronic Plans Distribution Center known as **Falcon**. Questions submitted within 96 hours of the bid deadline may not be answered prior to bidding. Falcon may be accessed via the Internet at [www.dotd.la.gov](http://www.dotd.la.gov). From the home page, select **Doing Business with DOTD** from the left-hand menu, then select **Construction Letting Information** on the pop-up menu. On the Construction Letting Information page, select the link, **DOTD's Plan Room**. Login to Falcon (or request an ID if a first-time user). Once logged in, you will have access to view Project Information, submit a question concerning the project, and view the plans. All submitted questions will be forwarded by email to the Project Manager and the Project Engineer for a response.

The U. S. Department of Transportation (DOT) operates a toll free "Hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should call 1-800-424-9071. All information will be treated confidentially and caller anonymity will be respected.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**SPECIAL NOTICE TO CONTRACTORS:** The project specifications shall include the following separate documents on compact disk, accompanying the bid package: **Project Manual for Mound Rest Area Improvements, I-20 at Mound.**

**NOTICE TO CONTRACTORS:** This project will be governed by Title 48 of Louisiana Revised Statutes. Where a conflict exists between Part 1 of the 2006 Louisiana Specifications for Roads and Bridges as amended herein and the Project Manual for Rest Area Improvements, I-20 at Mound, part 1 of the Louisiana Specifications for Roads and Bridges as amended shall govern. When a discrepancy exists between the plans and the specifications, Subsection 105.04 Coordination and Precedence of Contract Documents as shown in this proposal shall govern the order of precedence.

All technical sections of the 2006 LADOTD Standard Specifications which are included by reference shall apply except for measurement and payment clauses, and except as specifically modified or supplemented by the Special Provision included in this document.

**GENERAL BIDDING REQUIREMENTS:** The specifications, contract and bonds governing the construction of the work are the 2006 Edition of the Louisiana Standard Specifications for Roads and Bridges as amended herein, together with AIA A201 General Conditions and the Supplementary Condition thereto, included in this proposal.

Bids shall be prepared and submitted in accordance with Section 102 of Part 1 of the 2006 Louisiana Specifications for Roads and Bridges as amended herein.

The plans referred to herein are the plans approved and marked with the project number, route and Parish, together with all standard or special designs that may be included in such plans.

The bidder declares that the only parties interested in this proposal as principals are those named herein; that this proposal is made without collusion or combination of any kind with any other person, firm, association, or corporation, or any member or officer thereof; that careful examination has been made of the site of the proposed work, the plans, Standard Specifications, AIA A201 General Conditions, and Supplementary Conditions above mentioned, and the form of contract and payment and performance bonds; that the bidder agrees, if this proposal is accepted, to provide all necessary machinery, tools, apparatus and other means of construction and will do all work and furnish all material specified in the contract, in the manner and time therein prescribed and in accordance with the requirements therein set forth.

The bidder further agrees to perform all extra and force account work that may be required on the basis provided in the specifications.

The bidder further agrees that within 15 calendar days after the contract has been transmitted to him, he will execute the contract and furnish the Department satisfactory surety bonds.

If this proposal is accepted and the bidder fails to execute the contract and furnish bonds as above provided, the proposal guaranty shall be forfeited to the Department; otherwise, said proposal guaranty will be returned to the bidder; all in accordance with Subsection 103.04.

**MANDATORY ELECTRONIC BIDS AND ELECTRONIC BID BONDS SUBMISSION (10/08):** This project requires mandatory electronic bidding. All Specifications, whether Standard, Supplemental or Special Provisions, are hereby amended to delete any references regarding paper bids and the ability to submit paper bid forms.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

The contractor shall register online to be placed on the Louisiana Department of Transportation and Development (LA DOTD) prospective bidders list or for information only list.

Modifications to proposal documents will be posted on the Department's website at the following URL address: [www.dotd.la.gov/cgi-bin/construction.asp](http://www.dotd.la.gov/cgi-bin/construction.asp).

LA DOTD shall not be responsible if the bidder cannot complete and submit a bid due to failure or incomplete delivery of the files submitted via the internet.

**DBE PARTICIPATION IN FEDERAL AID CONSTRUCTION CONTRACTS (02/07):** This project is a DBE goal project. In accordance with the Required Contract Provisions for DBE Participation in Federal Aid Construction Contracts elsewhere herein, the DBE goal for approved subcontracting work on this project is 10 percent of the total contract bid price. The contractor shall submit DOTD Form OMF-1A (Request to Sublet) and have it approved by the Department before any subcontract work is done on the project. Only those businesses certified by the Department as Disadvantaged Business Enterprises (DBEs) may be utilized in fulfillment of the DBE goal requirement. Such businesses are those certified by the Louisiana Unified Certification Program on the basis of ownership and control by persons found to be socially and economically disadvantaged in accordance with Section 8(a) of the Small Business Act, as amended and Title 49, Code of Federal Regulations, Part 26 (49 CFR 26).

**BUY AMERICA PROVISIONS (03/95):** Pursuant to the "Buy America Provisions" of the Surface Transportation Assistance Act (STAA) of 1982 as promulgated by current FHWA regulation 23 CFR 635.410 and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) amendment to (STAA), all steel and iron materials permanently installed on this project shall be manufactured, including application of a coating, in the United States, unless a waiver of these provisions is granted. Coating includes all processes which protect or enhance the value of the material to which the coating is applied. The request for waiver must be presented in writing to the Department by the contractor. Such waiver may be granted if it is determined that:

- (1) The application of Buy America Provisions would be inconsistent with the public interest or
- (2) Such materials are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

Minimal use of foreign steel and iron materials will be allowed without waiver provided the cost of these materials does not exceed 0.1 percent of the total contract cost or \$2,500, whichever is greater; however, the contractor shall make written request to the DOTD Construction Engineering Administrator for permission to use such foreign materials and shall furnish a listing of the materials, their monetary value, and their origin and place of production.

The burden of proof for the origin and place of production and any request for waiver is the responsibility of the contractor.

Prior to the use of steel and iron materials in the project, the contractor shall furnish Mill Test Reports to the engineer for such steel and iron materials, accompanied by a notarized certification stating that the Mill Test Reports represent the steel and iron materials to be furnished and that such materials were produced and fabricated in the United States.

Pig iron and processed, pelletized, and reduced iron ore are exempt from the Buy America Provisions.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**PART 1 - - GENERAL PROVISIONS:** Part 1, General Provisions, of the Louisiana Standard Specifications for Roads and Bridges, 2006 Edition, is amended as follows:

**SECTION 101**  
**GENERAL INFORMATION, DEFINITIONS AND TERMS**

**101.01 REFERENCES.** Section, subsection, and heading titles are for convenience and do not bear on the meaning of the text.

Unless specified by year or date, cited publications refer to the most recent issue, including interim publications, in effect on the date bids are received.

**101.02 ACRONYMS AND ABBREVIATIONS.** Wherever the following abbreviations or acronyms are used in the contract documents, they are to be interpreted as follows:

AA	Aluminum Association
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AGC	Associated General Contractors of America
AGMA	American Gear Manufacturers Association
AIA	American Institute of Architects
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
ANSI	American National Standards Institute
API	American Petroleum Institute
AREMA	American Railway Engineering and Maintenance Association
ASCE	American Society of Civil Engineers
ASLA	American Society of Landscape Architects
ASTM	American Society for Testing and Materials
AWG	American Wire Gauge
AWPA	American Wood Preservers Association
AWWA	American Water Works Association
AWS	American Welding Society
DEQ	Department of Environmental Quality (Louisiana)
DOTD	Department of Transportation and Development (Louisiana)
EDSM	Department's Engineering Directives and Standards Manual
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration, Department of Transportation
FHWA	Federal Highway Administration, Department of Transportation
FSS	Federal Specifications and Standards, General Services Administration
ICEA	Insulated Cable Engineers Association
IMSA	International Municipal Signal Association
ISO	International Organization for Standardization
ITE	Institute of Transportation Engineers
LRS	Louisiana Revised Statutes
MIL	Military Specifications

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

MUTCD	Manual on Uniform Traffic Control Devices (Louisiana)
NCHRP	National Cooperative Highway Research Program
NEC	National Electrical Code
NEMA	National Electric Manufacturers Association
NFPA	National Fire Protection Association
OSHA	Occupational Safety and Health Administration
QC/QA	Quality Control/Quality Assurance
QPL	Qualified Products List (DOTD)
RMA	Rubber Manufacturers Association
SAE	Society of Automotive Engineers
SI	Systeme Internationale or International System of Units
SSPC	Steel Structures Painting Council
STB	Surface Transportation Board
TIMED	Transportation Infrastructure Model for Economic Development
UL	Underwriters Laboratories, Inc.

**101.03 DEFINITIONS.** Whenever the following words or expressions are used in the contract documents they are to be defined as follows:

**Adjustment.** A change in contract time or compensation provided in accordance with Subsections 108.07 and 109.04.

**Adverse Weather Day.** Inclement weather, or the conditions resulting from the weather, which prevents the work schedule for a particular day. Weather days are to be reconciled in accordance with Article 4.3.7 of the Supplementary Conditions to the AIA A201.

**Advertisement.** A public announcement inviting bids, generally describing the project to be constructed; how to obtain the contract documents; and giving general bidding instructions including the time and place of opening bids.

**Assembly Period.** Time the contractor is given to acquire approvals of required drawings, brochures, and other submittals, begin the purchase and assembly of materials, and to perform specified preconstruction activities. Contract time will not be charged during an assembly period.

**Award of Contract.** Transmission of the official written notice to the contractor that the Department has accepted the contractor's bid.

**Base Course.** The layer or layers of specified material of designed thickness constructed on the subgrade to support a surface course.

**Bid.** The binding offer of a responsible bidder that was submitted to the Department on the approved electronic media, in accordance with the bidding documents.

**Bid Express.** An on-line service provided by Bidx.com, an Info Tech company, which is under contract to DOTD to facilitate two-way Internet electronic bidding.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**Bid Forms.** The portion of the bidding documents, either paper or electronic, required to be submitted, in accordance with the bidding documents, in order to constitute a bid.

**Bidder.** An individual, partnership, corporation, or any other legal entity, or any acceptable combination thereof, or joint venture submitting a bid.

**Bidding Documents.** The advertisement, plans, specifications, bid forms, bidding instructions, addenda, special provisions, and all other written instruments prepared by or on behalf of the Department for use by bidders.

**Bidx.com.** The subsidiary company owned by Info Tech that provides the Bid Express service.

**Bridge.** A structure, including supports, erected over a depression or an obstruction, such as water, highway, or railway, which has a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments, spring lines of arches, or extreme ends of openings for multiple boxes. A bridge may include multiple pipes where the clear distance between openings is less than 1/2 the smaller contiguous opening.

Bridge Length: The greater dimension of a structure measured along the center of the roadway between backs of abutment backwalls or between ends of bridge floor.

Bridge Roadway Width: The clear width of structure measured at right angles to the center of the roadway between the bottom of curbs or if curbs are not used, between the inner faces of parapet or railing.

**Calendar Day.** Every day on the calendar, beginning and ending at midnight.

**Change Order (Plan Change) or Special Agreement.** The standard form normally used to describe and detail changes to the contract. When approved and fully executed, the document becomes a part of the contract.

**Conditional Notice to Proceed.** Written notice to the contractor to proceed with ordering of materials, and when specified, performing other activities which would hinder progress in the beginning stages of construction.

**Construction Proposal.** Document furnished to prospective bidders by the Department consisting of, but not limited to, the notice to contractors, special provisions, supplemental specifications, and bid forms.

**Contract.** The written agreement between the Department and the contractor setting forth obligations of the parties thereunder for performance of the prescribed work.

The contract documents include the Construction Proposal, Project Manual; advertisement; bid forms; contract form; payment/performance/retainage bond form, specifications, special provisions, plans, standard plans, change orders/special agreements, and supplemental agreements that are required to complete the work in an acceptable manner, and contract time, including authorized extensions thereof, all of which constitute one instrument.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**Contract Item.** See "Pay Item."

**Contract Time.** The number of working days or calendar days allowed for completion of the contract, including authorized time extensions.

When a calendar date of completion is shown in the contract in lieu of a number of working or calendar days, work shall be completed by that date including authorized time extensions.

**Contractor.** The individual, partnership, corporation, joint venture, other legal entity, or acceptable combination thereof, that is awarded a contract.

**Controlled Access Highway.** Any highway to or from which access is denied or controlled from or to abutting land or intersecting streets, roads, highways, alleys, or other public or private ways.

**Controlling Item(s) of Work.** Item(s) of work that should be in progress at the time, essential to the orderly completion of the work within the time limit specified, in accordance with the contractor's approved construction progress schedule.

**Control of Access.** The condition where the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with a highway is controlled by public authority.

Full Control: Preference is given to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections.

Partial Control: Preference is given to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections.

**Culvert.** Any drainage structure under a roadway or other facility not defined as a bridge.

**Dedicated Stockpile.** A stockpile assembled for a specific project.

**Department.** The Department of Transportation and Development of the State of Louisiana.

**Department of Transportation and Development.** The Louisiana Department of Transportation and Development through its offices and officers, responsible for developing and implementing programs to ensure adequate, safe, and efficient transportation and other public works facilities and services in the state in accordance with Chapter 11 of LRS Title 36 as amended.

**Electronic Bid Bond.** An instrument by which a contractor and surety can submit a bid guarantee with a bid electronically in lieu of a written signed paper.

**Electronic Bidding.** The process by which the Department and the bidder can utilize the Internet to facilitate the bidding process.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**Electronic Signature.** A secure and verifiable alpha-numeric code assigned to an individual, replacing or acting instead of a traditional signature.

**Engineer.** The Chief Engineer, acting directly or through duly authorized representatives, who is responsible for contract administration including engineering supervision of the work. When the term "Chief Engineer" is used, it shall mean the Department's Chief Engineer in person or the Department's duly appointed designee.

**Engineering Directives and Standards Manual.** A set of manuals containing directives and standards of the Department.

**Equipment.** All machinery, equipment, tools and apparatus necessary for acceptable completion of the work.

**Expedite.** Software developed for AASHTO by Info Tech that enables and facilitates electronic bidding.

**Extra Work.** Work not provided for in the contract as awarded but found essential by the Department for satisfactory completion of the contract within its intended scope.

**Falsework.** Temporary construction work on which a main work is wholly or partly built and supported until it is strong enough to support itself; a temporary framework used to support part or all of a structure during demolition.

**Force Account.** Payment for directed construction work based on the cost of labor, equipment, materials furnished, overhead, and profit, in accordance with Subsection 109.04.

**General Conditions.** AIA A201 General Conditions for the Contract for Construction, 1997 edition.

**Highway, Street, or Road.** A public way for vehicular travel, including the entire area within the right-of-way.

**Incidental Work.** Work required by the contract that is not directly measured and for which no specific pay item is provided.

**Inspector.** The Department's authorized representative assigned to make detailed inspections of contract performance.

**Invitation For Bids.** See "Advertisement."

**Item.** See "Pay Item."

**Laboratory.** The Department's testing laboratory or any other testing laboratory approved by the Department.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**Local Street or Local Road.** A street or road not in the state maintained system.

**Major Item.** A pay item included in the contract with a total cost equal to or greater than 10 percent of the original total contract amount.

**Manual of Uniform Traffic Control Devices (MUTCD).** The manual adopted by the Department to describe the uniform system of traffic control devices used on state highways.

**Materials.** Any substances used in the work.

**Materials Sampling Manual.** The manual used to establish and standardize construction and maintenance sampling and material acceptance requirements for the Department.

**Median.** The portion of a highway separating traveled ways for traffic in opposite directions.

**Minor Item.** A pay item included in the contract as awarded with a total cost of less than 10 percent of the original total contract amount.

**Notice to Proceed.** Written notice to the contractor to proceed with the contract work which will stipulate the dates that work shall commence and contract time shall begin.

**Parish.** The parish in which the specified work is to be done.

**Pavement Structure.** The combination of base course and surface course placed on a subgrade across the roadbed.

**Pay Item.** A specific portion of work for which a price is provided in the contract.

**Payment and Performance Bond.** The approved form of security, executed by the contractor and surety, guaranteeing complete execution of the contract and supplemental agreements thereto, and payment of all legal debts, including liens and monies due the Department, pertaining to the contract.

**Plans.** The contract drawings which show location, type, dimensions and other details of the prescribed work.

**Plan Change.** See "Change Order."

**Profile Grade.** The trace of a vertical plane intersecting the top surface of the proposed wearing surface or other designed course usually along the longitudinal centerline of the roadbed. Profile grade means either elevation or gradient of such trace according to the context.

**Project.** A specific undertaking of work as described by the contract within prescribed limits.

**Project Designer.** The person, firm, or their authorized designee, lawfully licensed to practice architecture or engineering who shall administer the construction contract between the

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

Department and the Contractor in accordance with Article 4 of the AIA A201 General Conditions as modified by the Supplementary Conditions.

**Project Engineer.** The Department engineer assigned to represent the Chief Engineer in the administration of the contract.

**Project Number.** A number used to identify the project.

**Proposal.** See "Bid."

**Proposal Form.** See "Bid Forms."

**Proposal/Bid Guaranty.** The required security furnished with a bid. The only form of security acceptable is a Bid Bond.

**Qualified Products Lists.** Lists maintained by the Department's Materials and Testing Section for products that do not lend themselves to the preparation of meaningful specifications, or for which repetitive full testing is too time consuming or expensive to be practical for routine project control.

**Quality Assurance.** The combined efforts of quality control and acceptance processes to ensure that a project adheres to the contract requirements.

Quality Control is the process used by the contractor to monitor, assess, and adjust material selection, production, and project construction to control the level of quality so that his product continuously and uniformly conforms to specifications.

Acceptance is the process of sampling, testing, and inspection to determine the degree of compliance with the specifications for acceptance of materials and/or the contractor's work.

**Right-of-Way.** Land, property or interest therein, acquired for or devoted to transportation purposes.

**Roadbed.** The graded portion of a highway within the top of the side slopes, prepared as a foundation for the pavement structure including the shoulder.

**Roadside.** The area adjoining the outer edge of the roadway. Extensive areas between roadways of a divided highway may also be considered roadside.

**Roadside Development.** Those items necessary to the complete highway which provide for preservation of landscape materials and features; rehabilitation and protection against erosion of areas disturbed by construction through seeding, sodding, mulching and placing of other ground covers; and suitable planting or other improvements to increase the effectiveness and enhance the appearance of the highway.

**Roadway.** The portion of a highway within the limits of construction.

**Secretary.** The Secretary for the Louisiana Department of Transportation and Development.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**Service Road or Frontage Road.** A street or road on the side of the mainline roadway for service to abutting property and adjacent areas, and for control of access.

**Schedule of Items.** In Department highway construction, it is the compilation of pay item numbers and/or descriptions that shows the approximate quantity or unit of measure expected to be incorporated in the project. Bidders must furnish binding unit prices for each item in their bid proposal in order for their bid to be considered. Payment for pay items under the construction contract is the product of the unit prices bid multiplied by the actual quantity or unit of measure performed for each item.

**Schedule of Values.** A statement furnished by the contractor to the Project Designer reflecting the portions of the contract sum allotted for the various parts of the work and used as the basis for reviewing the contractor's application for progress payments.

**Special Provisions.** Additions and revisions to the standard and supplemental specifications or plans covering conditions applicable to the project.

**Specialty Item.** A pay item designated in the contract that may be performed by subcontract and the cost of such may be deducted from the total contract cost before computing the amount of work required to be performed by the contractor with the contractor's own organization.

**Specifications.** The compilation of provisions and requirements for the performance of prescribed work.

Standard Specifications: A book of specifications for general application and repetitive use, i.e. The Louisiana Standard Specifications for Roads and Bridges, 2006 Edition.

Supplemental Specifications: Additions and revisions to the Standard Specifications.

Building Specifications: The specifications created by the Project Designer for construction of the subject building.

Project Specifications: All Standard Specifications, Supplemental Specifications, Special Provisions, Building Specifications and other provisions applicable to the project.

**Specified.** Required or stipulated in contract documents.

**Standard Plans.** Department drawings approved for repetitive use, showing the details to be used where appropriate.

**State.** The State of Louisiana, acting through its authorized representative.

**Structures.** Bridges, culverts, catch basins, junction boxes, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains and other similar features encountered in the work.

**Subcontractor.** An individual, partnership, corporation, joint venture, other legal entity or acceptable combination thereof, to which the contractor sublets part of the work. Any individual, partnership, corporation, joint venture, other legal entity or acceptable combination

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

thereof shall not be considered to be a subcontractor if it is a subsidiary, wholly owned or majority owned by the contractor or the principals of the contractor, or an affiliate of the contractor or affiliated or otherwise controlled by the contractor or the principals of the contractor such that a true and independent subcontractor-contractor relationship reached by bidding or arms-length negotiation does not result therefrom.

**Subgrade.** The surface upon which the pavement structure, including shoulders, are constructed.

**Subgrade Layer.** The surface layer of the subgrade which requires treatment with lime, portland cement or portland-pozzolan cement. The subgrade layer may be constructed with stone, crushed slag, recycled portland cement concrete, or asphaltic concrete.

**Substructure.** That part of the structure below the bearings of simple and continuous spans, skewbacks or arches, and tops of footings of rigid frames, including backwalls, wingwalls, and wing protection railings.

**Superintendent.** The contractor's authorized representative in responsible charge of the work.

**Superstructure.** The entire structure except the substructure.

**Supplementary Conditions.** Modifications to the General Conditions.

**Surety.** The corporation, partnership, or individual other than the contractor, executing a bond furnished by the contractor.

**Surface Course.** The top course of the pavement structure.

**Technician.** The contractor's or the Department's representative who shall be either certified or authorized as required in the specifications.

**Testing Procedures Manual.** The manual in which specific testing procedures used by the DOTD Laboratories are published. This manual is used to standardize testing procedures used by DOTD Laboratories.

**Through and Local Traffic.**

(a) Through Traffic - Traffic that has neither its origin nor destination within the limits of the project.

(b) Local Traffic - Traffic that has either its origin or destination, or both, within the limits of the project.

**Traffic/Travel Lane.** The portion of traveled way for movement of a single lane of vehicles.

**Traveled Way.** The portion of roadway for movement of vehicles, exclusive of shoulders and auxiliary lanes.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**Unit.** A quantity adopted as a standard for measurement of work.

**Work.** The furnishing of labor, materials, services, equipment, and incidentals necessary for successful completion of the project and the carrying out of all obligations imposed by the contract.

**Working Day.** A calendar day on which weather or other conditions not under control of the contractor will permit construction operations to proceed in accordance with Subsection 108.07.

**Working Drawings.** Supplemental design sheets or similar data that the contractor is required to submit to the Project Designer in accordance with Subsection 105.02.

**101.04 UNDERSTOOD WORDS OR EXPRESSIONS.** In order to avoid cumbersome repetition of the following words or expressions in the contract or plans, it is provided that whenever anything is, or is to be done, if, as, or, when or where "contemplated, required, determined, directed, authorized, ordered, given, designated, indicated, considered necessary, deemed necessary, permitted, reserved, suspended, established, approval, approved, disapproved, acceptable, unacceptable, suitable, accepted, satisfactory, unsatisfactory, sufficient, insufficient, rejected, condemned, waived, or written consent," it shall be understood as if the expression were followed by the words "by the Project Designer" or "to the Project Designer."

Whenever the contract or plans contain the expressions "no direct pay, no direct payment, not measured for payment, at no additional cost or expense to the Department, will not be measured for payment, considered incidental to other items of work, no payment will be made for this work, shall not be entitled to extra payment," or any variation of one of these expressions it shall be understood by the bidder that the designated work is to be considered incidental work and the cost of such work shall be included in the price bid on other pay items.

**102.01 PREQUALIFICATION OF BIDDERS.** To qualify for submission of a bid, the bidder shall comply with all rules and regulations of the Louisiana State Licensing Board for Contractors.

**102.02 CONTRACTORS' LICENSING LAWS.** Attention is directed to the rules and regulations of the State Licensing Board for Contractors. Information relative to licensing may be obtained from the offices of said Board in Baton Rouge.

If the estimated project cost is \$50,000 or more, only licensed contractors may receive bid forms, unless FHWA funds are involved. When FHWA funds are involved, nonlicensed contractors may receive bid forms and submit bids; however, if the contractor's bid is \$50,000 or more, the successful nonlicensed bidder will be required to obtain the proper license before beginning work under the contract.

When the estimated project cost is greater than \$50,000 and no FHWA funds are involved, the contractor shall show his license number on the bid envelope unless the contractor submits the bid via the DOTD approved electronic bidding process. The contractor awarding a subcontract becomes an awarding authority; consequently, if the subcontract amount is \$50,000 or more, both the contractor and subcontractor are subject to rules and regulations of the State Licensing Board for Contractors.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**102.03 CONTENTS OF BIDDING DOCUMENTS.** Upon request, the Department will furnish prospective bidders with bidding documents. A prospective bidder will be required to pay the Department the sum stated in the Notice to Contractors for each construction proposal and set of plans. The prospective bidder may use the Bid Express services through Bidx.com. The use of these services will require payment by the contractor of additional fees to the service provider.

The construction proposal will state the location and description of the contemplated work, will show the estimated quantities and kinds of work to be performed, and will include the bid forms to be completed and returned by the bidder. The construction proposal will state the time in which the work must be completed, and the date, time, and place of opening bids. The construction proposal will also include any specifications or requirements, which vary from or are not contained in the Standard Specifications. The plans, specifications and other documents designated in the construction proposal will be considered a part of the construction proposal whether attached or not.

Unless the contractor properly submits the bid forms electronically, the bid forms bound with or attached to the construction proposal should be detached, completed, and returned by the bidder. The bid forms consist of the Schedule of Items, the Proposal/Bid Guaranty as required by Subsection 102.09, the Construction Proposal Signature and Execution Form and any other returnables if required in the construction proposal.

Unless explicitly stated otherwise in the contract, when the name of a certain brand, make, manufacture, or definite specifications limit the product or source to be supplied under or pursuant to a specification in this contract to a single product or source, that specification shall not restrict bidders to the specified brand, make, manufacture, product or source, but to set forth and convey to prospective bidders the general style, type, character, quality and salient performance criteria desired by the Department of the product or source specified. The specified product or source shall be a standard by which substitute products or sources will be compared to determine if the substitute product or source will be approved for substitution as equal to or superior to the general style, type, character, quality and salient performance criteria of the product or source specified. Bidders are informed that substitute products or sources should be submitted to the Chief Engineer for prior approval no later than seven (7) working days prior to the opening of bids in accordance with LRS 38:2295(C). The Department will approve or deny substitution of the product or source submitted within three (3) days, exclusive of holidays and weekends. If a product or source sought to be used as a substitute for the product or source specified is not submitted prior to the opening of bids as provided in LRS 38:2295(C), the Department has the right to require the product or source specified. Substitution of a product or source submitted in substitution of the product or source specified after the seven-day period prior to the opening of bids may only be allowed after that time in the Chief Engineer's sole discretion pursuant to Subsection 105.01.

**102.04 ISSUANCE OF BID DOCUMENTS.** The Department may refuse to issue bid documents to a bidder or allow a bidder access to Bid Express for bidding purposes, for any of the following reasons:

(a) Failure of the bidder to comply with any prequalification requirements of the Department.

(b) Disqualification of the bidder in accordance with Subsection 108.04.

(c) If the bidder is in default of a contract in accordance with Subsection 108.09 and a notice

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

of default has been issued to the bidder. Bid documents will not be issued to the bidder until such time as the project on which the bidder has defaulted has been issued a final acceptance.

(d) On Federal-Aid Projects, the bidder being included on the List of FHWA Suspension/Debarment Actions or having been found unacceptable for employment on Federal-Aid Projects.

(e) When requested by a potential bidder within 24 hours before the opening of bids.

(f) Any bidder debarred in accordance with Part XIII-B of Chapter I of LRS 48.

(g) Any bidder disqualified for Proposal/Bid Guaranty forfeiture or non-payment in accordance with Subsection 103.07.

**102.05 INTERPRETATION OF QUANTITIES IN SCHEDULE OF ITEMS.** The quantities in the Schedule of Items are prepared for comparison of bids and are approximate. Payment will be made in accordance with measurement and payment requirements for pay items and other requirements of the contract. Pay item quantities may be increased, decreased or eliminated by the Department.

**102.06 EXAMINATION OF BID DOCUMENTS AND SITE OF WORK.** Written instructions necessary to use the electronic bidding service and prepare and submit a bid electronically are provided on the Bidx.com Internet site. Fees payable to Bidx.com are required of the contractor to use the service and to establish electronic signatures. The contractor is advised to timely make all necessary arrangements with Bidx.com and to familiarize himself with system and process requirements prior to using the service to submit a bid.

The bidder shall examine carefully the site of the proposed work and the bidding documents before submitting a bid. In the event the bidder's site investigation reveals that the site conditions are inconsistent with the contract documents, the bidder shall immediately notify the Department. Submission of a bid shall be considered conclusive evidence that the bidder has made such examination and is satisfied as to conditions to be encountered in performing the work and as to requirements of the bidding documents.

If the contractor discovers an error, omission, or ambiguity prior to the date of the bid opening, he shall immediately notify the DOTD Chief Engineer who will then make such corrections, interpretations, or issue addenda as deemed necessary to fulfill the intent of the plans and specifications.

Any subsurface tests and boring data which have been compiled by the Department and furnished to the bidder shall not be considered as fully representative of subsurface conditions and is not intended as a substitute for personal investigation, interpretations and judgment of the bidder.

**102.07 PREPARATION OF BID.** For paper bids, bids shall be submitted on bid forms provided by the Department or obtained through Bidx.com. Only that portion of the construction proposal designated as Bid Forms must be completed and returned by the bidder. The bid forms include the Schedule of Items, the Proposal/Bid Guaranty as required by Subsection 102.09, the Construction Proposal Signature and Execution Form, and any additional returnables if required in the construction proposal.

A unit bid price, in U.S. dollars written in English, shall be specified in the Schedule of Items in words (or numerals for electronic bids), either typed or printed in ink, or computer printed in the spaces provided for each pay item or alternate pay item. If no alternate pay items are

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

included in the Schedule of Items, bidders shall bid on all items; if alternate items are included, bidders shall bid on all "General Items" and on one of the groups of items under each set of "Alternate Items." When additive alternates are included, the bidders shall bid on all additive alternates.

The Construction Proposal Signature and Execution Form shall be signed either with an authorized electronic signature or with ink by the individual; or a member of the partnership; or an officer of one of the firms representing a joint venture; or an officer of a corporation; or an agent of the contractor legally qualified and acceptable to the state. The bidder's business street address and mailing address, if different, and the business telephone number of the individual signing the form and that of a contact person shall be shown on the Construction Proposal Signature and Execution Form.

Execution, signature, and submission of the Construction Proposal Returnables shall constitute a legally binding and irrevocable offer by the bidder.

Bid bonds may be furnished and completed by a DOTD approved electronic bond verification service if the contractor elects to prepare and submit an electronic bid.

**102.08 IRREGULAR BIDS.** Bids may be considered irregular or non-responsive and will be subject to rejection for any of the following conditions:

(a) (a) If the bid, except for legible facsimiles, is on a form other than that furnished by the Department or Bidx.com, or if the bid forms are materially altered.

(b) If there are unauthorized additions, conditional or alternate bids or irregularities which make the bid incomplete, indefinite or ambiguous as to its meaning.

(c) If the bidder adds provisions reserving the right to accept or reject the award or to enter into the contract pursuant to the award.

(d) If the bid does not contain a legible unit price in U.S dollars and cents, written in English, for each pay item listed, except in the case of authorized alternate pay items.

(e) If the bid is submitted by a bidder other than the one to whom the construction proposal was issued.

(f) If the bidder is in default of a contract in accordance with Subsection 108.09 and a notice of default has been issued to the bidder.

(g) If an owner or a principal officer(s) of the bidding entity is an owner or a principal officer(s) of a contracting entity which has been declared by the Department to be ineligible to bid.

(h) If the proposal/bid guaranty does not meet requirements of Subsection 102.09.

(i) If more than one bid for the same work is received from an individual, partner, corporation, or any other legal entity, joint venture or combination thereof under the same or a different name.

(j) If the portion of the construction proposal form designated as Bid Forms is not properly executed either by hand or electronically and submitted with the bid.

(k) If unit prices are obviously distorted or unbalanced to reflect an advantage to the contractor which would result in undue expenditure of public funds and/or overrun of total cost of project.

(l) If it is determined by the Department that collusion and/or the bid rigging has occurred on a project.

(m) If the bidder is disqualified in accordance with Subsection 108.04.

(n) If the bidder is debarred in accordance with Part XIII-B of Chapter I of LRS 48.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

(o) If the bidder is disqualified for Proposal/Bid Guaranty forfeiture or non-payment in accordance with Subsection 103.07.

**102.09 PROPOSAL/BID GUARANTY.** Subsection 102.09 - Proposal/Bid Guaranty (07/07). Each bid shall be accompanied by a proposal/bid guaranty in an amount not less than five percent of the total bid amount when the bidder's total bid amount as calculated by the Department in accordance with Subsection 103.01 is greater than \$50,000. No proposal/bid guaranty is required for projects when the bidder's total bid amount as calculated by the Department is \$50,000 or less. The official total bid amount for projects that include alternates is the total of the bidder's base bid and all alternates bid on and accepted by the Department. The proposal/bid guaranty submitted by the bidder shall be a bid bond made payable to the contracting agency as specified on the bid bond form provided in the construction proposal. No other form of security will be accepted.

The bid bond shall be on the "Bid Bond" form provided in the construction proposal, on a form that is materially the same in all respects to the "Bid Bond" form provided, or on an electronic form that has received Department approval prior to submission. The bid bond shall be filled in completely, shall be signed by an authorized officer, owner or partner of the bidding entity, or each entity representing a joint venture; shall be signed by the surety's agent or attorney-in-fact; and shall be accompanied by a notarized document granting general power of attorney to the surety's signer. The bid bond shall not contain any provisions that limit the face amount of the bond.

The bid bond will be written by a surety or insurance company that is in good standing and currently licensed to write surety bonds in the State of Louisiana by the Louisiana Department of Insurance and also conform to the requirements of LSA-R.S. 48:253.

All signatures required on the bid bond may be original, mechanical reproductions, facsimiles or electronic. Electronic bonds issued in conjunction with electronic bids must have written Departmental approval prior to use. The Department will make a listing of approved electronic sureties providers on the Bidx.com site.

**102.10 DELIVERY OF BIDS.** Unless delivered electronically through the approved electronic bid submission service, each bid should be submitted in the envelope furnished by the Department. The blank spaces on the envelope shall be filled in correctly to clearly indicate its content. When an envelope other than the one furnished by the Department is used, it shall be the same general size and shape and be similarly marked to indicate its contents. Bids shall be received no later than the time and at the place specified in the Notice to Contractors. Paper bids received after the time set for opening bids will be returned to bidders unopened. Electronic bids shall be submitted via the Internet in accordance with Subsection 102.07. Electronic bids transmitted by the bidder, after the time set for bid opening will not be accepted.

A proposal guarantee and all other required returnables not submitted electronically with an electronic bid must be delivered by the contractor to the Department in a sealed envelope as specified above prior to the date and time of the bid opening.

**102.11 WITHDRAWAL OR REVISION OF BIDS.** A bidder may withdraw or revise a bid after it has been deposited with the Department, provided the request for such withdrawal or revision is received by the Department in person or in writing before the time set for opening

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

bids and at the location set forth in the Notice to Contractors. Electronic bids submitted to Bid Express may be withdrawn prior to the specified bid opening time by the authorized bidder.

**102.12 PUBLIC OPENING OF BIDS.** Paper or electronic bids will be publicly opened and read or presented at the time and place indicated in the Notice to Contractors.

**102.13 WITHDRAWAL OF BIDS DUE TO MISTAKE.**

**(a) Criteria:**

(1) Withdrawal of Bid: The Department may allow a bidder to withdraw a bid after the scheduled time of bid opening in accordance with state law upon a determination that:

- a. A mistake was in fact made in preparation of the bid; and,
- b. The mistake in the bid is of a mechanical, clerical or mathematical nature and not one of bad judgment, careless inspection of the work site, or in reading the plans and specifications; and,
- c. The mistake is found to be in good faith and was not deliberate or by reason of gross negligence; and,
- d. The mistake is patently obvious on the face of the bid; and,
- e. The notice of the mistake, request for withdrawal of the bid by reason of the mistake, and written evidence of the mistake, is delivered to the DOTD Chief Engineer within 72 hours after the bid opening, excluding Saturdays, Sundays, and legal holidays. The written evidence of the mistake supplied to the DOTD Chief Engineer shall be duly sworn before a Notary Public as original, unaltered documents used in the preparation of the bid or any other facts relevant to the bidder's request to withdraw the bid as evidence of the existence of a mistake; and,
- f. The sworn, written evidence furnished to the DOTD Chief Engineer within 72 hours of the bid opening, excluding Saturdays, Sundays, and legal holidays, constitutes clear and convincing evidence of the bidder's mistake.

(2) Other bid protests: The Department may also allow a bidder to protest any matter regarding the bidding or award of a contract after the scheduled time of bid opening in accordance with the following provisions:

- a. The protest of a bidder must be submitted in writing and, specifically set forth the grounds and/or reasons for the protest; and,
- b. The written protest must be delivered to the DOTD Chief Engineer within 72 hours after notice of bid rejection, irregularity or any other action regarding the bidding of the contract, excluding Saturdays, Sundays, and legal holidays.

**(b.) Hearing by the DOTD Chief Engineer—Prior to Contract:** If a bidder files a notice of mistake along with a request to withdraw the bid, or protests in a timely manner any other matter regarding the bidding or award of the contract, the DOTD Chief Engineer will give the requesting bidder reasonable notice of the time and place of the hearing. The bidder may appear at the hearing and present evidence together with other facts and arguments in support of the request, except, for a request to withdraw a bid for reason of mistake, the bidder making such request will be limited to the sworn written evidence submitted within the time period prescribed in this subsection.

**(c.) Action by the Secretary—Prior to Contract:** The DOTD Chief Engineer will present findings to the Secretary for action on the bidder's request or protest. A determination may be made by the Secretary that a bidder meets the criteria for withdrawal of the bid as set forth in this

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

subsection upon the basis of the evidence supplied within the period specified in this subsection, or for other protests of matters involving bidding or award of contracts, upon the evidence submitted to the DOTD Chief Engineer at hearing of protest. The DOTD Chief Engineer will advise the bidder of the Secretary's decision prior to the Department's consideration of award of the contract for matters involving bidding and, for matters involving award of the contract, prior to execution of the contract.

**(d.) Proposal/Bid Guaranty:** When notice of a bid mistake and a request to withdraw the bid is made, the proposal/bid guaranty shall continue in full force and effect until and unless there is a determination by the Secretary that the conditions of this Subsection 102.13 have been met. If the Secretary determines that a mistake occurred in the preparation of the bid in compliance with the statutory and contractual requirements, the Department will return the proposal/bid guaranty to the bidder.

**(e.) Subcontracting:** If it has been determined that a mistake has been made and the bidder allowed to withdraw a bid, the individual, partnership, corporation, or any other legal entity or joint venture submitting the bid will not be allowed to perform work under this contract as a subcontractor.

**SECTION 103**  
**AWARD AND EXECUTION OF CONTRACT**

**103.01 CONSIDERATION OF BIDS.** After paper or electronic bids are opened and read, they will be compared on the basis of the summation of the products of the quantities and the unit bid prices in the Schedule of Items. Results of such comparisons will be available to the public.

The right is reserved to reject bids, waive technicalities and informalities, or advertise for new bids.

**(a)** The right is reserved to reject the low bid for any of the following reasons and contract with the next lowest responsive bidder or advertise for new bids:

**(1)** A low bidder's bid is considered irregular as indicated in Subsection 102.08.

**(2)** On DBE Goal Projects, the low bidder fails to submit the required information and satisfy the DBE requirements as specified in the DBE contract provisions for the project.

**(3)** The low bidder fails to agree to mutually extend the period required for Award of Contract as indicated in Subsection 103.02.

**(4)** The low bidder successfully withdraws the bid in accordance with Subsection 102.11.

**(b)** All bids may be rejected for just cause consisting of any of the following:

**(1)** The Department's unavailability of funds sufficient for the construction of the project or the unavailability of funding participation in the project by anticipated funding sources.

**(2)** The failure of all bidders, not considered as irregular, to submit a bid within the established threshold of the advertised construction estimate for the project by the Department.

**(3)** A substantial change in scope or design of the project occurring prior to award.

**(4)** A determination of the Department or the funding agency not to build the proposed project within twelve months of the letting date.

**(5)** The disqualification or rejection by the Department of all bidders.

**(6)** The discovery, by the Department prior to award, that an error, defect, or ambiguity

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

was contained within the bidding documents, that these defects may have affected the integrity of the competitive bidding process or may have led to a potential advantage or disadvantage to one or more of the bidders.

**103.02 AWARD OF CONTRACT.** The Department shall award the contract to the lowest responsible bidder within 45 calendar days after the receipt of bids or within 20 days after the receipt by the Department of concurrence in award from all funding agencies or sources, whichever occurs last. Where concurrence in award is required, the total time from receipt of bids to award of contract, shall not exceed 60 calendar days unless extended by mutual agreement between the Department and the successful low bidder. Should the successful low bidder not agree to extend the deadline for award of contract, the proposal/bid guaranty may be returned to the bidder and the Department, at its discretion, may award the contract to the next lowest bidder or may readvertise the project..

**103.03 CANCELLATION OF AWARD.** The Department reserves the right to cancel the award of contract at any time before execution of said contract by all parties without liability against the Department for any of the following reasons:

(a) Any of the just causes contained in Subsection 103.01(b).

(b) The low bidder fails to agree to mutually extend the period required for issuance of the Notice to Proceed as indicated in Subsection 103.08.

(c) The contract, satisfactory bonds, proof of all required policies of insurance with minimum insurance coverages and all other required contract documents are not properly executed and returned to the Department within the required time period specified in Subsection 103.06.

**103.04 RETURN OF PROPOSAL/BID GUARANTY.** The proposal/bid guaranty of the successful bidder will be returned after the contract, satisfactory bonds, and all other required contract documents are properly executed and returned to the Department within the required time period specified in Subsection 103.06. Unsuccessful bidders' proposal/bid guaranties in the form of checks or money orders will be returned to the bidder not later than sixty days after receipt of bids. The Department will destroy the bid bonds of unsuccessful bidders not later than sixty days after receipt of bids. Electronic bid bonds of unsuccessful bidders will not be returned but will be deemed by the Department to have no force or effect after sixty days.

This subsection will not apply where the forfeiture of the proposal/bid guaranty is warranted.

**103.05 PAYMENT AND PERFORMANCE BONDS.** At the time of execution of the contract, the successful bidder shall furnish the following bonds on the forms provided by the Department.

(a) Payment bond in a sum equal to one hundred percent (100%) of the contract amount.

(b) Performance bond in a sum equal to one hundred percent (100%) of the contract amount.

The bonds shall be written by a surety or insurance company that is in good standing and currently licensed to write surety bonds in the State of Louisiana by the Louisiana Department of Insurance and also conform to the requirements of LSA-R.S. 48:255.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

All signatures required on the "Bond Form" shall be original signatures, in ink, and are not to be mechanical reproductions or facsimiles.

**103.06 EXECUTION AND APPROVAL OF CONTRACT.** The contract, satisfactory bonds, proof of all required policies of insurance with minimum insurance coverages and all other required contract documents shall be properly executed and returned to the Department within 15 calendar days after transmission to the bidder. If the contract is not executed by the Department within 20 calendar days following receipt of all required documents, the bidder shall have the right to withdraw his bid without penalty.

**103.07 FAILURE TO EXECUTE CONTRACT.** Failure by the bidder to comply with Subsection 103.06 will be cause for cancellation of the award and forfeiture of the proposal/bid guaranty. For those projects wherein a proposal/bid guaranty was not required with the bid, failure to comply with Subsection 103.06 will be cause for cancellation of the award and bidder to be disqualified from bidding or subcontracting for a period of one year from the award date. Awards, which were cancelled, may then be made to the next lowest responsible bidder or the work may be readvertised for bids, at the Department's discretion.

Should a proposal/bid guaranty be required to be forfeited by the bidder to the Department or other named obligee, and if for any reason the full amount of the proposal/bid guaranty is not collected or collectable by the Department upon demand, the bidder will be disqualified from bidding or subcontracting for a period of one year from the date of non-payment.

**103.08 NOTICE TO PROCEED.** The Department will issue the contractor a Notice to Proceed or a Conditional Notice to Proceed as soon as possible after award of the contract, and in no case will issue the contractor a Notice to Proceed or a Conditional Notice to Proceed later than 60 days after contract execution unless written consent of the contractor has first been obtained. If the Department has not issued the contractor a Notice to Proceed or a Conditional Notice to Proceed within 60 days of contract execution, and written consent of the contractor to extend this time period has not been obtained prior to its expiration, the contractor may demand cancellation of the contract.

When federal-aid funds are involved, prior to issuance of a Notice to Proceed, the contractor will be required to possess all required licenses before beginning work under the contract.

Failure of the contractor to provide satisfactory licenses will be cause for cancellation of the award and forfeiture of the proposal guaranty, which shall become the property of the Department, not as a penalty, but in liquidation of damages sustained. Award may then be made to the next responsible bidder or the work may be readvertised for bids, at the Department's discretion.

After award of the contract, the Project Designer will schedule a preconstruction conference. The preconstruction conference will be held prior to performing any work on the project, preferably not later than the issuance of a Notice to Proceed or a Conditional Notice to Proceed. The Project Designer will schedule the conference sufficiently in advance to permit the attendance of all parties concerned. The contractor is urged to have all subcontractors in attendance at the preconstruction conference.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**SECTION 104**  
**SCOPE OF WORK**

**104.01 INTENT OF CONTRACT.** The intent of the contract is to provide for performance and completion of the work described. The contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the plans, project specifications and terms of the contract.

When an item in the contract contains a choice to be made by the contractor, the contractor shall indicate the choice to the Project Designer in writing.

When the project specifications reference or require the use of "manufacturer's recommendations or specifications", the contractor shall provide the Project Designer with a current copy of these recommendations or specifications.

(a) **Covenant of Good Faith and Fair Dealing.**

This contract imposes an obligation of good faith and fair dealing in its performance and enforcement.

The contractor and the Department agree from the beginning to focus on creative cooperation, to avoid adverse confrontation, and to foster mutual respect, along with a positive commitment to honesty and integrity, and agree to the following mutual duties.

(1) Each will function within the laws and statutes applicable to their duties and responsibilities.

(2) Each will communicate in an open and candid manner.

(3) Each will assist in the other's performance.

(4) Each will avoid hindering the other's performance.

(5) Each will proceed to fulfill its obligations diligently.

(6) Each will cooperate in the common endeavor of the contract.

(b) **Voluntary Partnering.**

The Louisiana Department of Transportation and Development intends to encourage the foundation of a cohesive partnership with the contractor and its principal subcontractors and suppliers. This partnership will be structured to draw on the strengths of each organization to identify and achieve reciprocal goals. The objective is a cooperative approach to contract management that will reduce costs, litigation, and "stress" while completing the project in accordance with the plans and specifications.

This partnership will be bilateral in makeup, and participation in partnering will be totally voluntary and is not a requirement of the contract.

A partnering conference is to be implemented and held prior to beginning construction. The contractor's management personnel, the Project Designer, and/or the Project Engineer will initiate a partnering development conference. They, working with the assistance of the District Construction Engineer, will make arrangements to determine the facilitator, the attendees at the conference, agenda of the conference, duration, and location. Persons required to be in attendance will be the Project Designer, Project Engineer and key project personnel; the contractor's on-site project manager and key project supervision personnel of both the prime and principal subcontractors and suppliers. The project design engineers, FHWA, key company representatives, and key local government personnel will also be invited to attend as necessary. The contractor and DOTD will also be required to have Regional/District and Corporate/State level managers on the project team.

Any cost associated with effectuating this partnering will be agreed to by both parties and

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

will be shared equally and will be paid for in accordance with Subsection 109.04. The contractor, DOTD, FHWA and all others invited to the partnering conference will be responsible for any expenses incurred by their respective employees which includes salaries, travel, and lodging.

Follow-up conferences may be held periodically throughout the duration of the contract as agreed by the contractor and the DOTD.

The establishment of a partnership charter on a project will not change the legal relationship of the parties to the contract nor relieve either party from any of the terms of the contract. This partnership charter is intended only to establish an environment of cooperation and communication between all parties involved with the completion of the project.

**104.02 ALTERATION OF THE CONTRACT.** The Department reserves the right to order such alterations in quantities and plans, within the general scope of the contract, including alterations in grade and alignment, as deemed necessary or desirable in order to complete the work as contemplated. Pay items affected by such alterations shall be performed in accordance with the project specifications and payment will be made at the same unit prices as other parts of the work, except as provided in Subsections 109.03 and 109.04.

The Department reserves the right to order work not provided for in the contract whenever such extra work is found essential or desirable to satisfactory completion of the contract within its intended scope. Such extra work shall be performed in accordance with specifications and as directed. Payment for such extra work will be made as provided in Subsection 109.04.

The Department reserves the right to order changes in details, including changes in materials, processes or work sequences whenever such changes are in the best interests of the public or are necessary or desirable to satisfactory completion of the work. Such changes in details shall be performed in accordance with the specifications and as directed, and payment will be made as provided in Subsection 109.04. Changes ordered in details, when such changes are allowed or required by the contract, are not alterations to the contract and payment for the affected work will be made as provided in Subsection 109.04.

Alterations to the contract as provided for by this subsection shall not invalidate the contract nor release the surety, and the contractor agrees to accept the work as altered, as if it had been part of the original contract. The contractor shall notify the surety of any alterations to the contract.

Alterations of the contract shall not involve work beyond the termini of the proposed work except as necessary to satisfactorily complete the project.

No change order will be assumed to be approved until the signed and approved change order is returned to the originator.

**(a) Differing Site Conditions:**

**(1)** During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract, or if unknown physical conditions of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before they are disturbed and before the affected work is performed.

**(2)** Upon receipt of a written notification, the Project Designer will investigate the conditions and if he determines that the conditions materially differ and cause an increase or

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The Project Designer will notify the contractor of his determination whether or not an adjustment of the contract is warranted.

(3) No contract adjustment, which results in a benefit to the contractor, will be allowed unless the contractor has provided the required written notice.

**(b) Suspensions of Work Ordered by the Project Designer.**

(1) If the performance of all or any portion of the work is suspended or delayed by the Department in writing for an unreasonable period of time (not originally anticipated, customary or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the Project Designer, within 7 calendar days of receipt of the notice to resume work, a written request compliant with subsection 108.07 for an adjustment. The request shall set forth the reasons and support for such adjustment.

(2) Upon receipt, the Project Designer will evaluate the contractor's request. If the Project Designer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors, and not caused by weather, the Project Designer will recommend to the Department an adjustment (excluding profit) modifying the contract accordingly. The Project Designer will notify the contractor of his determination whether or not an adjustment of the contract has been recommended.

(3) No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

(4) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term or condition of this contract.

**(c) Significant Changes in the Character of Work.**

(1) The Department reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

(2) If the alterations or changes in quantities significantly change the character of the work under the contract, whether or not changed by any such different quantities or alterations, an adjustment in the Contract Sum, excluding loss of anticipated profits, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the Department may determine to be fair and equitable.

(3) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

(4) The term "significant change" shall be construed to apply only to the following circumstances:

a. When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction or;

b. When a major item of work, as defined elsewhere in the contract, is increased, or decreased, in excess of 25 percent of the contract quantity as awarded. Any adjustment in unit

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

price will be made on only that portion of the major item exceeding the 25 percent increase, or, in the case of a decrease of the item by 25 percent or more the remaining portion will be adjusted.

**(d) Eliminated Items.** Should any items contained in the contract be found unnecessary for proper completion of the work, the Project Designer may, upon written order to the contractor, eliminate such items from the contract. Such action shall not invalidate the contract.

When an item is eliminated, the contractor will be reimbursed for authorized work done toward completion of the item. No allowance except as provided herein, will be made for any increased expense, loss of expected reimbursement or loss of anticipated profits claimed by the contractor resulting either directly from such elimination or indirectly from unbalanced allocation among the pay items of overhead expense by the contractor and subsequent loss of expected reimbursements therefore or for other reasons.

The change order authorizing reimbursements shall show how the reimbursements were derived. Except when otherwise authorized by the Chief Engineer, such derivation shall show breakdowns of costs as detailed in Subsection 109.04, Headings (a) through (g).

**(e) Extra Work.**

When necessary or desirable to complete the project, the Project Designer may direct the contractor to perform unforeseen work for which there is no pay item or unit price in the contract. The Department will pay for such work in accordance with Subsection 109.04 based on an approved change order.

**104.03 MAINTENANCE OF TRAFFIC.** Reasonable provisions for local traffic through the length of the project and the life of the contract shall be made by the contractor during construction, at no direct pay.

When specified, the contractor may also be required to provide for through traffic over the entire project, or designated portion thereof, at no direct pay.

The contractor shall keep the portion of the project being used by public traffic, whether through or local traffic, in such condition that traffic (including mail delivery) will be adequately accommodated. The contractor shall furnish, erect and maintain barricades, warning signs and delineators, and shall provide flaggers and pilot cars in accordance with the plans and the MUTCD. The contractor shall maintain existing drainage and also provide and maintain in a safe condition all temporary approaches or crossings, intersections with roads, streets, businesses, parking lots, residences, garages and farms, at no direct pay.

When the Project Designer directs additional measures for the benefit of the traveling public, payment to the contractor will be made as provided in Subsection 109.04. The Department will be the judge of work to be classed as additional measures.

All lane closures, including ramps, shall be authorized by the Department. Unless otherwise authorized, lane closures will only be allowed while work is being performed. The contractor shall provide the Department and Project Designer a five calendar day notice, prior to any lane closure unless a shorter notification period is allowed by the Department. A late lane opening rental will be charged to the contractor for any lane closure on any roadway or ramp that extends beyond the allowed closure times. The rental shall be computed in hourly increments only, with fractions of an hour rounded up to the next whole hour. The rental will also apply to any unauthorized lane closures by the contractor, whether short term or long term. Any rental monies assessed for a late lane opening or for an unauthorized lane closure will be deducted from payments due the contractor. The late lane opening rental or unauthorized lane closure rental

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

will be in accordance with Table 104-1 for a maximum of four continuous hours.

**Table 104-1**

Current Average Daily Traffic (Vehicles per Day)	Hourly Rate (\$/Hour)
< 10,000	250
10,000 – 20,000	1,250
20,000 – 35,000	5,000
35,000 – 50,000	11,500
>50,000	15,000

The contractor shall provide for and maintain through and local traffic at all times and shall conduct his operations in such manner as to cause the least possible interference with traffic at junctions with roads, streets and driveways.

**104.04 FINAL CLEANING UP.** Before final acceptance, areas occupied by the contractor in connection with the work shall be cleaned of rubbish, excess materials, temporary structures, haul roads and equipment. All parts of the work, including property adjacent to the right-of-way, which have been damaged or rendered unsightly during the work shall be left in satisfactory condition and when required, the right-of-way shall be mowed in accordance with DOTD maintenance standards, all at no direct pay.

**104.05 GUARANTEES.** The contractor guarantees, by signing the contract, all installed project equipment, apparatus, materials and workmanship provided under the contract for a period of 1 year after final acceptance.

Instruction sheets that are required to be furnished by the manufacturer for installed project equipment, materials, supplies, roof or mechanical systems, elevators and other building operations or facilities shall be delivered by the contractor to the Project Designer prior to final acceptance of the project, along with the following written warranties and guarantees.

1. The manufacturer's standard warranty for each piece of installed project equipment or apparatus furnished under the contract.

2. The contractor's guarantee that, during the guarantee period, necessary repair or replacement of the warranted equipment or apparatus will be made by the contractor at no direct pay.

3. The contractor's guarantee for satisfactory operation of installed project equipment including, but not limited to, the mechanical and electrical systems furnished and constructed under the contract for the guarantee period.

If it should be found that parts failed due to defective material or faulty workmanship and if such parts should, within the manufacturer's warranty period, cause any breakdown or accident, the contractor will not only be required to furnish and install the replacement part, but will also be held responsible to the Department for all expenses due to accident or breakdown caused by such a failure. The contractor shall insert one copy of all warranties and guarantees into the maintenance manuals specified. Routine maintenance during the guarantee period will be performed by the Department.

**STATE PROJECT NO. 695-06-0004  
SPECIAL PROVISIONS**

**SECTION 105  
CONTROL OF WORK**

**105.01 AUTHORITY OF THE PROJECT DESIGNER.** The Project Designer, acting directly or through duly authorized representatives in accordance with Subsection 105.09, will decide all questions which arise as to quality and acceptability of materials furnished and work performed, rate of progress of the work, interpretation of plans and specifications, and acceptable fulfillment of the contract by the contractor.

The Project Designer will have the authority to suspend the work wholly or in part due to failure of the contractor to correct conditions unsafe for workmen or the general public; for failure to carry out provisions of the contract; for failure to carry out orders; for such periods as deemed necessary due to unsuitable weather; for conditions considered unsuitable for prosecution of the work; or for other conditions or reasons deemed to be in the public interest.

Orders to suspend the work will be in writing and will include the reasons for the suspension. The order to resume work will also be in writing.

The approval or acceptance by the Project Designer of submissions by the contractor will be subject to satisfactory installation and performance. Such approval shall not relieve the contractor of responsibility under the contract for successful completion of the work or responsibility for compliance with the terms and conditions of the contract.

The Chief Engineer has the authority to suspend the work if, at any time, the required policies of insurance become unsatisfactory to the Department, as to form or substance, or if a company that has issued any policies becomes unsatisfactory to the Department.

**105.02 PLANS AND WORKING DRAWINGS.** The contractor will be supplied a maximum of ten sets of plans without charge. Additional copies will be furnished upon request at the appropriate charge for reproduction services. Reduced (half-sized) plans will be furnished unless full-sized plans are requested. Plans will show lines, grades, typical cross sections, location and details of structures, and a summary of pay items. Only general features will be shown for steel bridges. The contractor shall keep one set of plans available at the work site at all times.

Standard plans required for the work, but included only by reference, will be furnished free of charge to the contractor upon request.

Working drawings, unless included in the plans, shall be furnished by the contractor and shall consist of detailed plans required to adequately control the work. They shall include stress sheets, shop drawings, erection plans, falsework plans, form drawings, cofferdam plans, bending diagrams for reinforcing steel, proposed location of construction joints or other supplementary plans or data required of the contractor. Working drawings will be approved by the Project Designer and such approval will not relieve the contractor of responsibility under the contract for successful completion of the work or responsibility for details shown on the working drawings to conform to the contract.

Type and size of drawings furnished shall conform to Subsection 801.03.

**105.03 CONFORMITY WITH PLANS AND SPECIFICATIONS.** All work and materials shall conform to the lines, grades, cross sections, dimensions and material requirements of the contract.

When the Project Designer finds the materials furnished, work performed, or the finished

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

product not in compliance with the contract but that reasonably acceptable work has been produced, the Project Designer will determine to what extent the work will be accepted and remain in place. If accepted, the Project Designer will document the basis of acceptance by change order and/or special agreement. The change order and/or special agreement will contain appropriate documentation for an adjustment in the contract price for the work or materials as necessary to support the Project Designer's determination. Reduced pay schedules will be used when such schedules are a part of the project specifications.

If the Project Designer finds the materials, work performed, or the finished product not in compliance with the contract and have resulted in an unsatisfactory or unacceptable product, the work or materials shall be removed and replaced or otherwise corrected by the contractor to the satisfaction of the Department at no direct pay.

If due to the contractor's negligence or selected method of operation in performing the work, the Project Designer deems it necessary to make changes, the contractor will be liable for the additional design cost to the Department. The amount of such design cost will be the salary cost of design personnel plus 110 percent. The amount thus determined will be deducted from payments to the contractor for the work.

**105.04 COORDINATION AND PRECEDENCE OF CONTRACT DOCUMENTS.** These specifications, the supplemental specifications, the plans, special provisions and supplementary documents are essential parts of the contract. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work.

In case of discrepancy, the following order of precedence will apply:

- 1) DOTD Special Provisions
- 2) Plans and Technical Specifications in the Project Manual
- 3) Supplementary Conditions
- 4) AIA A201 General Conditions
- 5) Supplemental Specifications
- 6) Standard Specifications
- 7) Standard Plans

Calculated dimensions will govern over scaled dimensions.

The contractor shall take no advantage of any error or omission in the plans or project specifications. If the contractor discovers such an error or omission, he shall immediately notify the Project Designer. The Project Designer will then make such corrections and interpretations as deemed necessary to fulfill the intent of the contract, plans, or project specifications.

**105.05 COOPERATION BY CONTRACTOR.** The contractor shall keep one complete set of plans and other contract documents available at the work site.

The contractor shall give the work the constant attention necessary to facilitate the progress thereof, and shall cooperate with the Project Designer, Department representatives, inspectors and other contractors.

The contractor shall have on the work site at all times, as the contractor's agent, a competent representative capable of reading and understanding the plans and project specifications and experienced in the type of work being performed, who shall receive and execute directions from the Project Designer. At the preconstruction conference or upon request, the contractor shall

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

furnish the Project Designer and Department written notice of the name, cell phone number and home telephone number of the representative. The representative shall have authority to execute orders or directions of the Project Designer without delay and to promptly supply such materials, equipment, tools, labor and incidentals as required. The representative shall be furnished regardless of the amount of work sublet.

The contractor shall furnish the Project Designer and Department written notice of the names of persons authorized to sign for him in matters pertaining to change orders, force account or extra work, contract time charges and other documents. No work shall commence on the project until the contractor has complied with this requirement. Such written notice shall also be furnished when a person so designated is removed and replaced.

**105.06 COOPERATION WITH UTILITIES.** The Department will notify all known utility companies, pipeline owners or other parties affected by the work and endeavor to have the necessary adjustments of public or private utility fixtures, pipelines and other appurtenances within or adjacent to the limits of construction made as soon as possible.

Upon award of the contract, utility companies affected will be advised by the Department of the name and address of the contractor, approximate date work will begin and other pertinent information.

Except as hereinafter provided, and regardless of whether the utility is shown on the plans or referred to in the project specifications, all water lines, gas lines, wire lines, fiber optic cables, telephone lines, cable television lines, service connections, water and gas valve boxes, light standards, cableways, signals and other utility appurtenances within construction limits which prevent completion of the contractor's work will be relocated or adjusted by the owners at no expense to the contractor. The contract will indicate utility items to be relocated, adjusted or constructed by the contractor.

Where a utility crossed or otherwise occupies an area within construction limits of the project and the utility will not have the Department's required clearance when the work is completed it shall be the Department's responsibility to arrange for necessary relocation to the required clearance. When the required clearance will exist when the work is completed, but relocation is considered necessary by the contractor for construction purposes, the contractor shall make arrangements with the owner for any relocation or adjustment necessary to the operations at no direct pay. In such cases, upon completion of the work and prior to final acceptance, the final location of utility will be acceptable to the Department. Nothing herein shall be interpreted to mean that the Department waives its rights to control entrance onto, or location on, its right-of-way of any utility or appurtenance.

It is agreed that the contractor has considered in the bid all permanent and temporary utility appurtenances in their present or proposed relocated positions and that no additional compensation will be allowed for delays, inconvenience or damage sustained due to interference from the said utility appurtenances or the operation of moving them.

When the Project Designer determines that the contractor is experiencing significant delays in the controlling items of work because of delays by others in removing, relocating or adjusting utility appurtenances, contract time extensions will be considered for such delays in accordance with Subsection 108.07.

On the date stipulated in the Notice to Proceed, the contractor shall begin work in connection with fencing, clearing, grubbing, removal of structures and obstructions, and relocation and demolishing of other structures, and shall prosecute such work to completion to avoid delays in

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

removal or adjustment of utilities. The contractor shall cooperate with the utility companies to avoid delays in completion of work due to nonremoval or nonadjustment of utilities.

When the contractor's work involves excavating or underground demolition activity, the contractor is required to reach Louisiana One Call, prior to starting any work, by calling (225) 275-3700 or toll-free 1-800-272-3020, or by fax (225) 272-1967 in order to comply with the Louisiana Underground Utilities and Facilities Damage Prevention Law.

**105.07 COOPERATION BETWEEN CONTRACTORS.** The Department reserves the right to contract for and perform additional work on or near the work covered by the contract.

When separate contracts are let within, adjoining, or adjacent to the limits of the project, each contractor shall conduct the work not to hinder the progress of work by other contractors and shall cooperate with each other as directed.

The contractor shall arrange the work and shall place and dispose of materials being used not to interfere with the operation of other contractors within, adjoining, or adjacent to the limits of the project. The contractor shall acceptably join the work with that of other contractors and shall perform the work in proper sequence to that of the others and without causing disruption or delay to the schedule of project completion.

The contractor shall assume all liability, financial or otherwise, in connection with the contract and shall hold the Department harmless and indemnify the Department from all damages or claims that may arise because of inconvenience, delay, or loss experienced by the contractor or caused to other contractors due to the presence and operations of other contractors working within, adjoining or adjacent to the limits of the projects.

**105.08 CONSTRUCTION STAKES, LINES AND GRADES.** See Section 740, Construction Layout.

**105.09 AUTHORITY AND DUTIES OF PROJECT DESIGNER.** As the direct representative of the Department, the Project Designer has immediate charge of the construction project. The Project Designer is responsible for administration of the contract. The Project Designer shall have authority to give directions pertaining to the work and for consideration of the public, to reject defective materials and equipment, and to suspend work in accordance with Subsection 105.01.

Except for Minor Changes in the work, as provided in article 7.4.1 of the General Conditions, and as permitted and instructed by the Chief Engineer, the Project Designer is not authorized to alter or waive provisions of the contract, alter quantities, order extra and/or force account work, or accept any portion of the project. In no case will the Project Designer perform any duties for or act as the representative of the contractor.

When the work is being done by force account, the contractor shall have the responsibility to supervise the work and provide a product meeting the requirements of the contract. In roadway work, the Department shall have the authority to require the contractor to revise operations, including but not limited to, sequence and location of work; number, category and caliber of workers; number and type of equipment; and hours of work.

**105.10 DUTIES OF THE INSPECTOR.** Inspectors representing the Department are authorized to inspect all work. Such inspection extends to any part of the work and to preparation, fabrication or manufacture of materials to be used. The inspector is not authorized

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

to alter or waive contract provisions. The inspector is not authorized to issue instructions contrary to the contract; however, the inspector will have authority to reject work or materials until any question can be referred to and decided by the Project Designer. In no case will the inspector perform any duties for, or act as the representative of the contractor.

**105.11 INSPECTION OF WORK.** All materials and each part or detail of the work shall be subject to inspection by the Project Designer. The Project Designer shall be allowed safe and convenient access to all parts of the work and shall be furnished with such information and assistance by the contractor as required to make a complete inspection. Such inspection will not relieve the contractor from the obligation to furnish acceptable materials or to perform all work in accordance with the contract.

If ordered by the Project Designer, the contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as directed. After examination, the contractor shall restore said portions of the work to the standard required by the project specifications. Should the work thus exposed prove acceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but, should the work so exposed prove unacceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed, will be at no direct pay.

Work done or materials used without supervision or inspection by an authorized Department representative, when they are not provided adequate notice or opportunity to provide inspection, may be ordered uncovered for examination and recovered, or removed and replaced, all at the contractor's expense.

When a unit of government or political subdivision or other public or private entity is to pay a portion of the cost of the work covered by the contract, its representatives shall have the right to inspect the work. Such inspection shall not make any unit of government, political subdivision or corporation a party to the contract and shall not interfere with the rights of either party thereunder.

**105.12 INSPECTOR'S STAMP FOR SHIPMENT.**

(a) Approval for Shipment: When materials requiring shop or plant inspection are ready for shipment, the Department's inspector shall affix the stamp of the Department. Each shipment piece, keg, box or bound pallet shall be marked by the inspector by direct stamping.

Application of the inspector's stamp implies that at the time of stamping it was the opinion of the inspector that the product was fabricated or manufactured from accepted materials by approved processes and painted, if required, in accordance with the contract. Application of the inspector's stamp for shipment does not imply that the products will not be rejected by the Department if subsequently found to be defective.

(b) Rejection: The inspector will reject material and workmanship that do not conform to the contract.

Stamping of products by Department representatives shall not preclude further testing and inspection by the Department.

Defective materials and workmanship, whenever discovered, will be rejected and shall be repaired or replaced at no direct pay. All repair procedures shall be approved.

(c) Shipment of Material Not Stamped: Materials and fabricated items subjected to shop inspection will not be accepted at the project site if they do not bear the inspector's stamp for shipment. If the products are not stamped because they were not offered for shop inspection, or

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

were shipped after rejection at the shop, the products shall be returned to the shop for inspection and correction as necessary.

In lieu of this requirement, the Department may allow inspection to be performed at the project site at the contractor's expense.

**105.13 REMOVAL OF UNACCEPTABLE AND UNAUTHORIZED WORK.** Work not conforming to the contract will be considered unacceptable, unless otherwise determined acceptable under the provisions in Subsection 105.03.

Unacceptable work found to exist prior to final acceptance of the work shall be removed and acceptably replaced.

No payment will be made for work done contrary to instructions of the Project Designer, work done beyond lines shown on the plans or as given, or extra work done without authority. Work so done may be ordered removed or replaced at the contractor's expense.

Upon failure of the contractor to comply with any order of the Project Designer made under the provisions of this Subsection, the Project Designer will have authority to cause unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs from payments for the work.

**105.14 LOAD RESTRICTIONS.** The contractor, subcontractors or suppliers shall observe legal load restrictions when hauling equipment or materials on public roads beyond project limits. A special permit does not decrease the contractor's liability for damage.

Operating equipment or hauling loads that may damage structures, roadway, or any construction is prohibited.

**105.15 MAINTENANCE DURING CONSTRUCTION.** The contractor shall satisfactorily maintain the entire area within the right-of-way limits of the project, from the effective date of the Notice to Proceed until the date of final acceptance. This maintenance responsibility includes, but is not necessarily limited to, maintaining drainage, periodic mowing and removing of debris and remains, to the satisfaction of the Project Designer, as well as such striping, patching and shoulder maintenance which will provide safe and convenient conditions at all times for the public. The contractor shall continuously and effectively satisfy his maintenance responsibilities with such equipment and forces as may be necessary to maintain a safe and satisfactory condition for the duration of the project. The contractor shall maintain the roadway in a satisfactory condition to allow traffic to safely travel through the work zone at the posted speed limit.

Adjacent and parallel roadways within the project limits, not affected by construction shall not be the maintenance responsibility of the contractor.

**105.16 FAILURE TO MAINTAIN ROADWAY OR STRUCTURE.** If the contractor fails to comply with Subsections 104.03 and 105.16, the Department or Project Designer will immediately notify the contractor in writing of such noncompliance. If the contractor fails to remedy the condition within 24 hours after receipt of the written notice, the Department will have the option to immediately remedy the condition with its own in-house forces or by another contractor, and the cost thereof will be deducted from payments for the work.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

When the condition requires more immediate remedy due to hazard to life, health and property, the Department will immediately remedy the condition as above and the costs thereof will be deducted from payments for the work.

**105.17 ACCEPTANCE.** See Articles 9.8 and 9.10 of the AIA A210 General Conditions and the Supplementary Conditions.

**105.18 CLAIMS FOR ADDITIONAL COMPENSATION.** If the contractor deems additional compensation is due for work, material, delays, inefficiencies, disruptions or other additional costs/or expenses not covered in the contract or not ordered as extra work, the contractor shall notify the Project Designer in writing of his intention to make a claim for such additional compensation before beginning the work on which the claim is based or immediately upon encountering the conditions or effects which the contractor claims entitle him to additional compensation. Notification of claims shall conform to the requirements of EDSM III.1.1.28 and Article 4.3 of the General and Supplementary Conditions. If such notification is not given or the Project Designer and the Department are not afforded proper facilities by the contractor for keeping account of actual costs incurred by the contractor, the contractor hereby agrees and shall be deemed to waive any claim for such additional compensation. Such notice by the contractor and the fact that the Project Designer has kept account of the costs as aforesaid shall not be construed as proving or substantiating the validity of any claim. If the claim, after consideration by the Chief Engineer, or judicial determination, is found to be just, payment will be made as specified in Subsection 109.04 by force account or negotiated price. Nothing in this subsection shall be construed as establishing any claim contrary to Subsection 104.02.

**105.19 VALUE ENGINEERING PROPOSALS.** This provision is to share with the contractor only the cost savings generated on this contract as a result of a Value Engineering (VE) Proposal(s) offered by the contractor and approved by the Department. Any time savings resulting from a VE Proposal will be considered at the completion of the project as an incentive to the contractor, provided the contract contains an incentive clause for early completion of the work and the contractor has not met the incentive limit in the contract. A time only reduction will not be considered as a VE Proposal. The purpose is to encourage the use of the contractor's ingenuity and experience in arriving at alternative construction methods, which will reduce the overall construction cost. After award of the contract, the successful bidder will be permitted to submit to the engineer, written VE Proposals, for modifying the plans, specifications, or other requirements of the contract for the purpose of reducing the total cost of construction. The VE Proposal shall not impair, in any manner, the essential functions and characteristics of the project, including but not limited to safety, service life, reliability, economy of operation, ease of maintenance, desired appearance, traffic flow during construction, or necessary standardized features.

The VE Proposal shall be specifically identified by the contractor as a cost reduction proposal. VE Proposals will be considered by the Department in the same manner as change orders.

The contractor has the option of submitting a conceptual VE Proposal to the Department for review prior to making formal submission. However, the contractor may submit the formal VE Proposal directly.

The conceptual VE Proposal shall provide the following minimum information:

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

- (a) A description of the proposal.
- (b) A listing of work items affected by the proposed change, including any change in contract time and/or traffic maintenance.
- (c) An initial estimate of the net cost savings which the change is expected to generate, including elimination of any planned work.

The contractor may proceed to the formal VE Proposal upon the Department's approval of the conceptual VE Proposal. The Department is not obligated to approve the contractor's formal VE Proposal, even if the conceptual VE Proposal is initially considered acceptable.

As a minimum, the following information shall be submitted by the contractor with the formal VE Proposal.

- (a) A statement that the proposal is submitted as a VE Proposal.
- (b) A description of the difference between the existing contract requirements and the proposed change(s), and the comparative advantages and disadvantages of each, including effects on service life, economy of operations, ease of maintenance, desired appearance, necessary standardized features, reliability, traffic flow during construction, safety, and contract time.

(c) Any or all of the following submittals as required by the engineer showing proposed revisions relative to the original contract features and requirements: Plans, sketches, engineering calculations, specifications or stamped plans bearing the signature and seal of a professional engineer licensed to practice in the State of Louisiana.

(d) Detailed estimates of the cost to the Department for performing the work under the existing contract and under the VE Proposal, including a listing of contract items affected by the proposal, and quantity variations attributable thereto with the related costs.

(e) An assessment of any effects that adoption of the VE Proposal could have on other costs to the Department, including future maintenance and operation.

(f) A statement of the latest time or date that any agreement adopting the VE Proposal must be executed in order to obtain the maximum cost reduction during the remainder of the contract and the reasoning for this time schedule. This date must allow the Department time for review and processing of a change order. Should the Department find insufficient time is available for review and processing, it may reject the VE Proposal on such basis. If the Department fails to respond to the VE Proposal by the date or time specified, the contractor shall consider the proposal rejected and shall have no claim against the Department.

(g) A statement of the effect that adoption of the VE Proposal will have on the time for completion of the contract.

(h) A description of any previous use or testing of the final VE Proposal on another Department project or elsewhere and the conditions and results therewith. If the final VE Proposal was previously submitted on another Department project, indicate the date, the project, and the action taken by the Department.

The provisions of this subsection shall not be construed to require the Department to consider any VE Proposal which may be submitted. The Department reserves the right to reject any and all VE Proposals. The bidder is cautioned not to base any bid prices on the anticipated approval of a VE Proposal and to recognize that the proposal may be rejected. In the event of rejection, the contractor will be required to complete the contract at the contract bid prices. Proposed changes in basic configuration and design of a bridge, hydraulic capacity of drainage facilities, typical roadway section, type or minimum thickness of pavements, or changes in grade or alignment which do not meet the geometric standards of the project as conceived, will not be considered as

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

acceptable VE Proposals. Typically, changes in materials for roadway sections will also not be considered as acceptable VE proposals. Plan errors which are identified by the contractor and result in a cost reduction will not qualify as a VE proposal. If the Department is already considering certain revisions to the contract or has approved certain changes in the contract for general use, which are subsequently incorporated in a VE Proposal, the Department will reject the contractor's proposal and may proceed without obligation to the contractor. The Department will not be liable to the contractor for failure to act upon or accept any VE Proposal nor for any delays to the work attributable to any such proposal. The contractor may withdraw, in whole or in part, any VE Proposal not accepted by the Department within the period specified in the proposal. The decision of the Department as to the acceptance or rejection of VE Proposals shall be final and shall not be subject to the provisions of Subsection 105.1.

The contractor will be notified in writing of the Department's decision to accept or reject each VE Proposal submitted under these provisions. If a VE Proposal is accepted, the necessary contract modifications will be implemented by execution of a change order, which will provide for equitable price adjustments giving the contractor and the Department equal shares in the resulting net savings. Until a VE Proposal is affected by such contract modification, the contractor shall perform the work in accordance with the terms of the existing contract.

The net cost savings to be shared shall be determined as the difference in costs between the original contract costs for the involved work items and the actual final costs to the Department occurring as a result of the proposed change. Only those work items directly affected by the change order will be considered in making the final determination of net cost savings. Subsequent change orders affecting the modified work items but not related to the VE Proposal, will be excluded from such determination. In reviewing the VE Proposal, the Department reserves the right to reject the proposal if, in its judgment, the proposed net cost savings do not represent a reasonable measure of the value of the work to be performed or deleted.

All costs incurred by the contractor in developing the VE Proposal shall be borne by the contractor. The change order implementing the necessary contract modifications shall include a pay item for and a lump sum estimate of the approximate net cost savings anticipated as a result of the VE Proposal, and a proportionate amount thereof shall be included in partial payment estimates as the work on the modified contract items is performed. The contractor's 50 percent share of the net cost savings shall constitute full compensation for implementing all changes pursuant to the agreement. Any time savings for early completion of the project resulting from the VE Proposal will be considered upon completion of the project as an incentive to the contractor provided the contract contains an incentive clause for early completion of the work and the contractor has not met the incentive limit in the contract.

The Department reserves the right to include in the agreement any conditions it deems appropriate for consideration, approval, and implementation of the VE Proposal. The Department also reserves the right to require the contractor to share in the Department's costs of investigating a VE Proposal submitted by the contractor as a condition of considering such proposal. The Department will have the option to perform the investigation in-house or by consultants. When such a condition is imposed, the contractor shall indicate his acceptance in writing, and such acceptance shall constitute full authority for the Department to deduct amounts payable to the Department from any monies due or that may become due to the contractor under the contract.

The Department reserves the right to adopt a VE Proposal for general use when it determines that said proposal is suitable for application to other contracts. When an accepted VE Proposal is

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

adopted for general use, only the contractor who first submitted such proposal will be eligible for compensation pursuant to this subsection, and in that case, only as to those contracts awarded to him prior to submission of the accepted proposal. VE Proposals identical or similar to previously submitted proposals will be eligible for consideration and compensation under these provisions if the identical or similar previously submitted proposals were not adopted for general application to other Department contracts. Subject to the provisions contained herein, the State or any other public agency shall have the right to use all or any part of any submitted VE Proposal without obligation or compensation of any kind to the contractor.

Any changed conditions arising as a result of the acceptance of a VE Proposal will not be considered as the basis for any claim for additional compensation.

**105.20 NIGHTTIME CONSTRUCTION OPERATIONS.**

**(a) Description:** This work consists of furnishing, installing, operating, maintaining, moving, and removing portable light towers and equipment-mounted fixtures for nighttime construction operations. Nighttime construction operations are defined as work performed after sunset and before sunrise.

**(b) Equipment Requirements:** Materials and equipment shall be in good operating condition and in compliance with applicable OSHA, NEC, and NEMA codes.

The contractor shall furnish, to the Project Designer, two light meters capable of measuring the level of illuminance. These light meters will be used by the Project Designer to check the adequacy of illumination throughout the nighttime construction operations. The light meters will become the property of the contractor after final acceptance.

Suitable brackets and hardware shall be provided to mount lighting fixtures on equipment and machinery. Mountings shall be designed so that light fixtures can be positioned as necessary to reduce glare and provide the required illumination. Mounting brackets and fixtures shall not interfere with the equipment operator or any overhead structures and shall be securely connected to the fixtures to insure minimum vibration.

Equipment-mounted systems shall be attached to construction equipment to provide Level II and Level III illuminance. Equipment mounted lighting shall be designed and positioned to be operated independently of general illumination.

Portable systems may consist of ground-mounted, trailer-mounted, or equipment mounted light towers. Portable light towers shall be sturdy and free-standing without the aid of guy wires or bracing. Towers shall be capable of being moved as necessary to keep pace with the construction operation. Extreme caution shall be used when moving portable light towers in the vicinity of overhead utilities. Portable lighting systems shall be positioned to minimize the risk of being impacted by traffic on the roadway or by construction equipment.

Conventional vehicle headlights shall not be permitted as the sole means of illumination while working. All motorized vehicles shall be equipped with conventional vehicle headlights to permit safe movement in non-illuminated areas. Use of strobe lights on vehicles and equipment is prohibited. Use of flashing lights shall be kept to a minimum to prevent motorist distraction. Flashing lights shall not be used behind barrier protection systems

Switches shall be provided to adequately control the various lights. All wiring shall be weatherproof and installed according to local, state, federal, and OSHA requirements. Ground fault circuit interrupters shall be provided for electrical outlets used for electrical tools and extension cords. The contractor shall provide sufficient fuel, spare lamps, generators and qualified personnel to ensure that all required lights operate continuously during nighttime

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

construction operations. In the event of any failure of the lighting system, the construction operation shall be discontinued until the required level of illumination is restored. In residential areas, generator systems shall be selected to comply with local noise ordinances. A supply of emergency flares shall be maintained by the contractor for use in the event of emergency or unanticipated situations.

**(c) Illumination Requirements:** All operations that are performed during nighttime hours shall be properly illuminated to allow for the safe performance and inspection of the work.

Work area is defined as a minimum of 50 feet (15 m) ahead and behind the employee, where work is to be performed. A minimum of 5 foot-candles (54 lux) shall be maintained throughout the work area during nighttime construction operations, and during the setup and removal of lane or roadway closures.

Lighting shall be adequate to meet the required level of illuminance and uniformity over the work area as follows:

**(1) Level I (5 foot-candles, 54 lux):** This level of illuminance shall be provided for all work areas of general construction operations, such as excavation and embankment; cleaning and sweeping; landscaping; planting and seeding. Stockpiles shall also be illuminated to Level I to enhance safety and improve work efficiency.

**(2) Level II (10 foot-candles, 108 lux):** This level of illuminance is required for areas on or around construction equipment such as that used for drainage installations, striping, base course construction, milling, asphalt paving operations, and concrete placement and removal. This level is necessary for safe operation of equipment and for obtaining an acceptable level of accuracy.

**(3) Level III (20 foot-candles, 215 lux):** This level of illuminance is required for tasks requiring a higher level of visual performance or for tasks with a higher level of difficulty. Such tasks include, pavement or structural crack filling, joint repair, joint cleaning, joint sealing, pavement patching and repairs, saw-cutting, installation of signal equipment or other electrical/mechanical equipment, and other tasks involving fine details or intricate parts and equipment.

**(d) Glare Control:** All lighting provided under this item shall be designed, installed, and operated to avoid glare interference with roadway traffic or discomfort for residences adjoining the roadway. The contractor shall locate, aim, and adjust the lights to provide the required level of illuminance and uniformity in the work area without the creation of objectionable glare. The Project Designer shall determine when glare exceeds acceptable levels, either for traffic or adjoining residences. The contractor shall provide shields, visors, or louvers on luminaries as necessary to reduce objectionable levels of glare.

At a minimum, the following requirements shall be met to avoid objectionable glare to oncoming traffic:

**(1)** Tower-mounted luminaries shall generally be aimed either parallel or perpendicular to the roadway.

**(2)** All luminaries shall be aimed such that the center of the beam axis is no greater than 60 degrees from the vertical.

**(3)** Luminous intensity of any luminary shall not exceed 20,000 candelas at an angle of 72 degrees from the vertical.

**(e) Operational Requirements:** Thirty days prior to the start of night time operations, the contractor shall submit a lighting plan to the Department for approval. The contractor shall

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

select appropriate lighting systems and design a lighting plan to achieve the required illuminance levels.

The lighting plan shall include location of lights necessary for every aspect of work; description of light equipment to be used; description of power source; attachment and mounting details for lights to be attached to equipment; technical details pertaining to the lighting fixtures; details on hoods, louvers, shields, or other glare control methods; and lighting calculations confirming that the illumination requirements will be met by the layout plan.

Lighting inspection will include (1) light meter measurements to determine illumination levels, (2) subjective observation of the lighting setup to evaluate glare potential for drivers and workers, and (3) a physical check of the lighting equipment to ensure that it complies with the specification requirements included in the contractor's lighting plan.

Prior to the first night of operation, the Department representative or Project Designer will check the adequacy of the installed lighting using a light meter. A summary of these measurements will be noted in the inspection records to provide a basis for comparing subsequent measurements. If the required illuminance levels are not met, the contractor shall make the necessary adjustments before any work proceeds.

Operational checks shall be made when construction phasing changes and lighting plan changes are required to accommodate different phases of construction. Periodic checks will be made throughout the duration of nighttime operations. If the required illuminance levels are not met, the contractor shall make the necessary adjustments to the lighting plan before work continues.

During construction operations, in the event of any failure of the lighting system, the operations shall be discontinued until the required level of illumination is restored.

**SECTION 106**  
**CONTROL OF MATERIALS**

**106.01 SOURCE OF SUPPLY AND QUALITY REQUIREMENTS.** Materials used in the work shall meet all quality requirements of the contract. To expedite inspection and testing of materials, the contractor shall notify the Project Designer of his proposed sources of materials prior to delivery. With written authorization, materials may be approved at the source of supply before delivery is started. If it is found after trial that sources of supply for previously approved materials do not produce specified products, the contractor shall furnish materials from other sources or make necessary changes to provide acceptable materials.

**106.02 LOCAL MATERIAL SOURCES.**

**(a) Designated Sources:** Possible sources of local materials may be designated in the plans or specifications. The quality of material in such deposits will be acceptable in general, but the contractor shall determine the amount of equipment and work required to produce a material meeting specifications. It shall be understood that it is not feasible to ascertain from samples the limits for an entire deposit and that variations are to be expected. The Project Designer may order procurement of material from any portion of a deposit and may reject portions of the deposit as unacceptable.

The Department may acquire and make available to the contractor the right to take materials from the sources designated in the plans or specifications, with the right to use such property as specified for plant site, stockpiles or haul roads.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

When the contractor desires to use material from sources other than those designated, the contractor shall acquire the necessary rights or permits to take materials from the sources and shall pay all costs related thereto, including any which may result from increased haul length. All costs of exploring and developing such sources shall be borne by the contractor. Use of material from other than designated sources will not be permitted until representative samples taken by the Project Designer have been approved and written authority is issued for the use thereof.

**(b) Contractor Furnished Sources:** When material deposits are not designated in the plans or specifications, the contractor shall provide sources of acceptable material. When sources of materials are provided by the contractor, the Department may assume the cost of processing samples to determine suitability of material.

**(c) Use of Materials Found on the Project:** Unless otherwise specified, the contractor may incorporate into the work materials found or produced on the project such as reclaimed asphaltic pavement, recycled portland cement concrete, stone, gravel, sand, topsoil or other materials found acceptable by the Project Designer. Payment for removal of such materials will be made under the designated contract items such as cold planing asphaltic pavement, removal of portland cement concrete pavement, excavation, etc. Payment will also be made for the pay items into which these materials are incorporated.

The contractor shall replace at no direct pay with acceptable material all removed material which was needed for embankments, backfills, approaches or otherwise. No charge for materials so used will be made against the contractor. The contractor shall not excavate or remove material from within the right-of-way which is not within construction limits, as indicated by slope and grade lines, without written authorization from the Department. If authorization is obtained, payment will not be made for excavation beyond slope and grade lines, nor will payment be made for any required replacement.

Materials from existing structures may be used temporarily by the contractor in erection of new structures. Modification of such material will not be permitted without written approval.

**106.03 ACCEPTANCE SAMPLES AND TESTS.** Materials will be inspected, tested and approved before incorporation into the work. Work in which untested and unapproved materials are used shall be performed at the contractor's risk. Payment will not be made for materials or work found to be unacceptable and, when directed, shall be removed at the contractor's expense. Sampling and testing will be performed in accordance with the contract or the cited standard method of the Department's Materials Sampling Manual and Testing Procedures Manual; if not contained therein, by AASHTO methods. If a procedure is not available in AASHTO methods, the ASTM procedure will be used, except for any resampling or retesting procedures included therein. Resampling or retesting procedures shall be as determined by the Department's Materials Engineer Administrator. When allowable variations or conflicts occur within an ASTM or AASHTO test procedure, the established DOTD procedure and publications shall govern. Sampling and testing procedures not contained in the above publications shall be as determined by the Department. All procedures will be the most recent cited which are current on the date of advertisement for bids. Acceptance testing will be made by and at the expense of the Department. Samples for acceptance testing will be taken by an authorized representative of the Department. Materials being used will be subject to inspection, sampling, testing, retesting, or rejection at any time prior to final acceptance. The contractor will be notified of a failing test. Copies of all tests reports will be furnished to the contractor's representative upon request.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**106.04 CERTIFICATES.** Certificates shall include Certificates of Analysis, Certificates of Compliance, and Certificates of Delivery. These certificates shall be furnished prior to use of materials for which the certificates are required. They shall be signed by the material manufacturer, the manufacturer of assembled materials or the material supplier.

Materials used on the basis of these certificates may be sampled and tested at any time. The fact that material is used on the basis of a certificate shall not relieve the contractor of responsibility for incorporating material in the work which conforms to the plans and specifications.

Distribution of certificates and requirements for further sampling and testing of certified materials shall be as outlined in the Department's Materials Sampling Manual.

The Department reserves the right to refuse to permit the use of material on the basis of a certificate.

**106.05 CONTRACTOR QUALITY CONTROL.** The contractor shall establish and maintain an effective quality control process. The quality control process shall consist of plans, procedures, and organization necessary to provide materials, equipment, workmanship, fabrication, construction and operations which comply with the contract requirements. The process shall cover construction operations both onsite and offsite, and shall be keyed to the proposed construction sequence.

Quality Control requirements shall be as specified in the latest edition of the Department's "Quality Control / Quality Assurance Manual" for the appropriate specification section.

Contractor personnel performing sampling and testing, observation, or inspection for the quality control process shall be evaluated and approved by the Department in accordance with Departmental requirements.

**106.06 PLANT INSPECTION.** The Department reserves the right to inspect plants and operations producing materials and to test materials, prior to incorporation into the work as necessary to ensure contract compliance.

When plant inspection is undertaken, the following conditions shall be met:

(a) The Department representative shall have the cooperation and assistance of the contractor and the producer with whom the contractor has contracted for materials.

(b) The Department representative shall have entry at all times to such parts of the plant as concern the manufacture or production of materials being furnished.

Certification of specified plants and operations will be in accordance with Department requirements.

**106.07 FIELD LABORATORY.** The contractor shall provide project site laboratories as required by the specifications to be used exclusively for quality assurance purposes by the Department. The buildings shall be installed, furnished, equipped, and maintained in accordance with Section 722, and ready for use prior to the time the contractor's operations require testing.

**106.08 FOREIGN MATERIALS.** Materials manufactured outside the United States shall be delivered to approved locations within the United States, where they shall be retained until sampling and testing can be completed.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

The contractor shall, at no direct pay, arrange for any required testing which the Department is not equipped to perform. Testing by the contractor shall be performed within the State and be subject to witnessing by the Project Designer or the Department.

Each lot of foreign material shall be accompanied by a Certificate of Compliance prepared in accordance with Subsection 106.04. Certificates of Analysis prepared in accordance with Subsection 106.04 shall be attached to the Certificate of Compliance for those materials for which Certificates of Analysis are required. These certificates shall clearly identify the lot to which they apply.

Structural materials requiring Certificates of Analysis (Mill Test Reports) will be accepted only from foreign manufacturers who have previously established to the satisfaction of the Department the adequacy of their in-plant quality control.

Adequacy of quality control shall be established, at the option of the Department, by submission of detailed written proof of adequate quality control or through a plant inspection by the Department.

No structural materials will be accepted which cannot be properly identified with Certificates of Analysis and Certificates of Compliance.

**106.09 MATERIAL STORAGE AND PLANT SITE.** Materials shall be stored to assure preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located to facilitate their prompt inspection. Approved portions of the right-of-way may be used for storage and for placing the contractor's plant and equipment. Additional space required shall be provided by the contractor at no direct pay.

**106.10 HANDLING MATERIALS.** Materials shall be handled to preserve their quality and fitness for the work. Materials shall be transported from storage site to the work in tight vehicles constructed to prevent loss or segregation of materials after loading and measurement in order that there will be no inconsistencies in quantities of materials loaded and quantities received at the place of operations.

**106.11 UNACCEPTABLE MATERIALS.** Materials not conforming to specifications will be rejected and shall be removed immediately from the work unless otherwise directed. No rejected material, the defects of which have been corrected, shall be used until approval has been given.

**106.12 DEPARTMENT-FURNISHED MATERIAL.** The contractor shall furnish all materials required to complete the work, except those specified to be furnished by the Department.

Material furnished by the Department will be delivered or made available to the contractor at the points specified.

The cost of handling and placing materials after they are delivered to the contractor shall be considered as included in the contract price for the item in connection with which they are used.

The contractor will be responsible for material delivered. Deductions will be made from payments for the work to make good any shortages and deficiencies, for any damage which occurs after such delivery, and for any demurrage charges.

**STATE PROJECT NO. 695-06-0004  
SPECIAL PROVISIONS**

**SECTION 107  
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**

**107.01 LAWS TO BE OBSERVED.** The contractor shall keep informed of and comply with all Federal, State and local laws, ordinances and regulations, and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which affect those employed on the work or which affect the conduct of the work. The contractor shall indemnify the State and its representatives against any claim or liability arising from violation of any such law, bylaw, ordinance, code, regulation, order or decree, whether by the contractor or the contractor's employees.

Soil and soil-moving equipment operating in regulated areas will be subject to plant quarantine regulations. These regulations provide for cleaning soil from equipment before it is moved from regulated areas to prevent spread of harmful agricultural pests from areas quarantined by the State or U. S. Department of Agriculture. Complete information may be obtained from the appropriate district office of the USDA Plant Protection Division.

When the Department is the contracting agency, any litigation arising under or related to the contract or the bidding or award thereof shall be instituted in the 19th Judicial District Court in and for the Parish of East Baton Rouge, State of Louisiana.

**107.02 PERMITS, LICENSES, TAXES AND INSURANCE.**

Pursuant to La. R.S. 40:1724, this project is not subject to local permitting, review, or oversight, but is subject to the Louisiana Building Code as required in La. R.S. 40:1722. Inspection of the Contractor's work for compliance with that code will be undertaken by the Project Designer and the Office of the State Fire Marshal.

As otherwise applicable, Contractor shall procure temporary permits and licenses for the work, pay charges, fees, and taxes, and give notices necessary to due and lawful prosecution of the work.

The insurance provisions of Article 11 of the Supplementary Conditions are intended to be complimentary to those contained herein. Where a conflict may occur, the more stringent provision shall prevail.

The contractor shall maintain, at a minimum, the following insurance coverages:

(a) Workers Compensation in compliance with state law, with the exception that the contractor's Employer liability is to be at least \$1,000,000 when work is to be over water and involves maritime exposures. For the coverage provided in this subpart the contractor's Insurer will have no right of recovery or subrogation against the State of Louisiana or the Louisiana Department of Transportation and Development.

(b) Commercial General Liability Insurance with a combined single limit per occurrence for bodily injury and property damage. The aggregate loss limit must be on a per project basis. This insurance shall include coverage for bodily injury and property damage, and include coverage for Premises-Operation; Broad form Contractual Liability; Products and Completed Operation; Use of Contractors and Subcontractors; Personal Injury; Broad form Property Damage; and Explosion, Collapse and Underground (XCU) coverage. The required combined single limit amount of insurance shall be as provided in Table 107-1.

**STATE PROJECT NO. 695-06-0004  
SPECIAL PROVISIONS**

(c) A separate Owner's and Contractor's Protective (OCP) Liability Policy shall be furnished by the contractor naming the Louisiana Department of Transportation and Development as the named insured. The required combined single OCP limit amount shall be as provided in Table 107-1.

(d) Business Automobile Liability Insurance with a combined single limit per occurrence for bodily injury and property damage. This insurance shall include bodily injury and property damage coverage for owned automobiles, hired automobiles and non-owned automobiles. The required combined single limit amount of insurance shall be as provided in Table 107-1 below.

**Table 107-1  
Insurance Requirements**

<b>Initial Contract Amount</b>	<b>Minimum Insurance</b>
Up to \$1,000,000	\$ 1,000,000
From \$1,000,001 to \$2,000,000	\$ 2,000,000
Over \$2,000,000	\$ 5,000,000

The following shall be included as provisions in each policy:

(a) The insurance company(ies) issuing the policy(ies) shall have no recourse against the State of Louisiana and the Department for payment of any premiums or for assessments under any form of the policy.

(b) Any and all deductibles in the above described insurance policy(ies) shall be assumed by and be at the sole risk of the contractor.

Insurance is to be placed with insurance companies authorized in the State of Louisiana with an A. M. Best's rating of A-: VI or higher. This rating requirement may be waived for Workers Compensation coverage only.

Should any policies be canceled, the contractor shall immediately notify the Department.

Upon failure of the contractor to furnish, deliver and maintain such insurance as required, this contract, at the election of the Department, may be immediately declared suspended, discontinued or terminated. Failure of the contractor to maintain any required insurance shall not relieve the contractor from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the contractor concerning indemnification under Subsection 107.17.

The contractor is responsible for requiring and verifying that all subcontractors working on the project maintain appropriate types and levels of insurance coverage.

**107.03 PATENTED DEVICES, MATERIALS AND PROCESSES.** If the contractor uses any design, device, material or process covered by patent or copyright, the contractor shall be responsible for such use. The contractor and surety shall indemnify the State, any affected third party or political subdivision from claims for infringement due to the use of any such patented design, device, material or process, or any trademark or copyright and shall indemnify the State for any costs, expenses and damages due to any infringement during prosecution or after completion of the work.

If the contractor submits proposed plans, specifications, manufacturer's data, or any other information or documents to the Department for a proposed change order, value engineering proposal or for any other purpose which may be protected by copyright or trade secret protection,

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

the contractor shall first obtain permission or license from the licensor or any other party having a proprietary interest in such documents or information and shall hold harmless, indemnify and defend the Department at the contractor's sole cost from any damages, expenses or actions arising out of or related to use by the Department of information or documents supplied by the contractor to the Department.

**107.04 RESTORATION OF SURFACES OPENED BY PERMIT.** The right to construct or reconstruct any utility service on the premises or to grant permits for same, at any time, is reserved by the Department or proper authorities of the municipality in which the work is done and the contractor will not be entitled to damages either for digging up the utility services or delays occasioned thereby.

**107.05 FEDERAL AID PARTICIPATION.** When the United States Government participates in the cost of the work covered by the contract, the work shall be under the supervision of the State, but subject to inspection and approval of the proper official of the United States Government, in accordance with applicable Federal Statutes, and rules and regulations pursuant thereto. Such inspection shall not make the Federal Government a party to the contract and will not interfere with the rights of either party thereunder.

**107.06 SANITARY, HEALTH AND SAFETY PROVISIONS.** The contractor shall not require any worker to work under conditions which are unsanitary, hazardous or dangerous to health or safety. The contractor shall maintain the work in a sanitary, safe and nonhazardous condition.

The contractor shall provide and maintain in a neat, sanitary condition, restrooms and other such accommodations for use of employees and Department personnel. Such facilities shall comply with requirements of the State and local Boards of Health or other bodies or tribunals having jurisdiction.

**107.07 PUBLIC CONVENIENCE AND SAFETY.** The contractor shall conduct the work to assure the least possible obstruction to traffic. The project site and haul route shall be kept reasonably free from dust and in such condition that the public can travel in safety.

Safety and convenience of the general public and the residents along the work, and protection of persons and property, shall be a primary responsibility of the contractor.

When the contractor works at night, adequate artificial lighting shall be provided in accordance with Subsection 105.20. Signs, flaggers, or other traffic controls shall also be provided to protect workers, the work, and the traveling public. When such work affects traffic safety, the contractor shall submit to the Department for approval a plan of lighting, signing, flagmen or other traffic controls. If the approved plan proves inadequate after work begins, the contractor shall make such changes as directed. If the Department finds that the night work is so hazardous as to preclude the beginning or require the discontinuing of such work, the contractor shall immediately cease all such operations.

The procurement of police officers for public safety during construction shall be in accordance with the Department's Policy for Use of Police Officers in Construction/Maintenance Work Zones. The DOTD project engineer shall determine the need for police officers to assist in controlling traffic in a particular work zone. The number of officers needed, the tasks they will perform, and their location within the work zone will vary as a function of the zone type. Police

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

officers shall be placed at strategic locations at times during construction as determined by the DOTD project engineer.

The three types of law enforcement services are Police Presence, Police Enforcement and Police Traffic Control. Police Presence is defined as the use of police officers at the beginning of the active work zone area utilizing their blue lights to gain the attention of drivers. Police Enforcement is utilized when enforcement is required to enhance the safe operation of the work zone. Police Traffic Control is to be used in detour / diversion situations.

The DOTD project engineer will extend an invitation to the appropriate Louisiana State Police (LSP) Troop Commander to attend the pre-construction conference.

Prior to commencing the work on the project, the contractor shall contact the LSP Troop Commander to obtain law enforcement services of police officers during construction. If the LSP Troop is unable to provide law enforcement services for the project work zone, the LSP Troop Commander or the contractor will extend the invitation to the appropriate local law enforcement authorities.

Police officers will report directly to the contractor. However, the contractor will not have the authority to direct the placement of the police officer or the patrol vehicle in situations that are contrary to established procedures and/or could endanger the police officer. The DOTD project engineer will make the final determination on all issues regarding police officer responsibility in work zones.

Prior to the beginning of the shift, the contractor shall provide a daily work zone briefing to the police officer. For major changes in traffic patterns, advanced notification shall be provided to the police agency working the detail. This information should also be provided to the motoring public through the DOTD district and / or the LSP Troop.

The contractor shall pay for law enforcement services provided by the police officers based on the hourly wage and vehicle rate fee schedule below. The Department will reimburse the contractor monthly for the incurred cost. The contractor shall furnish time record documentation with the request for reimbursement. The provisions of Subsection 109.04 shall not apply to this reimbursement.

The agreed upon fee schedule for police officers in the work zone is as follows:

\$25 per vehicle per day - vehicle use fee

\$40 per hour per officer (one officer per vehicle) (minimum 2 hours).

**107.08 RAILWAY-HIGHWAY PROVISIONS.** All work to be performed by the contractor in construction on railway right-of-way shall be in accordance with the following provisions.

(a) The contractor shall notify the Railway's duly designated representative at least 10 days in advance of the date on which the contractor is expected to begin work on the Railway's premises.

(b) During the progress of work on or about the Railway's tracks or premises, the contractor shall maintain contact and liaison with the Railway's officers or representatives designated by the Railway so as to ascertain time of passage of trains at the work in order to clear Railway's tracks and facilities of people, equipment and obstructions to permit free flow of railway traffic. The contractor shall perform work on the Railway's premises without materially interfering with the Railway's tracks, structures and facilities or operations, or the operations of the Railway's tenants or licensees, or with communication and signal lines upon said premises, except under arrangement effected between the contractor and the Railway. The contractor shall

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

protect the Railway's property and avoid accidents. The contractor shall keep the Railway's track and roadbed free of earth, rock, construction materials, debris and obstructions.

The contractor shall immobilize equipment parked near the Railway's track, when such equipment is unattended, to prevent its movement by unauthorized persons.

(c) The contractor shall, before entering upon the Railway's right-of-way for performance of any construction work, or work preparatory thereto, secure permission from the Railway's representative for the occupancy and use of the Railway's right-of-way outside the limits of the highway servitude area and shall confer with the Railway relative to requirements for railway clearances, operation and general safety regulations.

(d) The Railway's representative will at all times have jurisdiction over the safety of railway operation. The decision of the Railway's representative as to procedures which may affect the safety of railway operation shall be final. The contractor shall be governed by such decision.

(e) Should any damage occur to railway property, as a result of the contractor's unauthorized or negligent operations, and the Railway deems it necessary to repair such damage or perform work for protection of its property, the required materials, labor and equipment shall be furnished by the Railway. The contractor shall reimburse the Railway for costs incurred.

(f) If the contractor requires access across the Railway's right-of-way and tracks at any location which is not an existing permanent type of open public railway-highway crossing in or incident to the construction of the project, the contractor shall contact the Railway and request access across said right-of-way and tracks and execute a license agreement with the Railway. The contractor shall reimburse the Railway for the cost of providing and removing any temporary at-grade and grade-separated structure access crossing, including warning devices, watchmen expense or other costs which the Railway deems necessary for protection of Railway property and operations. The type of temporary crossing required shall be determined by the Railway. The contractor shall not cross the Railway's right-of-way and tracks with vehicles or equipment except at existing open public road crossings or at such crossings established pursuant to this paragraph. The foregoing requirements include new grade crossings which will become part of the finished highway being constructed under the contract.

The contractor shall comply with requirements for insurance contained under Heading (n) hereinafter during operations hereunder.

The contractor shall cooperate with the Railway during all phases of the work including sufficient advance notice for project completion in order for the Railway to remove the temporary grade crossing and perform final grade crossing improvements under the agreement with the Department prior to final acceptance.

(g) Any engineering, inspection, training, flagging and watcher service required by the Railway for the safety of Railway operations because of work being performed by the contractor or in connection therewith, shall be provided by the Railway and the cost thereof shall be reimbursed to the Railway, by the contractor, on the basis of the Railway's bills, to be rendered monthly. The contractor will be reimbursed, by the Department, for the actual incurred cost for such services. The contractor shall furnish documentation of railway invoices and evidence of payment before reimbursement. When it is determined that railroad services and/or crossings are no longer in the best interest of the Department, the contractor will be issued written notification that no further reimbursement will be made by the Department for railroad services. Work done or services provided for the contractor's convenience will not be reimbursed by the Department.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

The contractor shall notify the Railway 72 hours in advance of when railway services are required.

**(h)** The contractor will be required to reimburse monthly the Railway for the cost of all services performed by the Railway for the contractor, and furnish the Department satisfactory evidence that the Railway has acknowledged receipt of payment before final acceptance.

**(i)** During construction of piers or other supports or structures adjacent to any track or of drainage pipe or structure under or adjacent to any track of the Railway, the contractor shall make adequate provisions against sliding, shifting, sinking or in any way disturbing the railway embankment and track adjacent to said piers, supports or structures due to construction operations by driving temporary sheeting or by other means satisfactory to the Department and Railway.

**(j)** Before commencing work on any pier or structure adjacent to any track, or on any structure and parts thereof which carry Railway facilities, the contractor shall submit to the Department for approval, prints of the proposed sheeting, shoring, bracing and falsework details for protection of the Railway's track and embankment and shall submit prints of the shop drawings or other contractor's detailed plans for structures and parts thereof which will carry Railway facilities. This submittal shall include proposed methods of construction and be accompanied by supporting data, including design computations, soil descriptions and other pertinent information.

After approval by the Department, four prints of the above plans, shop drawings and details bearing the seal of a registered Civil Engineer, with supporting data and documents, shall be forwarded to the Railway for approval. Prior to beginning work on Railway right-of-way, the shop drawings and details, with supporting data and documents, shall be approved by the Railway.

**(k)** The contractor shall notify the Railway's representative in writing at least one week in advance of the proposed time of the beginning of construction of piers, supports or structures adjacent to the track or of drainage pipe or structure under or adjacent to the track.

**(l)** The following temporary clearances are the minimum which shall be maintained during construction operations:

Vertical: 22.5 feet (6.86 meters) above top of highest rail.

Horizontal: 10.0 feet (3.05 meters) from centerline of the nearest track measured at right angles thereto.

If lesser clearances are required for any part of the work, the contractor shall secure written authorization from the Railway's representative for such lesser clearances in advance of the start of work on that portion of the project along, on, over, under or across the right-of-way or tracks of the Railway.

**(m)** The contractor shall not store or construct falsework or store materials, supplies or equipment closer than 15.0 feet (4.57 meters) from the centerline of any railway track, measured at right angles thereto, or 22.5 feet (6.86 meters) vertically from top of rail.

**(n)** Unless otherwise specified by special provisions, the contractor shall provide insurance of the following kinds and amounts:

**(1)** Regular Contractor's Public Liability and Property Damage Insurance, including automobile, issued in the name of the contractor shall be written to furnish protection to the contractor respecting operations in performing work covered by the contract in regard to the liability with respect to bodily injury to or death of persons, and injury to or destruction of property, which may be suffered by persons other than the contractor's employees as a result of

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

operations in connection with construction of highway projects located wholly or partly within railroad right-of-way.

(2) When a contractor sublets a part of the work on any project to a subcontractor, the contractor shall be required to secure insurance protection in the contractor's own behalf under Contractor's Public Liability and Property Damage Insurance policies to cover any liability imposed on the contractor by law for damages due to bodily injury to or death of persons and injury to or destruction of property as a result of work undertaken by such subcontractors.

In addition, the contractor shall provide for, and on behalf of, any such subcontractors protection to cover like liability imposed upon the latter as a result of their operations by means of separate and individual Contractor's Public Liability and Property Damage policies. As an alternative, each subcontractor shall provide satisfactory insurance as described herein on the subcontractor's own behalf to cover the subcontractor's individual operations.

(3) Railroad Protective Liability Insurance shall be purchased on behalf of the Railway by the contractor. The standards for Railroad Protective Liability Insurance shall be in accordance with provisions of the Federal-Aid Policy Guide (FAPG) Part 646 as amended.

The limits of liability for the kinds of insurance required above shall be as follows:

NORMAL COVERAGE (other than AMTRAK)

(1), (2) and (3)

Combined Single Limit for Bodily Injury Liability, Property Damage  
Liability and Physical Damage to:  
Property - \$2,000,000 per occurrence  
Aggregate Limit - \$6,000,000 for the term of the policy

AMTRAK COVERAGE

(1), (2) and (3)

Combined Single Limit for Bodily Injury Liability, Property Damage  
Liability and Physical Damage to:  
Property - \$6,000,000 per occurrence  
Aggregate Limit - \$12,000,000 for the term of the policy

The name of the Railway and the ratio of the estimated cost of operations within the Railway's property to the total estimated project cost, expressed by percent, will be specified in the project specifications. No direct payment will be made for providing the required insurance coverages by the contractor.

The contractor shall furnish to the Railway the Railroad Protective Policy and certificates evidencing the other insurance coverage required above. The Railroad Protective Insurance Policy and all insurance certificates shall be approved by the Railway before any work may be started on the Railway's property by the contractor or subcontractors. In addition, the contractor shall furnish evidence of commitment by the insurance company to notify the Railway and the

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

Department in writing of any material change, expiration or cancellation of the policy not less than 30 calendar days before such change, expiration or cancellation is effective.

The insurance specified shall be kept in force until final acceptance of the contract.

(o) The contractor shall indemnify the Railway, its officers and employees from all suits, actions or claims brought because of injuries or damages sustained by any person or property due to operations of the contractor; due to negligence in safeguarding the work; or use of unacceptable materials in constructing the work; or any negligent act, omission or misconduct of the contractor; or claims or amounts recovered from infringements of patent, trademark or copyright.

(p) Upon completion of the work, the contractor shall, within 10 calendar days, remove from within the limits of the Railway's right-of-way all machinery, equipment, surplus materials, falsework, rubbish or temporary buildings of said contractor, and restore the Railway's premises substantially to their former condition satisfactory to the Railway's representative.

Should the contractor fail to make such removal and restoration within 10 calendar days, the Railway shall have the right to make such removal or restoration. The expense incurred shall be chargeable to the project on the Railway's force account statement and the Department will reimburse the Railway for such work. The amount will be deducted from payments due the contractor.

All costs incurred under this subsection, other than as provided in Subsection 107.08(g), or for which payment is elsewhere provided, shall be included in the contract prices of other pay items.

Prior to final acceptance of the project, the contractor shall secure a Certificate of Release from the railroad company and furnish same to the Department stating that the contractor has satisfactorily restored the Railway's premises and has completed payments for all railway services performed for the contractor's account, and that the Railway waives all claims for damages due to the contractor's operations within railway right-of-way under the contract. If the contractor is unable to secure a Certificate of Release from the Railway, the contractor shall submit an executed Contractor's Affidavit, to the Department.

**107.09 NAVIGABLE WATERS AND WETLANDS.** All work in, over, or adjacent to navigable waters or wetlands shall be conducted in accordance with rules and regulations of the U. S. Army Corps of Engineers and U. S. Coast Guard.

Navigable clearances on waterways shall not be infringed upon, and existing navigable depths shall not be impaired except as allowed by permits issued by the responsible agency.

The Department will obtain a permit from the U. S. Coast Guard and U.S. Army Corps of Engineers relative to approval of construction plans for bridges, causeways, embankments, dredging, spoil disposal, etc., for work in navigable waters or wetlands. The contractor will be furnished a copy of the permit and shall comply with all provisions and conditions of the permit. When required by permit, upon completion and before final acceptance of the project, the contractor shall furnish the Bridge Design Engineer 8-by-10-inch color photographs of the bridge from abutment to abutment, two photographs looking upstream and two looking downstream. The prints shall be glossy finish, mounted on linen. These photographs will be furnished at no direct pay.

The contractor shall prepare reproducible drawings complying with the standards of the U. S. Coast Guard and the U. S. Army Corps of Engineers showing falsework construction, test piles or other temporary pile driving operations, erection sequence, temporary navigational lighting,

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

location of equipment and barges in the navigable limits and other drawings required by the permit agencies. Drawing sizes shall be 8-by-10 1/2 inches with a 1-inch border on the top or short side. The drawings shall be submitted to the Bridge Design Engineer for approval and transmittal to the appropriate agency. Construction of falsework, test pile operations and erection or operation of construction equipment within the navigable limits shall not commence until drawings are approved.

The contractor shall display lights on equipment operating, berthed or moored in navigable streams, and provide temporary navigational lighting on temporary and permanent construction in the navigable limits as required by the U. S. Coast Guard.

Should the contractor sink, lose or throw overboard any material, machinery or equipment which may be dangerous to navigation, it shall be immediately removed or recovered. The contractor shall give immediate notice of such obstruction to proper authorities and, if required, shall mark or buoy such obstruction until it is removed.

The contractor shall not deposit excavated material into the water-way or wetland without a permit from the appropriate agency.

All operations in connection with the work shall be in accordance with permits, rules and regulations of the U. S. Army Corps of Engineers and the U. S. Coast Guard. Deviations therefrom shall be only by special permission or special permit which shall be the responsibility of the contractor. Failure of the contractor to become familiar with the terms, conditions and provisions of the permits, rules and regulations applicable to the work shall not relieve the contractor of responsibility under the contract.

The contractor shall conduct operations to cause minimum interference with marine operations. If such interference is necessary, the contractor shall notify the Bridge Design Engineer, in writing, sufficiently in advance so that the Department may obtain approval from the U. S. Coast Guard at least 3 weeks prior to said interference.

Copies of Department obtained permits are available in the Bridge Design Section.

Copies of any special permits obtained by the contractor shall be submitted immediately to the Bridge Design Engineer.

**107.10 BARRICADES AND WARNING SIGNS.** The contractor shall provide, erect and maintain necessary barricades, suitable lights, danger signals, signs and other traffic control devices, including flaggers, and shall take all necessary precautions for protection of the work and safety of the public. Highways closed to traffic shall be protected by effective barricades. Suitable warning signs shall be provided to direct traffic.

The contractor shall erect and maintain warning signs in advance of any place on the project where operations may interfere with traffic, and at intermediate points where new work crosses or coincides with an existing road.

Barricades, warning signs, lights, temporary signals and other protective devices shall conform to the details shown on the plans and the MUTCD.

**107.11 USE OF EXPLOSIVES.** Explosives shall not be used without written approval. When explosives are used, the contractor shall not endanger life or property. The use of explosives shall be in compliance with all laws and ordinances. The contractor shall be responsible for all damage resulting from the use of explosives.

Explosives shall be securely stored, in compliance with all laws and ordinances. Such storage places shall be clearly marked. When no local laws or ordinances apply, satisfactory

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

storage shall be provided not closer than 1,000 feet (304.8 meters) from any road, building or place of human occupancy.

The contractor shall notify, in writing, each utility company and affected property owner having facilities in proximity to the site of work of the intention to use explosives. Such notices shall be given sufficiently in advance to enable them to protect their property from damage.

**107.12 PRESERVATION OF PUBLIC AND PRIVATE PROPERTY.** The contractor shall be responsible for preservation of public and private property and shall protect from disturbance and damage all land monuments, property line markers or horizontal and vertical control monuments such as those established by the United States Coast and Geodetic Survey, National Geodetic Survey, Louisiana Geodetic Survey, Louisiana DOTD, Corps of Engineers, or United States Geological Survey.

Before removing and/or resetting any survey monuments, the contractor shall give sufficient written advance notice to the Project Designer and Department with a copy to the Department's Location and Survey Section for coordination with the appropriate agency. The contractor shall not disturb or move any such monument without written approval. The contractor shall give immediate written notice to the Project Designer, with a copy to the Department's Location and Survey Section, of damage to survey monuments. The Department will designate the location and manner in which monuments are to be reset in accordance with current Department procedures.

The contractor shall be responsible for damage to property during the work due to any negligent act, omission or misconduct in executing the work, or due to defective work or materials. This responsibility will not end until final acceptance.

When damage is done to public or private property by the contractor due to any negligent act, omission or misconduct in execution of the work, or in consequence of nonexecution thereof by the contractor, such property shall be restored at the contractor's expense, to a condition similar or equal to that existing before such damage was done, by repairing, rebuilding or otherwise acceptably restoring as directed, or making good such damage in an acceptable manner.

**107.13 FOREST PROTECTION.** In carrying out work within or adjacent to State or National Forests, the contractor shall comply with all regulations of the Department of Public Safety Office of the State Fire Marshal Department of Wildlife and Fisheries / Wildlife Division, and the Department of Agriculture and Forestry or other authority having jurisdiction governing protection of forests and performance of work within forests. The contractor shall observe all sanitary laws and regulations with respect to performance of work in forest areas. The contractor shall keep the areas in an orderly condition, dispose of all refuse, obtain permits for construction and maintenance of all construction camps, stores, warehouses, residences, latrines, cesspools, septic tanks and other structures in accordance with requirements of the forest supervisor.

The contractor shall take reasonable precaution to prevent and suppress forest fires and shall require employees and subcontractors, both independently and at the request of forest officials, to do all reasonable within their power to prevent and suppress forest fires and to notify a forest official at the earliest possible moment of the location and extent of any fire seen by them.

**107.14 ENVIRONMENTAL PROTECTION.** The contractor shall comply with federal, state and local laws and regulations controlling pollution of the environment, including air, water

**STATE PROJECT NO. 690-03-0003**  
**SPECIAL PROVISIONS**

and noise. The contractor shall take precautions to prevent pollution of waters and wetlands with fuels, oils, asphalts, chemicals or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

The contractor certifies under penalty of law that he understands and will abide by the terms and conditions of the Storm Water Pollution Prevention Plan (SWPPP) and the National Pollution Discharge Elimination System (NPDES) General Permit that require the discharges from construction sites be managed to prevent pollutants from entering waters of the United States in accordance with the Environmental Protection Agency's (EPA) regulations for storm water discharges with respect to 33 U.S.C. § 1342 (Sections 402 (p) and 405 of Public Law 100-4).

The use of erosion control features or methods other than those in the contract shall be as directed.

The Storm Water Pollution Prevention Plan shall be comprised of all components specified in the U.S. Environmental Protection Agency document entitled, "Storm Water Management for Construction Activities," and shall include Section 204, Temporary Erosion Control of the standard specification along with applicable supplemental specifications, special provisions, and the plans.

Construction operations in rivers, streams, lakes, tidal waters, reservoirs, canals and other impoundments will be restricted to areas where it is necessary to perform filling or excavation to accomplish the work and areas which must be entered to construct temporary or permanent structures. As soon as conditions permit, streams and impoundments shall be cleared of obstructions placed therein or caused by construction operations.

Frequent fording of streams with construction equipment will not be permitted.

No residue from dust collectors or washers shall be dumped into a stream.

Attention is further directed to the federal, state and local air pollution control programs and their rules and regulations regarding air pollution, especially open burning, fugitive dust and asphaltic concrete plant restrictions.

The contractor shall maintain and operate equipment to minimize noise and vibration. Engines shall be equipped with properly functioning mufflers. The contractor shall assure the activities near noise and vibration sensitive areas, such as churches, hospitals and schools are not unduly disruptive.

The Notice of Intent (NOI) will be submitted by the Department to the Louisiana Department of Environmental Quality (LADEQ) prior to the project letting. The project engineer will complete and submit the Notice of Termination (NOT) to the LADEQ after final stabilization of the site, in accordance with the terms of the permit.

The use of erosion control features or methods other than those in the contract shall be as directed.

The Storm Water Pollution Prevention Plan shall be comprised of Section 204 of the standard specifications along with applicable supplemental specifications and special provisions, and Standard Plan EC-01, "Temporary Erosion Control Details."

**107.15 AIR NAVIGATION.** The Department will obtain a permit (or a determination of no hazard to air navigation) from the FAA for all permanent structures. The contractor will be furnished a copy of the permit, if requested. If the contractor's equipment, falsework, etc. is

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

classified as a hazard to aerial navigation, the contractor shall prepare, on tracing cloth or approved reproducible medium, drawings complying with the FAA current requirements for temporary lighting for protection of aerial navigation. These drawings shall be submitted to the Bridge Design Engineer for review and transmittal to the FAA for approval. Operations in connection with the work for protection of aerial navigation shall be in accordance with the approved drawings and applicable federal regulations. Failure of the contractor to be familiar with applicable rules and regulations of the FAA will not relieve the contractor of responsibility under the contract.

**107.16 HAZARD ZONES.** If any portion of the work is determined to be within a known hazard zone, the presence of such hazards will be noted in the plans or project specifications to the extent that definite information can be obtained on these situations.

It shall be the responsibility of the contractor to arrange and coordinate the work in the area with the agency or agencies concerned.

The contractor shall obtain from the Department and submit to it the Department's Standard Release Form signed by the agency involved stating that the contractor has satisfactorily discharged the obligations under terms of the arrangements. This form shall be submitted with the required signatures.

Failure of the Department to determine the presence of all hazards and to so note in the plans or project specifications shall not relieve the contractor from performing any required work.

**107.17 DAMAGE CLAIMS.** The contractor shall indemnify and hold the State of Louisiana, its officers, representatives, agents and employees harmless from all suits, actions or claims brought because of injuries or damage sustained by any person or property due to operations of the contractor; due to negligence in safeguarding the work; or use of unacceptable materials in constructing the work; or any negligent act, omission or misconduct of the contractor; or claims or amounts recovered from infringements of patent, trademark or copyright; or from claims or amounts arising or recovered under the Workmen's Compensation Act or other law, ordinance, order or decree; any money due the contractor as considered necessary by the Department for such purpose, may be retained for use of the State; or, in case no money is due, the surety bond may be held until such suits, actions, claims for injuries or damages have been settled and suitable evidence to that effect furnished to the Department; except that money due the contractor will not be withheld when the contractor produces satisfactory evidence that adequate Workman's Compensation, Public Liability, and Property Damage Insurance are in effect. See also Article 3.18 of the General Conditions.

**107.18 OPENING SECTIONS TO TRAFFIC.** Opening of sections of the project to traffic prior to completion of the entire contract may be desirable from a traffic service standpoint, or may be necessary due to conditions inherent in the work or by changes in the contractor's work schedule, or may be required due to conditions or events unforeseen at the time of the contract. Such openings shall be made when directed and shall not constitute acceptance of the work nor a part thereof or a waiver of any provisions of the contract.

The plans or project specifications will specify, insofar as possible, which sections shall be opened prior to completion of the contract. On any section opened by order of the Department, when not specified, the contractor will not be required to assume any expense entailed in maintaining the road for traffic. Such expense will be borne by the Department or compensated

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

for in accordance with Subsection 109.04. On portions of the project which are ordered to be opened for traffic, in the case of unforeseen necessity not the fault of the contractor, compensation for additional expense to the contractor and allowance of additional time for completion of other work on the opened portions of the project shall be as set forth in a change order mutually agreed on by the Department and the contractor.

When the contractor's progress is undesirably slow in completing features of the work affecting traffic, the Department may notify the contractor in writing and establish therein a reasonable period of time in which the work is to be completed.

On any section opened to traffic under the foregoing conditions, whether specified in the contract or opened by necessity of the contractor's operations or unforeseen necessity, any damage to the highway not attributable to traffic that occurs on such section (except slides) shall be repaired by the contractor at no direct pay. Removal of slides shall be done by the contractor on a basis agreed to prior to removal of such slide.

**107.19 CONTRACTOR'S RESPONSIBILITY FOR WORK.** Until final acceptance, the contractor shall have the charge and care of the work and shall take every precaution against damage to any part thereof by action of the elements, vandalism, theft or from other cause, whether arising from execution or non-execution of the work. The contractor shall rebuild, repair, restore or pay for damages, including theft and vandalism, to the work before final acceptance.

In case of suspension of work, the contractor shall be responsible for the project. The contractor shall take such precautions as necessary to prevent damage to the project, maintain traffic, provide for normal drainage and erect any necessary temporary structures, signs or other facilities at no direct pay. During such period of suspension, the contractor shall acceptably maintain all living material in newly established plantings, seedings and soddings furnished under the contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against damage. Should suspension of the work not be attributed to any actions of the contractor, the contractor will be reimbursed for additional work incurred because of such suspension.

**107.20 UTILITY PROPERTY AND SERVICES.** The contractor's operations adjacent to properties of railway and utility companies or adjacent to other property, damage to which might result in considerable expense, loss or inconvenience, shall not commence until after all arrangements necessary for the protection thereof have been made.

The contractor shall cooperate with owners of utility lines in their removal and rearrangement, in order that these operations may progress in a reasonable manner, that duplication of rearrangement work may be minimized and that services rendered by those parties will not be unnecessarily interrupted.

In the event of interruption of utility services due to accidental breakage or being exposed or unsupported, the contractor shall promptly notify the proper authority and shall cooperate with such authority in restoration of service. If utility service is interrupted, continuous cooperation will be required until service is restored. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

**107.21 FURNISHING RIGHT-OF-WAY.** The Department will be responsible for securing all necessary rights-of-way, servitudes and easements in advance of construction.

**STATE PROJECT NO. 695-06-0004**  
**SPECIAL PROVISIONS**

**107.22 PERSONAL LIABILITY OF PUBLIC OFFICIALS.** In carrying out the provisions of these specifications, or in exercising any authority granted to them by the contract, there shall be no liability upon the Secretary, Chief Engineer or their authorized representatives, either personally or as officials of the State, it being understood that in all such matters they act solely as representatives of the State.

**107.23 NO WAIVER OF LEGAL RIGHTS.** Final acceptance shall not prevent the Department from correcting any measurement, estimate or certificate made before or after completion of the work, nor shall the Department be prevented from recovering from the contractor or the surety, or both, such overpayment it may sustain by failure of the contractor to fulfill obligations under the contract. A waiver by the Department of any breach of any part of the contract shall not be a waiver of any other breach.

The contractor, without prejudice to the terms of the contract, shall be liable to the Department for latent defects, fraud or such mistakes as amount to fraud, or as regards the Department's rights under any warranty or guaranty.

**107.24 THIRD PARTY LIABILITY.** It is agreed between the parties executing the contract that it is not intended by any provisions of the contract to create the public nor any member thereof a third party beneficiary hereunder, nor to authorize anyone not a party to this contract to maintain a suit for personal injuries or property damage pursuant to the contract.

**107.25 ANTI-TRUST VIOLATIONS.** By execution of the contract, the contractor conveys to the Department all rights, title and interest in and to all causes of action it may acquire under Federal and State anti-trust laws, relating to the goods or services purchased by the Department pursuant to the contract.

**107.26 CONTRACTOR'S PAYROLLS.** When predetermined minimum wage rates are included in the contract, the minimum wage determination shall be posted by the contractor in a prominent and easily accessible place at the site of work.

On Federal-Aid Projects, the contractor's payrolls shall be in accordance with the project specifications.

**107.27 ARCHAEOLOGICAL AND HISTORICAL FINDINGS.** If the contractor encounters cultural artifacts or archaeological or historical sites, operations shall be discontinued. The Department will contact the proper authorities in order that an appropriate assessment may be made to determine the disposition thereof and necessary actions relative to the site. When directed, the contractor shall excavate the site to preserve the artifacts encountered. Such excavation will be paid for as extra work, including an appropriate adjustment in contract time. Borrow and muck disposal areas furnished by the contractor will be subject to such assessment prior to use.

**STATE PROJECT NO. 695-06-0004  
SPECIAL PROVISIONS**

**SECTION 108  
PROSECUTION AND PROGRESS**

**108.01 SUBLETTING OF CONTRACT.** The contractor shall not sublet any portion of the contract, excluding material procurement, without written consent from the Department, including work sublet to an authorized Disadvantaged Business Enterprise.

A subcontractor shall not further subcontract to a third party any portion of this authorized work, excluding material procurement, without written consent from the Department, including work sublet to an authorized Disadvantaged Business Enterprise.

No subcontract shall relieve the contractor of liability under the contract and bonds.

The following item is designated as a "Specialty Item":

Item S-001, Rest Area Improvements, I-20 at Mound.

**108.02 COMMENCEMENT OF WORK.** The "Notice to Proceed" will stipulate the date on which the contractor shall begin work, which date shall be the beginning of contract time charges.

**108.03 CONSTRUCTION PROGRESS SCHEDULE.** Prior to or at the preconstruction conference and before beginning work on the project, the contractor shall submit to the Project Designer and Department a Construction Progress Schedule giving a satisfactory schedule of operations that provides for completion of the work at the end of the contract time. This schedule shall be on the prescribed bar graph form. The contractor shall have copies of the schedule available at the preconstruction conference.

If the contractor's operations are affected by changes in the plans or amount of work, or if the contractor has failed to comply with the approved schedule, or if requested by the Project Designer, the contractor shall submit a revised Construction Progress Schedule for approval. This revised schedule shall show how the contractor proposes to prosecute the balance of the work. If a revised schedule has been requested by the Project Designer, the contractor shall submit the revised schedule within 14 calendar days after the date of request or progress payments may be withheld.

The accepted Construction Progress Schedule will be used for determining the critical path, the controlling items of work, charging contract time and as a check on the progress of the work. The Construction Progress Schedule shall show only one controlling item of work for each contract day. If the Construction Progress Schedule has not been approved prior to the issuance of the Notice to Proceed, the Project Designer will establish the controlling work item and charge contract time accordingly.

**STATE PROJECT NOS. 695-06-0004  
SPECIAL PROVISIONS**

**108.04 PROSECUTION OF WORK.**

Subpart (a), General is deleted and the following substituted.

(a) General: The contractor shall provide sufficient materials, equipment and labor to complete the project in accordance with the plans and specifications within the contract time. If the completed work is behind the approved progress schedule, the contractor shall take immediate steps to restore satisfactory progress and shall not transfer equipment or forces from uncompleted work without prior notice to, and approval of, the engineer. Each item of work shall be prosecuted to completion without delay. If prosecution of the work is discontinued for an extended period of time, the contractor shall give the engineer written notice at least 24 hours before resuming operations. The contractor's progress will be determined monthly at the time of each partial estimate, and will be based on the total amount earned by the contractor as reflected by the partial estimate. If the contractor's progress is behind more than 20 percent behind the elapsed contract time, the contractor may be notified that he is not prosecuting the work in an acceptable manner. If requested by the Department the contractor must meet with and provide the project engineer with an acceptable written plan which details how the contractor will re-gain lost progress and prosecute remaining work. If the contractor's progress is more than 30 percent behind the elapsed contract time, the contractor and the surety will be notified that he is not prosecuting the work in an acceptable manner. The contractor must meet with and provide the project engineer with an acceptable written plan which details how the contractor will re-gain lost progress and prosecute remaining work.

Subpart (b), Disqualification is deleted and the following substituted.

(b) Disqualification: A contractor who is in default in accordance with Subsection 108.09(a)(1) of and progress is deficient by 10 percent or more shall be immediately disqualified. The contractor shall remain disqualified until the project has received a final inspection and has been recommended for final acceptance. Should the surety or the Department take over prosecution of the work, the contractor shall remain disqualified for a period of one year from the completion of the project, unless debarment proceedings are instituted.

During the period of disqualification, the contractor will not be permitted to bid on contracts nor be approved as a subcontractor on contracts. Any bid submitted by the contractor during the period of disqualification will not be considered and will be returned.

**108.05 LIMITATION OF OPERATIONS.** The contractor shall conduct the work in such manner and sequence to assure the least interference with traffic. The contractor shall have due regard to the location of detours and provisions for handling traffic. The contractor shall not begin new work to the prejudice of work already started. The Project Designer may require the contractor to finish a section on which work is in progress before starting on additional sections if the finishing of such section is essential to public convenience and safety.

**108.06 LABOR, METHODS AND EQUIPMENT.** The contractor shall employ sufficient labor and equipment to prosecute the work to completion in accordance with the contract.

Workers shall have sufficient skill and experience to properly perform the work.

Any representative of the contractor or subcontractor who, in the opinion of the Project Designer or Department representative, does not perform in a skillful manner or is disorderly shall be, upon written request, immediately removed by the contractor or subcontractor. A person removed shall not return to the work without written approval. If the contractor fails to remove

**STATE PROJECT NOS. 695-06-0004  
SPECIAL PROVISIONS**

such a person or fails to furnish suitable and sufficient personnel to properly prosecute the work, the Project Designer may suspend the work by written notice.

When methods and equipment are not specified, the contractor may use any methods or equipment that will accomplish the work in conformity with the contract.

Equipment proposed for use in the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and produce a satisfactory quality of work. No damage to the roadway, adjacent property or other highways shall result from the use of equipment.

The contractor may request permission to use a method or type of equipment other than specified in the contract. The request shall be in writing and shall include a description of the methods and equipment proposed and the reasons for requesting the change. If approval is given, it will be on the condition that the contractor will be responsible for producing work in conformity with contract requirements. If, after trial use of the substituted methods or equipment, the Project Designer determines that the work produced does not meet contract requirements, the contractor shall discontinue use of the substituted method or equipment and shall complete the work with the specified methods and equipment. The contractor shall remove the deficient work and replace it with work of specified quality or take other corrective action as directed. No change will be made in payment or in contract time as a result of authorizing a change in methods or equipment.

**108.08 FAILURE TO COMPLETE ON TIME.** For each calendar day or working day, as specified, that the work remains uncompleted after expiration of the contract time, the sum of \$1,000.00 will be deducted from progress or final payments for the work, not as a penalty, but as stipulated damages.

Permitting the contractor to continue work after expiration of the contract time will not operate as a waiver by the Department of its rights under the contract.

The contractor will automatically be subject to stipulated damages by the expiration of contract time on the project and the contractor hereby waives any requirement of written notice of default for failure to attain final completion of the project within the contract time. The amount of stipulated damages will be deducted from any payments for the work under the contract or any other contract the contractor has with the Department. The contractor and the surety shall be liable for stipulated damages in excess of amounts due the contractor under the contract.

**108.09 DEFAULT AND TERMINATION OF CONTRACT.**

(a) The contractor will be in default if the contractor:

- (1) Fails to complete the project within the contract time,
- (2) Becomes insolvent or a petition is filed in the Bankruptcy Courts of the United States under Chapters 7 or 13 of the Bankruptcy Code naming the contractor as debtor or conversion of a proceeding or petition from Chapter 11 to Chapter 7 or 13 of the Bankruptcy Code or seeks a forced respite under the laws of this State or similar debtor protection by courts of other states,
- (3) Allows any final judgment to stand unsatisfied for a period of 14 calendar days,
- (4) Makes an assignment or arranges for performance by others of all or part of the performance of the contract, other than by subletting pursuant to Subsection 108.01, without written approval and consent in advance by the Department, and the surety in the case of an

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

assignment of the entire contract, or makes an assignment of contract proceeds for the benefit of one or more creditors other than pursuant to a security interest in accordance with LRS 10:9-101, et seq., without prior written approval and consent of the Department; any such purported assignment will not be honored without evidence of compliance with this subparagraph,

- (5) Discontinues prosecution of the work,
- (6) Fails to begin work within 10 calendar days of the "Notice to Proceed",
- (7) Fails to perform with sufficient workers, equipment or materials to assure prompt completion of the work,
- (8) Performs the work unsuitably or neglects or refuses to remove materials, or replace or repair rejected work,
- (9) Fails to resume discontinued work within 10 calendar days after notice to do so,
- (10) Fails to perform the work in an acceptable manner, violates any provision in the contract, or fails to follow any federal, state or local laws pertaining to performance,
- (11) Fails to follow federal, state or local laws, rules and regulations concerning construction safety and health standards or permits conditions upon the site of the work which are unsanitary, hazardous or dangerous to the health or safety of the contractor's workmen or the public, or
- (12) Is a party to fraud.

(b) The Department will give written notice to the contractor, with a copy to the contractor's surety, of the Department's determination that the contractor is in default for any cause specified in this subsection. The Department may give notice to the contractor of its intent to put the contractor in default under this subsection and specify a period of time in which the contractor shall cure the deficiency or a notice of default will be issued. Upon notice of default, the Department will have authority, without violating the contract, to take prosecution of the work out of the hands of the contractor as provided in the next paragraph (c).

(c) Within thirty days after default by the contractor, the Department will notify the contractor's surety by certified mail or overnight delivery of such default. Within thirty days of receipt of such notification, the surety shall present to the Department either a plan to assume performance of the contract and procure completion of the project, or provide the Department in writing with a reasonable response for the contractor's default. If no plan is presented by the surety, or at any time if immediate action must be taken to protect the public interest or the safety of the public or workers, the Department will take prosecution of the work out of the hands of the contractor or surety, may appropriate or use the materials and/or equipment on the project, or may enter into an agreement for completion of the contract or use other methods as required for completion of the contract in an acceptable manner. The surety shall then be responsible for payment to the Department of the cost of the immediate action, or completion of the project and stipulated damages assessed by the public entity up to the total amount of the bond. If the surety has not timely completed the project and a court of competent jurisdiction has determined that the surety has in bad faith refused to take over the project, the surety shall be responsible for the payment of any stipulated damages for any delay in completion of the project as specified in the original contract and any reasonable attorney's fees and court costs incurred by the Department in collection of payments required by this subsection.

(d) Nothing herein shall be construed to require or obligate the Department to suspend contract time or to release the obligation of the contractor and surety for stipulated damages in accordance with Subsection 108.08.

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

(e) The costs incurred by the Department due to the contractor's default including attorney's fees, or for completing the work under contract, will be deducted from any monies due or which may become due the contractor. When this expense exceeds the sum which would have been payable under the contract, the contractor and surety shall be liable and shall pay the Department the amount of such excess.

**108.10 TERMINATION OF CONTRACTOR'S RESPONSIBILITY.** The contract will be considered complete when all work has been satisfactorily completed, the final inspection made, and the work accepted by the DOTD Chief Engineer. Such completion and acceptance will not terminate any legal or contractual warranties owed by or due from the contractor, the contractor's payment or performance bonds, or liability under Subsection 107.24.

**108.11 TERMINATION OF CONTRACT.** The Department may, by written notice, terminate the contract or any portion thereof when, for reasons beyond either the Department's or contractor's control, the contractor is prevented from proceeding or completing the work as originally contracted, or when termination would be in the public interest. Such reasons for termination may include, but will not be limited to, executive orders of the President relating to prosecution of war or national defense, national emergency which creates a serious shortage of materials, orders from duly constituted authorities relating to energy conservation and restraining orders or injunctions obtained by third-party citizen action resulting from national or local environmental protection laws or where the issuance of such order or injunction is primarily caused by acts or omissions of persons or agencies other than the contractor.

When a contract, or a portion thereof, is terminated before completion of all items of work in the contract, payment will be made for the number of units or items of work completed at the contract unit price, or as mutually agreed for items of work partially completed or not started. No claim for loss of anticipated profits will be considered.

Reimbursement for organization of the work, and other overhead expenses (when not otherwise included in the contract), and moving equipment and materials to and from the project will be considered.

Acceptable materials obtained or ordered by the contractor for the work that are not incorporated in the work shall, at the option of the contractor, be purchased by the Department at actual cost as shown by receipted bills and actual cost records, at such points of delivery as designated, of an open market arms-length transaction.

Termination of a contract or a portion thereof, shall not relieve the contractor of responsibility for the completed work, nor shall it relieve the surety of obligation for any just claim arising from the work performed.

**SECTION 109**  
**MEASUREMENT AND PAYMENT**

**109.01 MEASUREMENT OF QUANTITIES.** All work completed under the contract will be measured according to United States standard measure. The International System of Units, generally known as SI or metric units will be used to measure quantities if specified under the contract, or if shown on the plans or is directed by the Department. Standard practice used in these specifications will be to show values in the United States standard measure units followed in parentheses by the International System of Units values. Tables and Figures for both United

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

States standard measure and SI units will be referenced by the same number in the specification text. Applicable units of measure will be defined in the table or figure titles. The terms weight and mass will be used interchangeably in these specifications when SI units are used.

The Project Designer or Department shall be the judge of the accuracy of measurements, or approximations made in lieu of accurate determinations and these decisions shall be binding upon both parties.

When project specifications or plans indicate that quantities for certain pay items have been computed with sufficient accuracy for payment, the pay quantities for those items will be the design quantities subject to the following adjustments. Design quantities will be adjusted if the Project Designer makes changes to fit field conditions, if plan errors are proven, or if design changes are necessary.

When measurement of excavation and embankment is based on a cubic yard (cubic meter)(net section), the design quantities will be verified or revised in accordance with Departmental policy.

Longitudinal measurements for area computations will be made horizontally. Transverse measurements for area computations will be the neat dimensions shown on the plans or ordered in writing.

Structures will be measured according to neat lines shown on the plans or as directed.

Items measured by the linear foot (meter), such as pipe culverts, underdrains, etc., will be measured parallel to the foundation upon which such structures are placed.

In computing volumes of excavation, the average end area method or other acceptable methods will be used.

Thickness of plates and galvanized sheet metal used in the manufacture of corrugated metal pipe and metal plate pipe culverts and arches will be measured in decimal fractions of inches (millimeters).

When United States standard units are used, the pound or the ton will be the standard units of weight. The term "ton," in the United States standard, will mean the short ton of 2,000 pounds avoirdupois. When SI units are used, the kilogram will be the standard unit of mass, however the megagram (1000 kg) will be used to measure large masses. Materials measured or proportioned by weight shall be weighed on approved scales by qualified personnel at designated locations. If material is shipped by rail, the car weight may be accepted provided the weight of material only will be paid for; however, car weights will not be acceptable for material to be passed through mixing plants. Trucks used to haul material being paid by measured weight shall be weighed empty at such times as directed; and each truck shall bear a plainly legible identification mark.

Materials specified to be measured by volume in hauling vehicles shall be hauled in approved vehicles and will be measured therein at the point of delivery on the project. Vehicles may be of any acceptable size or type, provided the body is of such shape that the volume can be readily and accurately determined. Vehicles shall be loaded to at least a predetermined permanently fixed mark, which defines a known volume, upon arrival at the point of delivery. Vehicles will be measured in increments of 0.5 cubic yard (cubic meter), except that when tailgate spreaderboxes are used to place aggregate materials for asphaltic surface treatment, the volume of the spreaderbox will be added to the volume of the vehicle. When materials are measured by weight (mass) and converted to volume for payment, conversion will be made to the nearest 0.1 cubic yard (cubic meter).

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

Asphaltic materials will be measured by the gallon (liter) or by the ton (megagram). When specified, volumes of liquid asphaltic materials will be converted to gallons at 60°F (liters at 15°C) in accordance with DOTD TR 321.

Net certified scale weights or weights based on certified volumes (in the case of shipments by rail, truck or other transport) will be used as a basis of measurement, subject to correction when material has been lost in transit, wasted or otherwise not incorporated in the work.

When asphaltic materials are shipped by truck or transport, net certified weights or volume, subject to correction for loss or foaming, may be used for computing quantities. This project is not designated for payment adjustments for asphalt cements or fuels.

Portland cement will be measured by the ton (megagram).

Timber will be measured by the thousand feet board measure (MFBM) (cubic meter) incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The terms "lump sum, each, or unit" when used as a unit of measure for payment will mean complete payment for the work described in the contract.

When a complete structure or structural unit is specified as the unit of measurement, the unit of measurement will include the necessary fittings and accessories. Incidental work will not be measured for payment.

When standard manufactured items are specified, and these items are identified by gage, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.

When conversion is necessary from United States standard units to International System of Units (SI units) or from SI units to U. S. Standard units the guidelines, terminology, conversion factors, and rules for rounding in the Standard Metric Practice Guide, AASHTO R1 will be used.

**109.02 SCOPE OF PAYMENT.** The contractor shall receive and accept compensation as provided in the contract as full payment for furnishing materials and for performing work in an acceptable manner and for all risk, loss, damage or expense arising out of prosecution of the work subject to the provisions of Subsection 107.23.

When the "Payment" clause in the specifications relating to any unit price in the Schedule of Items requires that the said unit price be considered compensation for certain work, such work will not be measured nor payment made under any other pay item.

**109.03 COMPENSATION FOR ALTERED QUANTITIES.** When contract quantities are altered in accordance with Subsection 104.02, or when final quantities vary for other reasons from the quantities in the Schedule of Items, the contractor shall accept as payment in full, payment at the contract unit prices for the accepted quantities of work done. No allowance, except as provided hereinafter, will be made for any increased expense, loss of expected reimbursement or loss of anticipated profits claimed by the contractor resulting either directly from such alterations or indirectly from unbalanced allocation among the pay item expenses of the contractor for labor, materials, equipment, subcontractor costs, profits and overhead and subsequent loss of expected reimbursements therefor or for other cause.

When alterations of quantities are caused by alteration in the plans, and such alterations affect the methods or sequence of construction, an allowance will be made, either for or against the contractor, in such amounts and basis as agreed to in advance of the performance of the

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

work. The change order authorizing or ordering the work shall show how the allowance was derived. Except when otherwise authorized by the Chief Engineer, such derivation shall show, as a minimum, breakdowns of costs as detailed in Subsection 109.04, Headings (a) through (g), except that projected costs rather than actual costs will be used.

**109.04 COMPENSATION FOR ALTERATIONS OF THE CONTRACT.** Payment for work performed in accordance with Subsections 104.02 and 105.19 will first be made at the contract's established schedule of values or schedule of items. If such schedules are not applicable, the second basis of payment will be negotiated prices agreed to by change order prior to the start of the work. If an acceptable negotiated price cannot be established prior to the work being performed, the Department may require the contractor to perform the work on a "force account" basis.

(1) **Unit Prices** – When payments are made at the contract's established unit prices, and the work requires a material change in construction method or sequence, adjustment to the unit prices for or against the contractor shall be made in accordance with Subsections 104.02 and 109.03.

(2) **Negotiated Prices** – The Department's objective is to compensate the contractor using the same pricing formulas established in determining the original bid contract prices. Therefore, reasonable rates for labor burden, company owned equipment internal cost recovery rates, jobsite overhead items and rates, home office overhead and profit mark-up on direct costs, and other subjective pricing components established by the contractor at the time the original contract bid prices were determined will also be used in determining the negotiated prices for the change order work. The change order authorizing the work shall include a detail cost breakdown showing direct labor, materials, equipment, and subcontractor costs, as well as each of the subjective pricing components listed above.

(3) **Force Account** -When "force account" is the method of payment, the contractor shall be paid the direct cost of the work as determined and documented in Headings (a) through (g) below. Jobsite and home office overhead indirect expenses, and profit for all parties shall be considered fully compensated by a 15 percent mark-up on allowable direct cost items described in the Headings (a) through (d) below, and the mark-up on direct cost for the subcontractor and contractor described in Heading (e) below. The Department will also consider additional reimbursement to the contractor for indirect fixed jobsite overhead costs for excusable compensable delays as defined in Subsection 108.07(d) when the change order results in extension of the project's critical work path and the 15 percent mark-up on direct costs is deemed insufficient.

(a) **Direct Labor:** For labor and working foremen in direct charge of operations, the contractor shall receive the wage rates agreed on in writing before beginning work for each hour that said labor and foremen are engaged in such work. Jobsite and home office supervisory personnel shall not be included as direct labor.

The contractor shall receive the actual costs paid to, or in behalf of, workers for subsistence and travel allowances, health and welfare benefits, pension fund benefits or other benefits when such amounts are required by collective bargaining agreement or other employment contract applicable to the classes of labor employed on the work, but limited to a maximum daily rate for subsistence and travel allowances. This maximum shall be agreed upon prior to the contractor incurring such charges.

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

**(b) Direct Materials:** For materials accepted by the Project Designer or Department, the contractor shall receive the actual cost of such materials delivered to the work, including transportation charges and sales taxes if applicable.

**(c) Equipment:** For authorized machinery or special equipment the contractor shall receive the rental rates agreed on in writing before such work is begun. For equipment rented from independent outside sources, the contractor will be reimbursed the reasonable actual cost as shown on paid rental invoices. For company owned equipment, the contractor will be reimbursed his internal cost recovery equipment charge rate consistent with his original bid cost estimates. The Department's Engineering Directives and Standards Manual, EDSM III.1.1.27, entitled Equipment Rental Rates, provides additional guidance concerning allowable equipment rental rates and their application. If the contractor chooses to use a rental rate guide book instead of his internal cost recovery rates to establish rental rates for company owned equipment, adjustments to the allowable type of equipment and hours per day must be made as described in the EDSM. In addition, no 15 percent mark up on equipment direct cost for jobsite and home office overhead expenses and profit will be allowed if the contractor chooses to use rental rate guide book prices instead of his internal cost recovery rates.

**(d) Bond, Insurance and Tax:** For property damage, liability and workmen's compensation insurance premiums, unemployment insurance contributions, social security taxes, and bond costs on force account work, the contractor shall receive the actual cost thereof. The contractor shall furnish satisfactory evidence of the rates paid for such bond, insurance and tax.

**(e) Subcontractor Costs:** For change order work performed by an approved subcontractor, the subcontractor shall receive the subcontractor's actual and reasonable allowable direct cost of such work as described in Headings (a) through (d) above plus a 15 percent mark-up for the subcontractor's indirect jobsite and home office overhead expenses and profit. In addition, the contractor will be paid a 10 percent mark-up on the subcontractor's total direct and indirect costs, and profit for general supervision and sequencing of the change order work.

**(f) Non-allowable Costs:** No additional contractor cost reimbursement will be made for general superintendence, small tools or craft specific tool allowances, or other direct or indirect costs not specifically included in Headings (a) through (e) above.

**(g) Statements:** No payment will be made for force account work until the contractor has furnished the Project Designer with duplicate itemized statements of the cost of such work detailed as follows:

- (1) Name, classification, date, daily hours, total hours, rate and extension for each laborer and foreman.
- (2) Designations, dates, daily hours, total hours, rental rate and extension for each unit of machinery and equipment.
- (3) Quantities of materials, prices and extensions.
- (4) Transportation of materials.
- (5) Cost of property damage, liability and workmen's compensation insurance premiums, unemployment insurance contributions, social security taxes, and bond costs.

The contractor's representative and the Project Designer shall compare records of the cost of work done as ordered on a force account basis. Such comparison shall be made weekly. Statements shall be accompanied by invoices for materials used and transportation charges. If materials used on force account work are not purchased for such work, but are taken from the

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

contractor's stock, in lieu of invoices, the contractor shall furnish an itemized list of such materials showing that the quantity claimed was actually used, and that the price and transportation costs claimed represent the actual cost to the contractor. Invoices shall be accompanied by the contractor's notarized statement that payment in full has been made for the materials.

**109.05 PARTIAL PAYMENTS.**

Payment of the monthly pay application shall not be taken as an admission by the Department that the work is done or that its quality is satisfactory, nor as a release of the contractor from the responsibility for any portion thereof, but the whole work and all particulars relating thereto shall be subject to revision and adjustment by the Project Designer at the time of final acceptance and before final payment is made.

**109.06 PAYMENT FOR STOCKPILED OR STORED MATERIAL.**

(a) **General:** Payment for stockpiled or stored material will be considered only for materials anticipated to be stored for periods in excess of 90 calendar days. When approved, advance payments may be made for fabricated or natural materials that are to be incorporated in the project when stockpiled materials are stored on the project or in a dedicated stockpile at an approved site outside the limits of the project within the State of Louisiana. Payments shall be limited to durable materials described herein and shall represent a significant portion of the project cost. Perishable articles and small warehouse items are not included. These materials shall meet the requirements of the specifications. Payment for stockpiled or stored materials will not constitute acceptance. It shall be the contractor's responsibility to protect the material from damage while in storage.

Payment for building materials stored outside the State of Louisiana will not be considered. Payment for roadway materials stored outside the State of Louisiana will be considered, subject to approval of the Chief Engineer. This will generally be limited to adjacent states, except in cases where it will be in the best interest of the Department to pay for these materials. If payment for stockpiled materials outside the State will affect the bid price for an item, the contractor shall submit a written request to the Chief Engineer prior to bidding.

Payment may be made for the invoice price for the materials, which shall not exceed 85 percent of the contract price for the items where the materials are to be incorporated. For fabricated materials purchased from commercial sources and delivered to approved storage, partial payment may be the invoice price plus freight and taxes.

The amounts advanced on stockpiled or stored materials will be recovered by the Department through deductions made on payments as the materials are incorporated in the work.

Partial payment for stockpiled materials shall be requested by the contractor in writing and the following documents shall be furnished:

(1) A copy of the invoices from supplier or manufacturer verifying the cost and quantity of material.

(2) If storage is on private property, a copy of the lease or agreement granting the Department right of entry to property.

Within 30 calendar days after payment by the Department, the contractor shall submit a certified copy of invoices from the supplier for each item for which payment has been made. All such invoices submitted shall state the amount received by the supplier as payment in full for the

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

materials. If this certification of payment is not presented within the 30-day period, the advanced payment will be deducted from future progress payments.

Title and ownership of materials for which advancements have been made by the Department shall not vest in the Department until such materials are incorporated in the work and the work accepted by the Department. The making of advancements by the Department shall not release the contractor from the responsibility for any portion thereof.

**(b) Fabricated or Manufactured Materials:** Fabricated or manufactured materials may include but is not limited to the following:

Structural steel, fabricated structural steel items, steel piling; reinforcing steel; electrical equipment; mechanical equipment; precast concrete items; structural timber; timber piling; fencing and guard rail materials; fabricated sign structures and sign panels.

**(c) Other Material:** These materials will normally be large quantities of natural or manufactured aggregate. The contractor's request for payment of stockpiled natural material shall give a detailed description of the material, its intended use and location of the site. This material will be inspected and approved after placement in stockpiles on the project. Approval of the stockpiled material will be in writing.

**109.07 ADJUSTMENT FOR CHANGES IN COMMON CARRIER RATES.** It is agreed that the accepted proposal for the work is based on common carrier rates on file with the Surface Transportation Board or with a corresponding intrastate commission or body in effect on the date of opening of bids. Payments to the contractor will be adjusted upon request to compensate for increases in cost due to changes in common carrier rates becoming effective after the date of opening of bids and before expiration of the contract time. The adjustment shall be limited to an amount determined as follows.

The adjustment shall be the product of the increase in common carrier rates multiplied by the net quantity of material shipped at the new rates to the work and incorporated therein, all as shown by receipted common carrier bills.

If the freight cost by common carrier to the job site is included in the quotation by the supplier to the contractor, in addition to receipted freight bills, the supplier shall furnish on each invoice a breakdown showing the freight rate, quantity of material and total freight cost. The contractor shall furnish the supplier's written quotation made prior to the date of bid opening and a notarized statement that the increased freight rate has been paid.

The contractor's request for payment adjustment due to increased common carrier rates shall be submitted as soon as possible after shipments to the project have been completed. Only one request for such payment adjustment shall be made for each project, and any payment adjustment due the contractor for increased common carrier rates will be included in the final estimate for the project. No request for such payment adjustment will be considered unless submitted to the Department, with the required receipted bills and forms, within 30 calendar days after final acceptance.

**109.08 ACCEPTANCE AND FINAL PAYMENT.** Upon acceptance of the work, the Chief Engineer will execute a certificate that the work provided for in the contract has been completed and accepted under the terms of the contract. The Certificate of Acceptance will be recorded by the Department in the office of the Recorder of Mortgages of the parish in which the work has been done. The contractor shall submit to the Department an original certificate from the Recorder of Mortgages of the parish in which the work has been done to the effect that there are

**STATE PROJECT NOS. 695-06-0004**  
**SPECIAL PROVISIONS**

no claims or liens recorded against the contract. The date of the certificate shall not be prior to the expiration of 45 calendar days, as determined in accordance with the Louisiana Code of Civil Procedure Article 5059 and La. R.S.1:55, but shall be prior to the expiration of 90 calendar days, after the Certificate of Acceptance was recorded in the Mortgage Office.

Prior to final payment, all releases or waivers on buildings, wells, utilities and railroads shall be furnished as well as any maintenance bonds, certificates from Health Department, tracings, brochures or other items required by the contract.

Final payment shall not release the contractor or sureties from liability for any fraud in construction, or in obtaining progress payments, or in payment for materials, labor or other supplies or services for the work, or for any claims for damages, loss or injury sustained by any person through the fault, negligence or conduct of the contractor or any employees, agents, subcontractors, suppliers or representatives, or from any legal or contractual bonds or warranties.

**TEMPORARY TRAFFIC CONTROL (09/08):** Section 713 of the 2006 Standard Specifications and the Supplemental Specifications is amended as follows:

Subsection 713.04, Temporary Signs and Barricades, is amended to include the following:

(d) Project Signs: The contractor shall furnish, install, maintain, and upon completion of the project remove "project signs" in accordance with the following requirements.

Project signs shall conform to the requirements of Section 713 and the project sign detail contained elsewhere herein. Shop drawings will be furnished to the successful bidder by contacting the Department's Traffic Services Sign Shop at (225) 935-0121 or (225) 935-0142.

Project signs shall be required at the beginning and end of the project and shall follow sign G-20-1, "Road Work Next 'X' Miles", or as directed by the engineer.

Payment for project signs shall be included in the contract unit price for Item 713-01 Temporary Signs and Barricades.

**BASE COURSE AGGREGATES (07/08):** Subsection 1003.03 of the 2006 Standard Specifications is amended to include the following.

(e) Blended Calcium Sulfate: When blended calcium sulfate base course material is allowed on the plans, it shall consist of calcium sulfate from a source approved by the Materials and Testing Section and be blended with an approved aggregate or lime. The source shall have a quality control program approved by the Materials and Testing Section. The source shall have been given environmental clearance by the Department of Environmental Quality for the intended use, and written evidence of such environmental clearance shall be on file at the Materials and Testing Section. DOTD monitoring for compliance with environmental regulations will be limited to the pH testing stated herein below. The blended material shall be non-plastic and reasonably free from organic and foreign matter. The pH shall be a minimum of 5.0 when tested in accordance with DOTD TR 430. Re-evaluation will be required if the source of the aggregate or lime that is blended with the calcium sulfate changes.

Blended calcium sulfate material used as base course shall comply with the following gradation requirements when tested in accordance with DOTD TR 113, modified to include a maximum drying temperature of 140°F (60°C). Sampling shall be taken from an approved stockpile at the point of origin.

**STATE PROJECT NOS. 695-06-0004  
SPECIAL PROVISIONS**

<u>U.S. Sieve</u>	<u>Metric Sieve</u>	<u>Percent Passing</u>
1-1/2 inch	37.5 mm	60 - 100
1 inch	25.0 mm	40 - 80
3/4 inch	19.0 mm	30 - 70
No. 4	4.75 mm	20 - 65
No. 200	75 µm	0 - 25

Blended calcium sulfate shall be sampled in accordance with the requirements for stone in Section 302 of the Materials Sampling Manual.

**Item S-001, REST AREA IMPROVEMENTS, I-20 AT MOUND:** This item consists of furnishing and constructing all building, parking area, acceleration and deceleration ramps, drainage, utilities, site amenities, landscaping, complete and all in accordance with the plans and plan details, the Project Manual for REST AREA IMPROVEMENTS, I-20 AT MOUND and as directed by the Project Engineer.

Payment will be made under:

Item S-001, Rest Area Improvements, I-20 at Mound, per lump sum.

**CONTRACT TIME:** The entire contract shall be completed in all detail and ready for final acceptance in accordance with Section 105.17(b) within **two hundred twenty (220) working days.**

**LOUISIANA**  
**DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**  
**SUPPLEMENTAL SPECIFICATIONS**  
(FOR 2006 STANDARD SPECIFICATIONS)

**TABLE OF CONTENTS**

**PART I – GENERAL PROVISIONS**

**SECTION 101 – GENERAL INFORMATION, DEFINITIONS, AND TERMS**  
Subsection 101.03 – Definitions .....1  
**SECTION 102 – BIDDING REQUIREMENTS**  
Subsection 102.09 – Proposal / Bid Guaranty .....1  
**SECTION 107 – LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**  
Subsection 107.05 – Federal Aid Participation.....2  
**SECTION 108 – PROSECUTION AND PROGRESS**  
Subsection 108.04 – Prosecution of Work.....2

**PART II – EARTHWORK**

**SECTION 202 – REMOVING OR RELOCATING  
STRUCTURES AND OBSTRUCTIONS**  
Subsection 202.06 – Plugging or Relocating Existing Water Wells .....2

**PART III – BASE COURSES**

**SECTION 302 – CLASS II BASE COURSE**  
Subsection 302.05 – Mixing .....2  
**SECTION 305 – SUBGRADE LAYER**  
Subsection 305.06 – Payment .....2  
**SECTION 307 – PERMEABLE BASES**  
Subsection 307.02 – Materials .....3  
**SECTION 308 – IN-PLACE CEMENT TREATED BASE COURSE**  
All Subsections .....3

**PART V – ASPHALTIC PAVEMENTS**

**SECTION 502 – SUPERPAVE ASPHALTIC CONCRETE MIXTURES**  
Subsection 502.02 – Materials .....3  
Subsection 502.14 – Lot Sizes .....4  
**SECTION 508 – STONE MATRIX ASPHALT**  
Subsection 508.01 – Description .....5  
Subsection 508.02 – Materials .....5

**PART VI – RIGID PAVEMENT**

**SECTION 602 – PORTLAND CEMENT CONCRETE PAVEMENT  
REHABILITATION**

Subsection 602.17 – Payment.....5

**PART VII – INCIDENTAL CONSTRUCTION**

**SECTION 701 – CULVERTS AND STORM DRAINS**

All Subsections .....5

**SECTION 704 – GUARD RAIL**

Subsection 704.03 – General Construction Requirements .....16

**SECTION 706 – CONCRETE WALKS, DRIVES AND INCIDENTAL PAVING**

All Subsections .....16

**SECTION 713 – TEMPORARY TRAFFIC CONTROL**

Subsection 713.06 – Pavement Markings.....18

**SECTION 729 – TRAFFIC SIGNS AND DEVICES**

Subsection 729.02 – Materials.....19

Subsection 729.04 – Fabrication of Sign Panels and Markers.....20

**PART VIII – STRUCTURES**

**SECTION 804 – DRIVEN PILES**

Subsection 804.08 – Construction Requirements .....20

**PART IX – PORTLAND CEMENT CONCRETE**

**SECTION 901 – PORTLAND CEMENT CONCRETE**

Subsection 901.06 – Quality Control of Concrete .....20

Subsection 901.08 – Composition of Concrete.....20

**PART X – MATERIALS**

**SECTION 1001 – HYDRAULIC CEMENT**

Subsection 1001.01 – Portland Cement .....21

**SECTION 1003 – AGGREGATES**

Subsection 1003.02 – Aggregates for Portland Cement Concrete and Mortar.....21

**SECTION 1005 – JOINT MATERIALS FOR PAVEMENTS AND STRUCTURES**

Subsection 1005.04 – Combination Joint Former/Sealer .....22

**SECTION 1006 – CONCRETE AND PLASTIC PIPE**

Subsection 1006.09 – Plastic Yard Drain Pipe .....23

Supplemental Specifications - Table of Contents (08/08)

<b>SECTION 1013 – METALS</b>	
Subsection 1013.09 – Steel Piles .....	23
<b>SECTION 1015 – SIGNS AND PAVEMENT MARKINGS</b>	
Subsection 1015.04 – Sign Panels .....	23
Subsection 1015.05 – Reflective Sheeting.....	24
Subsection 1015.11 – Preformed Plastic Pavement Marking Tape.....	28
<b>SECTION 1020 – TRAFFIC SIGNALS</b>	
Subsection 1020.01 – Traffic Signal Heads.....	29
Subsection 1020.04 – Poles for Traffic Signal Systems.....	30

**LOUISIANA**  
**DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**  
**SUPPLEMENTAL SPECIFICATIONS**

The 2006 Louisiana Standard Specifications for Roads and Bridges and supplemental specifications thereto are amended as follows.

**PART I – GENERAL PROVISIONS**

**SECTION 101 – GENERAL INFORMATION, DEFINITIONS, AND TERMS:**

Subsection 101.03 – Definitions (07/07), Pages 3 – 13).

Delete the definition for “Proposal/Bid Guaranty” and substitute the following.

Proposal / Bid Guaranty. The required security furnished with a bid. The only form of security acceptable is a Bid Bond.

**SECTION 102 – BIDDING REQUIREMENTS:**

Subsection 102.09 – Proposal / Bid Guaranty (07/07), Page 19.

Delete the contents of this subsection and substitute the following.

PROPOSAL/BID GUARANTY. Each bid shall be accompanied by a proposal/bid guaranty in an amount not less than five percent of the total bid amount when the bidder’s total bid amount as calculated by the Department in accordance with Subsection 103.01 is greater than \$50,000. No proposal/bid guaranty is required for projects when the bidder’s total bid amount as calculated by the Department is \$50,000 or less. The official total bid amount for projects that include alternates is the total of the bidder's base bid and all alternates bid on and accepted by the Department. The proposal/bid guaranty submitted by the bidder shall be a bid bond made payable to the contracting agency as specified on the bid bond form provided in the construction proposal. No other form of security will be accepted.

The bid bond shall be on the "Bid Bond" form provided in the construction proposal, on a form that is materially the same in all respects to the "Bid Bond" form provided, or on an electronic form that has received Department approval prior to submission. The bid bond shall be filled in completely, shall be signed by an authorized officer, owner or partner of the bidding entity, or each entity representing a joint venture; shall be signed by the surety's agent or attorney-in-fact; and shall be accompanied by a notarized document granting general power of attorney to the surety's signer. The bid bond shall not contain any provisions that limit the face amount of the bond.

The bid bond will be written by a surety or insurance company that is in good standing and currently licensed to write surety bonds in the State of Louisiana by the Louisiana Department of Insurance and also conform to the requirements of LSA-R.S. 48:253.

All signatures required on the bid bond may be original, mechanical reproductions, facsimiles or electronic. Electronic bonds issued in conjunction with electronic bids must have written Departmental approval prior to use. The Department will make a listing of approved electronic sureties providers on the Bidx.com site.

**Supplemental Specifications (August 2008)**  
**Page 2 of 30**

**SECTION 107 – LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC:**

Subsection 107.05 – Federal Aid Participation (04/08), Pages 57 and 58.

Delete the second paragraph.

**SECTION 108 – PROSECUTION AND PROGRESS:**

Subsection 108.04 – Prosecution of Work (03/05) Pages 74 and 75.

Add the following sentence to the third paragraph of Heading (b).

Should the surety or the Department take over prosecution of the work, the contractor shall remain disqualified for a period of one year from the completion of the project, unless debarment proceedings are instituted.

When the Department of Transportation and Development is not the contracting agency on the project, the second paragraph under Heading (c) is deleted.

**PART II – EARTHWORK**

**SECTION 202 – REMOVING OR RELOCATING STRUCTURES AND OBSTRUCTIONS:**

Subsection 202.06 – Plugging or Relocating Existing Water Wells (03/04), Page 105.

Delete the first sentence and substitute the following.

All abandoned wells shall be plugged and sealed at the locations shown on the plans, or as directed by the engineer, in accordance with the “Water Well Rules, Regulations, and Standards, State of Louisiana.” This document is available at the Department of Transportation and Development, Water Resources Section, P. O. Box 94245, Baton Rouge, Louisiana 70804-9245. The Water Resource Section’s telephone number is (225) 274-4172.

**PART III – BASE COURSES**

**SECTION 302 – CLASS II BASE COURSE:**

Subsection 302.05 – Mixing (08/06), Pages 152 and 153.

Delete the first sentence of Subheading (b)(1), In-Place Mixing, and substitute the following.

In-place mixing shall conform to Heading (a)(1) except that the percentage of Type I portland cement required will be 6 percent by volume.

**SECTION 305 – SUBGRADE LAYER:**

Subsection 305.06 – Payment (01/08), Page 184.

Delete the contents of this subsection and substitute the following.

305.06 Payment. Payment for subgrade layer will be made at the contract unit price which includes lime, lime treatment, cement, cement treatment, water, stone, recycled portland cement concrete, crushed slag, blended calcium sulfate, asphaltic concrete, and asphalt curing membrane or prime coat, subject to the payment adjustment provisions of Section 1002 for specification deviations of asphalt materials and Subsection 303.11(a) for density deficiencies of cement treated materials. Adjustments in pay for increase or decrease in the percent cement ordered by the engineer will be in accordance with Subsection 303.13. Adjustments in pay for

increase or decrease in the percent lime ordered by the engineer will be based on the price of lime shown on paid invoices (total of all charges). The Materials and Testing Section will provide the payment adjustment percentage for properties of asphalt materials.

Payment for geotextile fabric will be included in the contract unit price for subgrade layer.

Payment will be made under:

Item No.	Pay Item	Pay Unit
305-01	Subgrade Layer _____ in (mm) Thick	Square Yard (Sq m)

**SECTION 307 – PERMEABLE BASES:**

Subsection 307.02 – Materials (09/07), Pages 187 and 188.

Delete the contents of Subheading (b), Asphalt, and substitute the following.

(b) Asphalt: The asphalt for asphalt treated permeable base shall be an approved polymer modified asphalt cement, PG 76-22m, or PG 82-22rm complying with Section 1002. The percentage of asphalt cement shall be 2.0 percent to 4.0 percent by weight (mass) of the total mixture. Asphalt cement content and mixing process shall be such that all aggregates are visibly coated. The mixture shall retain 90 percent coating when tested in accordance with DOTD TR 317.

A job mix formula shall be submitted and approved in accordance with Section 502.

**SECTION 308 – IN-PLACE CEMENT TREATED BASE COURSE:**

All Subsections within Section 308 – (07/07), Pages 191 – 198.

Whenever the reference to “DOTD TR-432, Method D” is used, it shall mean “DOTD TR-432”.

**PART V – ASPHALTIC PAVEMENTS**

**SECTION 502 – SUPERPAVE ASPHALTIC CONCRETE MIXTURES:**

Subsection 502.02 – Materials (08/06) (11/07), Pages 210 – 213.

Delete Table 502-2, Superpave Asphalt Cement Usage under Subheading (a) and substitute the following.

**Supplemental Specifications (August 2008)**

Page 4 of 30

**Table 502-2  
Superpave Asphalt Cement Usage**

Current Traffic Load Level	Mixture Type	Grade of Asphalt Cement
Level 1	Wearing Course	PG 70-22m
	Binder Course	PG 70-22m
	Base Course	PG 64-22
Level 2	Wearing Course	PG 76-22m
	Binder Course	PG 76-22m
Level A	Incidental Paving	PG 70-22m

Note: A PG 82-22 rm, Waste Tire Rubber Modified Asphalt, may be substituted for any other grade of asphalt cement.

Delete Table 502-3, Aggregate Friction Rating under Subheading (c)(1) and substitute the following.

**Table 502-3  
Aggregate Friction Rating**

Friction Rating	Allowable Usage
I	All mixtures
II	All mixtures
III	All mixtures, except travel lane wearing courses with plan ADT greater than 7000 <sup>1</sup>
IV	All mixtures, except travel lane wearing courses <sup>2</sup>

<sup>1</sup> When plan current average daily traffic (ADT) is greater than 7000, blending of Friction Rating III aggregates and Friction Rating I and/or II aggregates will be allowed for travel lane wearing courses at the following percentages. At least 30 percent by weight (mass) of the total aggregates shall have a Friction Rating of I, or at least 50 percent by weight (mass) of the total aggregate shall have a Friction Rating of II. The frictional aggregates used to obtain the required percentages shall not have more than 10 percent passing the No. 8 (2.36 mm) sieve.

<sup>2</sup> When the average daily traffic (ADT) is less than 2500, blending of Friction Rating IV aggregates with Friction Rating I and/or II aggregates will be allowed for travel lane wearing courses at the following percentages. At least 50 percent by weight (mass) of the total aggregate in the mixture shall have a Friction Rating of I or II. The frictional aggregates used to obtain the required percentages shall not have more than 10 percent passing the No. 8 (2.36 mm) sieve.

Subsection 502.14 – Lot Sizes (11/07), Pages 232 and 233.

Delete the first sentence of the first paragraph and substitute the following.

A lot is a segment of continuous production of asphaltic concrete mixture from the same job mix formula produced for the Department at a specific plant, delivered to a specific DOTD project.

**SECTION 508 – STONE MATRIX ASPHALT:**

Subsection 508.01 – Description (09/07), Page 274.

Delete this subsection and substitute the following.

508.01 DESCRIPTION. This work consists of furnishing and constructing Stone Matrix Asphalt (SMA) which is a plant mixed asphalt concrete wearing course for high traffic applications. This mixture is a rut resistant hot mix design with stone on stone contact. The mixture shall be composed of a PG 76-22m, or PG 82-22rm asphalt cement and a gap graded coarse aggregate structure. Mineral filler and/or fibers shall be used to control draindown. This work shall be in accordance with these specifications, plan details, and as directed. All requirements of Section 502 apply to Stone Matrix Asphalt, except as modified herein. All plant and paving equipment and processes must meet the requirements of Section 503.

Mixture used for shoulder may be Stone Matrix Asphalt or any mixture type shown in Table 502-5.

Subsection 508.02 – Materials (09/07), Page 274.

Delete the contents of subheading (a), Asphalt Cement and substitute the following.

(a) Asphalt Cement: Asphalt cement shall be PG 76-22m, or PG 82-22rm as listed on QPL 41 and complying with Section 1002.

## **PART VI – RIGID PAVEMENT**

### **SECTION 602 – PORTLAND CEMENT CONCRETE PAVEMENT**

#### **REHABILITATION:**

Subsection 602.17 – Payment (09/07), Pages 341 – 344.

Delete the last paragraph of Subheadings (d), Full Depth Corner Patching of Jointed Concrete Pavement, (e) Full Depth Patching of Jointed Concrete Pavement, and (g) Patching Continuously Reinforced Concrete Pavement, and substitute the following.

Payment for deteriorated base course removed as directed by the engineer and replaced with concrete will be made as follows: The value per inch (mm) thickness will be determined by dividing the contract unit price per square yard (sq m) by the plan thickness. Thickness of patches will be measured from the surface that exists at the time of patching. Payment for the additional thickness will be made at 50 percent of the value per inch (mm) thus determined.

## **PART VII – INCIDENTAL CONSTRUCTION**

### **SECTION 701 – CULVERTS AND STORM DRAINS:**

All Subsections within Section 701 (08/07), Pages 347 – 358.

Delete Section 701, Culverts and Storm Drains and substitute the following.

SECTION 701  
CULVERTS AND STORM DRAINS

701.01 DESCRIPTION. This work consists of furnishing, installing, and cleaning pipe, pipe arch, storm drains and sewers, also referred to as culverts or conduit, in accordance with these specifications and in conformity with lines and grades shown on the plans or established.

701.02 MATERIALS. Materials shall comply with the following sections and subsections:

Usable Soil	203.06(a)
Selected Soil	203.06(b)
Plastic Soil Blanket	203.10
Mortar	702.02
Flowable Fill	710
Portland Cement Concrete	901
Reclaimed Asphaltic Pavement (RAP)	1003.01 & 1003.04(d)
Stone	1003.03(b)
Recycled Portland Cement Concrete	1003.03(c)
Granular Material	1003.07
Bedding Material	1003.08
Concrete Sewer Pipe	1006.02
Reinforced Concrete Pipe	1006.03
Reinforced Concrete Pipe Arch	1006.04
Gasket Materials	1006.06
Plastic Pipe	1006.07
Split Plastic Coupling Bands	1006.07(d)(4)
Plastic Yard Drain Pipe	1006.09
Bituminous Coated Corrugated Steel Pipe and Pipe Arch	1007.02
Structural Plate for Pipe, Pipe Arch and Arch	1007.04
Corrugated Aluminum Pipe and Pipe Arch	1007.05
Coupling Bands	1007.09
Reinforcing Steel	1009
Geotextile Fabric	1019

(a) Side Drain Pipe or Side Drain Pipe Arch: When the item for Side Drain Pipe or Side Drain Pipe Arch is included in the contract, the contractor has the option of furnishing reinforced concrete pipe or reinforced concrete pipe arch, corrugated metal pipe or corrugated metal pipe arch, or plastic pipe, as allowed by EDSM II.2.1.1 or unless otherwise specified.

(b) Cross Drain Pipe or Cross Drain Pipe Arch: When the item for Cross Drain Pipe or Cross Drain Pipe Arch is included in the contract, the contractor has the option of furnishing reinforced concrete pipe or reinforced concrete pipe arch, corrugated metal pipe or corrugated metal pipe arch, or plastic pipe, as allowed by EDSM II.2.1.1 or unless otherwise specified.

(c) Storm Drain Pipe or Storm Drain Pipe Arch: When the item for Storm Drain Pipe or Storm Drain Pipe Arch is included in the contract, the contractor has the option of furnishing reinforced concrete pipe or reinforced concrete pipe arch, or plastic pipe, as allowed by EDSM II.2.1.1 or unless otherwise specified.

(d) Yard Drain Pipe: When the item for Yard Drain Pipe is included in the contract, the contractor has the option of furnishing concrete sewer pipe, plastic yard drain pipe or plastic pipe in accordance with Section 1006 unless otherwise specified.

(e) Material Type Abbreviations:

(1) Reinforced Concrete Pipe:

RCP	Reinforced Concrete Pipe
RCPA	Reinforced Concrete Pipe Arch

(2) Corrugated Metal Pipe:

CAP	Corrugated Aluminum Pipe
CAPA	Corrugated Aluminum Pipe Arch
CMP	Corrugated Metal Pipe
CMPA	Corrugated Metal Pipe Arch
CSP	Corrugated Steel Pipe
CSPA	Corrugated Steel Pipe Arch
BCCSP	Bituminous Coated Corrugated Steel Pipe
BCCSPA	Bituminous Coated Corrugated Steel Pipe Arch

(3) Plastic Pipe:

PP	Plastic Pipe
PVCP	Polyvinyl Chloride Pipe
RPVCP	Ribbed Polyvinyl Chloride Pipe
CPEPDW	Corrugated Polyethylene Pipe Double Wall

(f) Joint Type Abbreviations:

T1	Type 1 Joint
T2	Type 2 Joint
T3	Type 3 Joint

(g) Quality Assurance for Pipe: Manufacturing plants will be periodically inspected for compliance with specified manufacturing methods, and material samples will be randomly obtained for laboratory testing for verification of manufacturing lots. Materials approved at the manufacturing plant will be subject to visual acceptance inspections at the jobsite or point of delivery.

701.03 EXCAVATION. For all pipe, when the sides of the trench are stable as evidenced by the sides of the trench being able to maintain a vertical cut face, the minimum trench width at the bottom of the excavation will be 18 inches (460mm) on either side of the outside diameter of the pipe. If the sides of the trench are unstable, the width of the trench at the bottom of the excavation, for plastic or metal pipe, shall be a minimum width of at least 18 inches (460mm) or one pipe diameter on each side of the outside diameter of the pipe, whichever is greater. Surplus material or excavated material that does not conform to the requirements of Subsection 203.06(a) shall be satisfactorily disposed of in accordance with Subsection 202.02. Moisture controls

**Supplemental Specifications (August 2008)**  
**Page 8 of 30**

including backfill materials selection and dewatering using sumps, wells, well points or other approved processes may be necessary to control excess moisture during excavation, installation of bedding, over-excavated trench backfilling, pipe placement and pipe backfill.

(a) Over-excavation: When unsuitable soils as defined in Subsection 203.04 or a stable, non-yielding foundation cannot be obtained at the established pipe grade, or at the grade established for placement of the bedding, unstable or unsuitable soils below this grade shall be removed and replaced with granular material meeting the requirements of Subsection 1003.07, bedding materials meeting the requirements of Subsection 1003.08 or Type A backfill. All granular, backfill materials placed below the established pipe or bedding grade shall be placed in lifts not exceeding 8 inches (200 mm) thick and sufficiently compacted by hand or a dynamic mechanical hand compaction device over the surface of each lift to form a stable, non-yielding foundation at the surface of the established bedding or pipe grade.

When rock is encountered, it shall be removed below grade and replaced with material complying with Subsection 1003.07, bedding materials meeting the requirements of Subsection 1003.08 or Type A backfill. The compacted earth cushion shall have a thickness under the pipe of at least 1/2 inch per foot (40 mm/m) of fill height over the top of the pipe with a minimum thickness of 8 inches (200 mm). All granular, backfill materials placed below the established pipe or bedding grade shall be placed in lifts not exceeding 8 inches (200 mm) thick and sufficiently compacted by hand or a dynamic mechanical hand operated compaction device over the surface of each lift to form a stable, non-yielding foundation at the surface of the established bedding or pipe grade.

Materials used to backfill in an over-excavated portion of a trench do not require encasement in a Geotextile Fabric.

Density of approved materials placed in over-excavated trenches will not be measured or determined.

**701.04 FORMING PIPE BED.** Bedding material, when specified, shall be constructed in accordance with Section 726. Materials allowed for bedding shall be as specified in Subsection 1003.08 or may be Type A backfill materials. When bedding materials are specified, additional excavation shall be performed below established pipe grade and the bedding material placed in lifts not exceeding 8 inches (200 mm) thick and lightly compacted by hand or a dynamic hand compaction device over the surface of each lift.

When the bottom of the pipe is not laid in a trench but is constructed above natural soils, a uniform bed shall be constructed as specified for the bottom of a trench.

Density of approved bedding materials will not be measured or determined.

**701.05 LAYING PIPE.** Pipe laying shall begin at the downstream end of the line. The pipe shall be in contact with the foundation throughout its length. Bell or groove ends of pipe and outside circumferential laps of riveted metal pipe shall be placed facing upstream. Riveted seam metal pipe shall be placed with longitudinal laps at sides. Pipes in each continuous line shall have the same wall thickness. Metal pipes provided with lifting lugs shall be handled only by these lugs.

After pipe has been laid and before backfill is placed, the engineer will inspect the pipe for alignment, grade, integrity of joints, and coating damage.

**701.06 JOINING PIPE.**

**(a) Joint Usage:**

(1) Type 1 (T1) joints shall be used for side drains under drives and similar installations.

(2) Type 2 (T2) joints shall be used for cross drains under roadways, including turnouts.

(3) Type 3 (T3) joints shall be used for closed storm drain systems, flumes and siphons.

**(b) Concrete Pipe:** Concrete pipe may be either bell and spigot, or tongue and groove. The method of joining pipe sections shall be such that ends are fully entered and inner surfaces are flush and even.

An approved mechanical pipe puller shall be used for joining pipes over 36 inches (900 mm) in diameter. For pipe 36 inches (900 mm) or less in diameter, any approved method for joining pipe may be used which does not damage the pipe.

Joints shall comply with Subsection 1006.05, and shall be sealed with gasket material installed in accordance with the manufacturer's recommendations.

**(c) Metal Pipe:** Metal pipe shall be firmly joined by coupling bands. Bands shall be centered over the joint.

For Type 1 joints, approved gasket material shall be placed in one corrugation recess on each side of the joint at the coupling band and on each band connection in such manner to prevent leakage.

When Type 2 or 3 joints are specified, joining of metal pipe sections shall conform to the following provisions:

(1) General: Band joints shall be sealed with gasket material. Gasket material shall be placed in accordance with the plan details.

(2) Circular Section: Connecting bands shall be of an approved design and shall be installed in accordance with plan details.

(3) Arch Section: Connecting bands shall be a minimum of 12 inches (300 mm) wide for pipe arch less than 36 inches (900 mm) round equivalent diameter, and a minimum of 21 inches (525 mm) wide for 36 inches (900 mm) round equivalent diameter pipe arch and greater. Bands shall be connected at the ends by approved angle or strap connections. Connecting bands used for 36 inches (900 mm) round equivalent diameter pipe arch and above shall be 2-piece bands.

**(d) Plastic Pipe:** Joints for plastic pipe shall be either bell and spigot or split coupling bands.

(1) Bell and Spigot Type Joint System: The method of joining pipe sections shall be such that ends are fully entered and inner surfaces are flush and even.

Any approved method for joining pipe may be used which does not damage the pipe.

Joints shall be approved and shall be sealed with a gasket system utilizing gasket material complying with Subsection 1006.06(a).

**Supplemental Specifications (August 2008)**  
**Page 10 of 30**

(2) Split Coupling Type Joint System: Split coupling bands shall comply with all dimensional and material requirements of Subsection 1006.07. The bands shall be centered over the joint. The split coupling band shall be secured to the pipe with a minimum of five stainless steel or other approved corrosion resistant bands.

Joints shall be approved and shall be sealed with gasket material. Gasket material shall be placed in the first two corrugation recesses on each side of the pipe connections. Gasket material shall also be placed on each band connection to prevent leakage. When flexible plastic gasket material is used it shall be a minimum of 1/2 inch (13 mm) in size. The bands shall be tightened to create overlap of the band and shall adequately compress the gasket material.

(e) Connections: Approved connections shall be used when joining new pipes to existing pipes. When concrete collars are required in order to extend the ends of existing pipes that have been damaged or to join different types or sizes of pipes, the concrete collars shall be constructed in accordance with plan details, the applicable requirements of Section 901, and as directed.

(f) Geotextile Fabric, Pipe Joints: For concrete, metal and plastic pipes, Types 2 and 3 joints shall be wrapped with geotextile fabric for a minimum of 12 inches (300 mm) on each side of joint for pipe 36 inches (900 mm) or less in diameter and a minimum of 18 inches (450 mm) on each side of the joint for pipe greater than 36 inches (900 mm) in diameter. Ends of the fabric shall be lapped at least 10 inches (250 mm). The edges and ends of fabric shall be suitably secured for the entire circumference of the pipe.

701.07 RELAYING PIPE. If specified or directed, existing pipes shall be removed and suitable sections relaid as specified for new pipes.

701.08 BACKFILLING.

(a) General: Prior to backfilling, pipes found to be damaged or out of alignment or grade shall be removed and reinstalled, or replaced.

Type A backfill material shall be stone, recycled portland cement concrete, flowable fill, or RAP.

Type B backfill materials are selected soils. Where Type B backfill materials are called for, Type A backfill materials may be substituted.

When corrugated metal pipe is used, the backfill material shall be tested and shall have a resistivity greater than 1500 ohm-cm and a pH greater than 5 when tested in accordance with DOTD TR 429 and DOTD TR 430 respectively.

When Type A backfill material is used, geotextile fabric surrounding this backfill shall be placed in accordance with Subsection 726.03 between the aggregate backfill material and all other natural or placed soils in the trench or embankment. Care shall be taken to prevent damage to geotextile fabric during placement of backfill material. For concrete pipe, the fabric shall enclose not only the initial backfill but shall be wrapped over the top of the pipe with at least 12 inches (300 mm) of overlap.

When a trench box or trench sheeting is used in unstable soils and/or for worker safety, and when moved during backfilling operations, filling and additional compaction of the disturbed zone of backfill must take place immediately and in a manner acceptable to the engineer.

Initial backfill is a structural backfill encasing the pipe from the bottom of the pipe to the springline for concrete pipe and to a point one foot (0.3 m) above the top of the pipe for both metal and plastic pipe. Final backfill is not a structural backfill and shall extend from the top of the initial backfill to the top of the natural ground or subgrade in cut areas or to the top of existing ground in fill areas. Any fill required above the final backfill is considered and treated as embankment.

(b) Backfill Applications: For projects using A+B+C bidding method where rigid and flexible pavement alternates are considered, backfill application (2) below, "Cross Drains Under Flexible Pavements", shall apply for either rigid or flexible pavements.

(1) Under Concrete Pavements: Type B backfill may be used as initial and final backfill for all pipes, culverts or drains under concrete pavements. Placement and compaction shall be as specified in Heading (d) below.

(2) Cross Drains Under Flexible Pavements: All reaches, exclusive of those portions of the pipe which are under shoulders, of cross drains and all other culverts, pipes or drains that cross the centerlines of the new roadway or centerlines of existing roadways, such as intersections and are under flexible pavements shall receive an initial backfill of Type A material. Type B backfill materials may be used as final backfill for all pipes. Placement and compaction shall be as specified in Heading (c) and (d) below. Where the subgrade is above existing ground, embankment material as specified for the remainder of the project shall be used from the top of the final backfill to the top of the established embankment grade.

(3) Other Drains Under Flexible Pavements: All reaches of all culverts, pipes or drains under flexible pavements that do not cross the centerlines of new roadway or centerlines of existing roadways, and exclusive of those portions of the pipe which are totally under shoulders, shall receive an initial and final backfill of Type B material. Placement and compaction shall be as specified in Heading (d) below. Where the subgrade is above existing ground, embankment material as specified for the remainder of the project shall be used from the top of the final backfill to the top of the established embankment grade.

(4) Other Areas: All culverts, pipes or drains in nonpaved areas or paved areas that serve as driveways or shoulders shall receive an initial and final backfill of Type B material. Placement and compaction shall be as specified in Heading (d) below.

(5) Pipes Subject to Construction Traffic; The embankment or pipe backfill shall be constructed to a minimum of 24 inches (600 mm) over the pipe before heavy construction equipment is allowed to cross the installation. Where practical, installations with less than 24 inches (600 mm) of cover over the top of the pipe shall be constructed after heavy hauling is completed over the pipe location. After completion of hauling operations, the contractor shall remove excess cover material. Pipe damaged by hauling and backfilling operations shall be removed and reinstalled, or replaced, at no direct pay.

(c) Placement and Compaction; Type A Backfill: For all pipes, culverts and conduits under paved and nonpaved areas, where Type A backfill material is used, the Type A backfill shall be thoroughly hand compacted under the pipe haunches and then dynamically compacted in layers not exceeding 8 inches (200 mm) compacted thickness. Compaction under the haunches of the pipe shall initially be by hand tamping or other acceptable means, until a level is reached that the dynamic tamping can commence. Each lift shall be compacted by applying at least eight

## Supplemental Specifications (August 2008)

### Page 12 of 30

passes of a hand operated, dynamic mechanical compaction device over the surface of each lift. With approval of the engineer, layer thickness may be increased to 12 inches (300 mm) with verification of satisfactory installation and performance. If flowable fill is used it shall be furnished, placed and consolidated in accordance with Section 710. The contractor shall control placement operations during initial backfill operations so as not to damage protective coatings on metal pipes. The contractor shall repair damaged coatings at no additional pay.

(d) Placement and Compaction; Type B Backfill: For all pipes, culverts and conduits, where Type B backfill is allowed, the Type B material shall be placed in layers not exceeding 8 inches (200 mm) compacted thickness. Compaction shall be with suitable mechanical equipment. With approval of the engineer, layer thickness may be increased to 12 inches (300 mm) with verification of satisfactory installation and performance.

(e) Placement and Compaction; Trenchless or Partial Trench Condition: All pipes, culverts, drains and conduits placed with any portion of the pipe above existing ground must also comply with Subsections (a),(b) (c) and (d) above for the portion of the pipe within a trench and that portion of the pipe not constructed in a trench. The width of initial and final backfill of that portion above existing ground and not within a trench will be constructed to such a width that the requirements for placement, compaction and density are met.

(f) Density Requirements: The in place density of Type A backfill materials and bedding materials, will not be measured or determined. Type A backfill, exclusive of RAP and flowable fill, shall be placed at or near optimum moisture content determined in accordance with DOTD TR 415 or 418. RAP materials shall be placed and compacted in a slightly moist condition.

The maximum dry density of initial or final Type B backfill under all paved areas which are to be under traffic will be determined in accordance with DOTD TR 415 or TR 418 and in-place density determined in accordance with DOTD TR 401. Initial and final Type B backfill under all paved areas, under traffic, shall be placed at or near optimum moisture content determined in accordance with DOTD TR 415 or TR 418. Each layer shall be compacted by approved methods prior to the placement of a subsequent layer. The engineer will approve the compaction method based upon validation that such method, including moisture control, will achieve at least 95 percent of maximum dry density as determined in accordance with DOTD TR 401. With approval of the engineer, density testing may be waived on subsequent layers with backfill installation in accordance with approved compaction methods and continued satisfactory performance.

Initial and final backfill in unpaved areas or paved areas such as shoulders or driveways, shall be placed evenly and compacted along the length of the culvert, pipe or drain from the top of the initial backfill to the top of the subgrade. Layered backfill shall be compacted at least to the density of the adjoining existing soils or the compaction required of the laterally adjoining layers of soil immediately outside the trench for embankment elevations. Initial and final backfill shall be placed and compacted at or near optimum moisture content determined in accordance with DOTD TR 415 or TR 418.

701.09 INSPECTION OF PIPES. After completion of embankment and prior to roadway surfacing, the engineer shall inspect pipes for proper alignment and integrity of joints. Any misaligned pipe or defective joints shall be corrected by the contractor at no direct pay.

(a) Plastic Pipe: Installed plastic pipe shall be tested to ensure that vertical deflections do not exceed 5.0 percent. Maximum allowable deflections shall be governed by the mandrel requirements stated herein.

Deflection tests shall be performed no sooner than 30 calendar days after installation and compaction of backfill. The pipe shall be cleaned and inspected for offsets and obstructions prior to testing.

For pipe 36 inches (900 mm) and less in diameter, a mandrel shall be pulled through the pipe by hand to ensure that maximum allowable deflections have not been exceeded. The mandrel shall be approved by the engineer prior to use. Use of an unapproved mandrel or a mandrel altered or modified after approval will invalidate the test. If the mandrel fails to pass, the pipe is overdeflected.

Unless otherwise permitted, overdeflected pipe shall be uncovered and, if not damaged, reinstalled. Damaged pipe shall not be reinstalled, but shall be removed and replaced with new pipe. Any pipe subjected to any method or process other than removal, which attempts, even successfully, to reduce or cure any overdeflection, shall be removed and replaced with new pipe.

The mandrel shall be a rigid, nonadjustable, odd-numbered legged (minimum 9 legs) mandrel having a length not less than its nominal diameter or 24 inches (600 mm), whichever is less. The minimum diameter at any point shall be 5.0 percent less than the base inside diameter of the pipe being tested. The mandrel shall be fabricated of steel, aluminum or other approved material fitted with pulling rings at each end. The nominal pipe size and outside diameter of the mandrel shall be stamped or engraved on some segment other than a runner. A suitable carrying case shall be furnished.

For pipe larger than 36 inches (900 mm) in diameter, deflection shall be determined by a method approved by the engineer. If a mandrel is selected, the minimum diameter, length, and other requirements shall conform to the above requirements.

Mandrel testing shall be conducted by the contractor in the presence of the engineer. Mandrel testing shall be at no direct pay.

(b) Metal Pipe: If the inside diameter of metal pipe or rise dimension of metal pipe arch deflects more than 5.0 percent from original dimensions, they shall be removed and reinstalled, unless they do not rebound or are damaged. Pipe or pipe arch which are damaged or do not rebound shall be removed and replaced at no direct pay. Measurement of deflection will be made by the engineer away from rerolled ends.

#### 701.10 CLEANING PIPES.

(a) Existing Pipes: Pipes designated to be cleaned shall be cleaned of soil, debris and other materials to the invert of the pipe. Designated pipes shall be cleaned by approved methods that will not damage the pipes. Any damage caused by the contractor's operations shall be satisfactorily repaired at no direct pay.

Removed soil, debris and other materials shall be disposed of in accordance with Subsection 202.02 or as otherwise approved in writing.

(b) Contractor Installed Pipes: Prior to final acceptance, pipes shall be cleaned of all debris and soil to the invert of the pipe at no direct pay.

**Supplemental Specifications (August 2008)**  
**Page 14 of 30**

Removed soil, debris and other materials shall be disposed of in accordance with Subsection 202.02 or as otherwise approved in writing.

701.11 STUBBING AND PLUGGING PIPES. When it is required that pipes be plugged, such plugs shall be constructed of Class R concrete complying with Section 901. Thickness of plug and method of construction shall be as directed.

When new pipes are to be stubbed into new or existing pipes or other structures, the connection shall be made with approved mortar complying with Subsection 702.02.

701.12 MEASUREMENT. Pipe, both new and relaid, will be measured in linear feet (lin m) as follows unless stated otherwise.

(a) Pipe not confined by fixed structures will be measured by the number of joints at the nominal length of each joint.

(b) Pipe confined by fixed structures will be measured along the pipe between the termini of pipe in structure walls.

(c) Pipe confined by a fixed structure on one end and unconfined at the other end will be measured along the pipe from the terminus of pipe in the structure wall to the unconfined end of pipe.

(d) Fabricating of pipe tees, elbows and other fittings will be measured per each fitting. The length of pipe in such fittings will be included in the pay length measurement of pipes of which they form a part.

(e) Excavation required for installation of pipes will not be measured for payment, except as otherwise specified in Subsection 203.14.

(f) Furnishing and placing backfill material below existing ground level for pipes will not be measured for payment. Backfill material needed to complete backfill above natural ground and around pipes that extend above natural ground will be measured and payment will be made under applicable earthwork items. When specified, flowable fill will be measured and paid for in accordance with Section 710.

(g) Plugging and stubbing of pipes will not be measured for payment.

(h) Cleaning existing pipes will be measured by the length of pipe cleaned and accepted.

(i) Concrete collars will be measured per each.

701.13 PAYMENT.

(a) Payment for pipe will be made at the contract unit price per linear foot (lin m) of the types and sizes specified.

When plastic pipe is specified on the plans or elected to be used by the contractor, payment will be made at the contract unit price per linear foot (lin m) of the types and sizes specified in accordance with the payment schedule of Table 701-1.

Table 701-1  
Payment Schedule for Plastic Pipe

Percent Payment	Stage of Completeness
75	After placement and backfill has been completed
25	After the pipe has met vertical deflection requirements in accordance with Subsection 701.09(a)

(b) Payment for fabricating pipe tees, elbows and other fittings will be made at the contract unit price per each fitting.

(c) When unstable conditions are encountered, the additional excavation will not be measured for payment; however, the additional materials furnished and placed for the pipe foundation will be measured and paid for as follows:

(1) Granular Materials: Payment will be made under the embankment item. The net section volume of the materials will be multiplied by 3 to determine the pay volume. When the contract does not include a pay item for embankment, payment will be made in accordance with Subsection 104.02.

(2) Bedding Material: Measurement and payment will be made in accordance with Section 726. When the contract does not include a pay item for bedding material, payment will be made in accordance with Subsection 104.02.

(d) Payment for cleaning existing pipes will be made at the contract unit price per linear foot (lin m).

(e) Payment for concrete collars will be made at the contract unit price per each.

Payment will be made under:

Item No.	Pay Item	Pay Unit
701-01	Cross Drain Pipe (Size & Type)	Linear Foot (Lin m)
701-02	Cross Drain Pipe Arch (Size & Type)	Linear Foot (Lin m)
701-03	Storm Drain Pipe (Size & Type)	Linear Foot (Lin m)
701-04	Storm Drain Pipe Arch (Size & Type)	Linear Foot (Lin m)
701-05	Side Drain Pipe (Size)	Linear Foot (Lin m)
701-06	Side Drain Pipe Arch (Size)	Linear Foot (Lin m)
701-07	Yard Drain Pipe (Size)	Linear Foot (Lin m)
701-08	Relaying Pipe	Linear Foot (Lin m)
701-09	Fabricating Pipe Fittings	Each
701-10	Reinforced Concrete Pipe (Extension)	Linear Foot (Lin m)
701-11	Reinforced Concrete Pipe Arch (Extension)	Linear Foot (Lin m)
701-12	Corrugated Metal Pipe (Extension)	Linear Foot (Lin m)
701-13	Corrugated Metal Pipe Arch (Extension)	Linear Foot (Lin m)

**Supplemental Specifications (August 2008)**  
**Page 16 of 30**

701-14	Cleaning Existing Pipes	Linear Foot (Lin m)
701-15	Concrete Collar	Each
701-16	Plastic Pipe (Extension)	Linear Foot (Lin m)

**SECTION 704 – GUARD RAIL:**

Subsection 704.03 – General Construction Requirements (01/05), Pages 368 and 369.

Add the following to Heading (d), Guard Rail End Treatments.

All end treatments shall bear a label indicating the manufacturer and exact product name of the end treatment along with its assigned NCHRP 350 test level. This label shall resist weathering and shall be permanently affixed to the railing in such a way as to be readily visible.

**SECTION 706 – CONCRETE WALKS, DRIVES AND INCIDENTAL PAVING:**

All Subsections within Section 706 (04/08), Pages 375 – 377.

Delete Section 706, Concrete Walks, Drives and Incidental Paving and substitute the following.

**SECTION 706**  
**CONCRETE WALKS, DRIVES AND INCIDENTAL PAVING**

706.01 DESCRIPTION. This work consists of furnishing and constructing portland cement concrete walks, handicapped curb ramps, drives and incidental paving slabs in accordance with these specifications and in conformity with lines, grades and dimensions shown on the plans or established.

706.02 MATERIALS. Materials shall comply with the following Section or Subsections.

Portland Cement Concrete (Class M)	901
Joint Filler	1005.01(c)
Reinforcing Steel	1009.01
Curing Materials	1011.01

706.03 CONSTRUCTION REQUIREMENTS.

(a) Excavation: Excavation shall be made to required depth and width. The top of the subgrade shall be shaped and compacted to a firm, even surface conforming to the section shown on the plans. Unsuitable material shall be removed and disposed of in accordance with Subsection 202.02 and replaced with approved material at no direct pay.

(b) Forms: Forms shall be of wood or metal and shall extend the full depth of concrete. Forms shall be straight, clean and of sufficient strength to resist the pressure of concrete. Bracing of forms shall be such that forms remain in horizontal and vertical alignment until their removal.

Concrete may be placed by slip-form methods. Slip-formed concrete shall be placed with an approved machine designed to spread, vibrate, consolidate and finish concrete in one pass of the machine in such manner that minimum hand finishing is necessary. Sliding forms shall be

rigidly held together to prevent spreading of forms. After the passing of the side forms there shall be no noticeable slumping of concrete.

(c) Subgrade: The subgrade shall be thoroughly moistened immediately prior to placing concrete.

(d) Placing and Finishing: Concrete shall be placed on the subgrade, struck off to required thickness and tamped sufficiently to bring the mortar to the surface. The surface shall be finished with a wood float or steel trowel followed by brushing to a slightly rough finish. Joints and edges shall be rounded with an edging tool having a 1/4-inch (6 mm) radius.

(e) Joints:

(1) Expansion Joints: Expansion joints shall be filled with 1/2 inch (13 mm) thick preformed expansion joint filler. Expansion joints shall be installed at maximum 100-foot (30 m) intervals, and between intersecting paving and any fixed structure such as a building, bridge or curbing, and between intersecting paving and the handicapped curb ramps. Expansion joint material shall extend for the full width and depth of paving.

(2) Weakened Plane: Weakened planes shall be formed by a jointing tool or other acceptable means. Weakened planes shall extend into concrete for at least 1/4 of the depth and shall be approximately 1/8 inch (3 mm) wide.

a. Walks: Spacing of weakened planes for walks shall be equal to the width of walk.

b. Drives: A longitudinal weakened plane shall be formed along the centerline of drives more than 16 feet (5 m) wide, and transverse weakened planes shall be formed at not more than 16-foot (5 m) intervals.

c. Incidental Paving: Weakened planes for incidental paving shall be formed at intervals not exceeding 30 times the thickness of the concrete in length or width. Incidental paving poured adjacent to jointed concrete shall be jointed to match existing joints, with intermediate joints formed as necessary not to exceed the maximum joint spacing.

(3) Construction Joints: Construction joints shall be formed around manholes, utility poles, etc., extending into paving and 1/4 inch (6 mm) thick preformed expansion joint filler shall be installed in these joints.

(4) Tie-ins: Tie-ins of existing concrete shall be made by full depth sawing at no direct pay.

(f) Curing: Concrete shall be cured in accordance with Subsection 601.10.

(g) Detectable Warning Surface for Handicap Ramps and At-Grade Sidewalk Intersections: Sidewalks, when intersecting with roadways, shall be equipped with a detectable warning surface system consisting of raised truncated domes as a transition between the sidewalk and the street as required by the Americans with Disabilities Act, 28 CFR Part 36, ADA Standards for Accessible Design.

Detectable warnings (truncated domes) shall be installed on the ramp surface over the full width of the ramp throat for a distance of 24 inches (600 mm) in the direction of travel from the back of the curb. Detectable warnings (truncated domes) shall also be installed on at-grade sidewalks intersecting with roadways for a distance of 36 inches (900 mm) in the direction of travel from the end of the sidewalk. Truncated domes shall be laid out on a square grid in order to allow enough space for wheelchairs to roll between the domes.

**Supplemental Specifications (August 2008)**

**Page 18 of 30**

Light reflectance of the truncated domes and the underlying surface must meet the 70 percent contrast requirement of ADAAG.

706.04 MEASUREMENT. Quantities of concrete walks, drives and incidental paving slabs for payment will be the design quantities as specified on the plans and adjustments thereto. Design quantities will be adjusted if the engineer makes changes to adjust to field conditions, if design errors are proven or if design changes are made. Design areas are based on the horizontal dimensions shown on the plans. Excavation, backfill, reinforcing steel and joint materials will not be measured for payment.

Handicapped curb ramps, including the detectable surface warning system, will be measured per each.

Detectable surface warning systems for at-grade sidewalk intersection will not be measured for payment.

706.05 PAYMENT. Payment for concrete walks, drives and incidental paving will be made on a lot basis at the contract unit price per square yard (sq m), adjusted in accordance with the following provisions. Payment for each lot will be made in accordance with Table 901-6. Size, sampling, and testing of each concrete lot shall be in accordance with the Materials Sampling Manual.

Payment for handicapped curb ramps, including the detectable surface warning system, will be made by each and shall include, but not limited to, curb transitions, detectable warning system, gutter, landing and base.

Payment will be made under:

Item No.	Pay Item	Pay Unit
706-01	Concrete Walk (    inch (mm) Thick)	Square Yard (Sq m)
706-02	Concrete Drive (    inch (mm) Thick)	Square Yard (Sq m)
706-03	Incidental Concrete Paving (    inch (mm) Thick)	Square Yard (Sq m)
706-04	Handicapped Curb Ramps	Each

**SECTION 713 – TEMPORARY TRAFFIC CONTROL:**

Subsection 713.06 – Pavement Markings (08/06), Pages 400 – 403.

Delete Table 713-1, Temporary Pavement Markings and substitute the following.

**Table 713-1  
Temporary Pavement Markings<sup>1,2</sup>**

		Two-lane Highways	Undivided Multilane Highways	Divided Multilane Highways
S H O R T  T E R M	ADT<1500; or ADT>1500 and time<3 days	Lane lines 4-foot (1.2 m) tape on 40-foot (12 m) centers; with "Do Not Pass" and "Pass With Care" signs as required		
	ADT>1500; Time>3 days and<2 weeks	Lane lines 4-foot (1.2-m) tape on 40-foot (12-m) centers with no passing zone markings		
	All ADT's with time <2 weeks		Lane lines 4-foot (1.2m) tape on 40-foot (12 m) centers; double yellow centerline	Lane lines 4-foot (1.2 m) tape on 40-foot (12 m) centers
L O N G  T E R M	All ADT's with time >2 weeks	Standard lane lines, no-passing zone markings, legends and symbols and when pavement width is 22 feet (6.7 m) or greater, edge lines	Standard lane lines, centerlines, edge lines, and legends and symbols	Standard lane lines, centerlines, edge lines, and legends and symbols.

<sup>1</sup>No-passing zones shall be delineated as indicated whenever a project is open to traffic.

<sup>2</sup>On all Asphaltic Surface Treatments that are open to traffic and used as a final wearing course or as an interlayer, temporary pavement markings (tabs) on 20-foot (6 m) centers shall be used, in lieu of the 4-foot (1.2 m) tape, on 40-foot (12 m) centers.

**SECTION 729 – TRAFFIC SIGNS AND DEVICES:**

**Subsection 729.02 – Materials (04/08), Pages 456 and 457.**

Delete the contents of Heading (a), Sign and Marker Sheeting, and substitute the following.

(a) Sign and Marker Sheeting: Sheeting material for sign panels, delineators, barricades and other markers shall comply with Section 1015. All permanent signs shall meet the requirements of ASTM D 4956, Type X.

Subsection 729.04, Fabrication of Sign Panels and Markers (04/08), Pages 458 – 460.

Delete the third paragraph of Heading (c), Sheeting Application and substitute the following.

ASTM D 4956 Type X reflective sheeting shall be applied with an orientation determined by the engineer to obtain the optimum entrance angle performance. Fabricated vertical splices in ASTM D 4956 Type X reflective sheeting will be allowed only when the horizontal dimension of the sign face or attached shield is in excess of the maximum manufactured width of the sheeting. Fabricated vertical splices in ASTM D 4956 Type X reflective sheeting will also be allowed when the specified orientation will create excessive sheeting waste.

**SECTION 804 – DRIVEN PILES:**

Subsection 804.08 – Construction Requirements (04/07), Pages 548 – 554.

Delete the first sentence of Heading (a), Preboring and substitute the following.

Preboring by augering, wet-rotary drilling, or other methods used to facilitate pile driving will not be permitted unless specified in the plans or allowed by the engineer.

Delete the first sentence of Heading (b), Jetting and substitute the following.

Jetting will not be permitted unless allowed in the plans or allowed by the engineer.

**SECTION 901 – PORTLAND CEMENT CONCRETE:**

Subsection 901.06 – Quality Control of Concrete (08/06), Pages 726 – 731.

Add the following to the contents of Heading (b), Quality Control Tests.

The contractor shall be responsible for monitoring the components (cement, mineral and chemical admixtures, aggregates) in their mix to protect against any changes due to component variations. As component shipments arrive, the contractor shall verify slump, air content and set time by testing at ambient temperatures. The contractor shall make adjustments to the mix design to rectify any changes which would adversely affect constructability, concrete placement or the specifications. The contractor shall submit test results to the Department for review each day of paving. Testing to validate component consistency will be documented on the control logs. Conformance or variation in mix parameters (workability, set times, air content, etc.) shall be noted on the control logs. The contractor shall provide a copy of the proposed testing plan to the engineer for record. Acceptance of the plan does not relieve the contractor's responsibility for consistency.

Subsection 901.08 – Composition of Concrete (12/05), Pages 732 – 734.

Add the following to Heading (a).

The blended cement containing up to 50 percent of grade 100 or grade 120 ground granulated blast-furnace slag must be in compliance with Subsection 1001.04 for portland blast-furnace slag cement.

**SECTION 1001 – HYDRAULIC CEMENT:**

Subsection 1001.01 – Portland Cement (09/07). Page 749.

Delete the contents of this subsection and substitute the following.

1001.01 PORTLAND CEMENT. Portland cement shall be from an approved source listed in QPL 7 and shall comply with AASHTO M 85.

Alkali content calculated as sodium oxide equivalent shall not exceed 0.60 percent by weight for all types of cement.

**SECTION 1003 – AGGREGATES:**

Subsection 1003.02 – Aggregates for Portland Cement Concrete and Mortar (07/07).

Pages 763 – 766.

Delete the contents of Heading (c), Aggregates for Types B and D Pavements, and substitute the following.

(c) Aggregates for Types B and D Pavements: For the combined aggregates for the proposed portland cement concrete pavement mix, the percent retained based on the dry weight (mass) of the total aggregates shall meet the requirements of Table 1003-1A for the type of pavement specified in the plans. Additionally, the sum of the percents retained on any two adjacent sieves so designated in the table shall be at least 12 percent of the total combined aggregates. The maximum amounts by weight (mass) of deleterious materials for the total aggregate shall be the same as shown in Subsection 1003.02(b).

Table 1003-1A  
Aggregates for Types B and D Pavements

U.S. Sieve	Metric Sieve	Percent Retained of Total Combined Aggregates	
		Pavement Type	
		Type B	Type D
2 1/2 inch	63 mm	0	0
2 inch	50 mm	0	0-20
1 1/2 inch	37.5 mm	0-20	0-20
1 inch	25.0 mm	0-20	5-20
3/4 inch	19.0 mm	5-20	5-20
1/2 inch	12.5 mm	5-20	5-20
3/8 inch	9.5 mm	5-20	5-20
No. 4	4.75 mm	5-20	5-20
No. 8	2.36 mm	5-20	5-20
No. 16	1.18 mm	5-20	5-20
No. 30	600 μm	5-20	5-20
No. 50	300 μm	0-20	0-20
No. 100	150 μm	0-20	0-20
No. 200	75 μm	0-5	0-5

Note: For the sieves in the shaded areas, the sum of any two adjacent sieves shall be a minimum of 12 percent of the total combined aggregates.

Each type of aggregate to be used in the proposed mixture shall be sampled and tested individually. The percent of total combined aggregates retained shall be determined mathematically based on the proportions of the combined aggregate blend. All gradation calculations shall be based on percent of dry weight (mass).

**SECTION 1005 – JOINT MATERIALS FOR PAVEMENTS AND STRUCTURES:**

Subsection 1005.04 – Combination Joint Former/Sealer (11/05), Pages 782 and 783.

Delete Heading (a) and substitute the following.

(a) Description: This joint former/sealer is intended for use in simultaneously forming and sealing a weakened plane in portland cement concrete pavements.

The material shall consist of an elastomeric strip permanently bonded either mechanically or chemically at the top of each of two rigid plastic side frames and covered with a removable plastic top cap. Side frames shall be of such configuration that when the sealer is inserted into plastic concrete and vibrated, a permanent bond forms between side frames and concrete.

Delete Heading (b)(1) and substitute the following.

(1) Elastomer: The elastomer strip portion of the material shall be manufactured from vulcanized elastomeric compound using polymerized chloroprene or thermoplastic vulcanizate as the base polymer, and shall comply with the following requirements:

<u>Property</u>	<u>ASTM Test Method</u>	<u>Requirements</u>	
		<u>Polymerized Chloroprene</u>	<u>Thermoplastic Vulcanizate</u>
Tensile Strength, kPa, Min.	D 412	12,400	7,400
Elongation at Break, % Min.	D 412	200	400
Hardness, Shore A	D 2240	65 ± 10	65 ± 10
Properties after Aging, 70 h @ 100°C	D 573		
Tensile Strength, % Loss, Max.		20	20
Elongation, % loss, Max.		25	25
Hardness, pts. increase, Max.		10	10
Ozone Resistance, 20% strain or bentloop, 300 pphm in air, 70 h @ 40°C	D 1149	no cracks	no cracks
Oil Swell, IRM 903, 70 h @ 100°C, wt change, % Max.	D 471	45	75

Delete Headings (b)(2) and (b)(3) and substitute the following:

(2) Bond of Elastomer to Plastic: The force required to shear the elastomer from the plastic shall be a minimum of 5.0 pounds per linear inch (90 g/mm) of sealer when tested in accordance with DOTD TR 636.

(3) Bond of Plastic to Cement Mortar: This bond will be evaluated and shall meet the following requirements:

The force required to separate the cement mortar from the plastic shall be a minimum of 5.0 pounds per linear inch (90 g/mm) of sealer when tested in accordance with DOTD TR 636.

**SECTION 1006 – CONCRETE AND PLASTIC PIPE:**

Subsection 1006.09 – Plastic Yard Drain Pipe (06/07), Page 789.

Delete the contents of Subheading (a)(3), Ribbed Polyvinyl Chloride Pipe (RPVCP) and substitute the following.

Ribbed Polyvinyl Chloride Pipe (RPVCP): Ribbed Polyvinyl Chloride Pipe shall comply with ASTM F 794, Series 46 or ASTM F 949 (46 psi).

**SECTION 1013 – METALS:**

Subsection 1013.09 – Steel Piles (08/06) Page 822.

Delete the title and references to “Steel Piles” in this subsection and substitute “Steel H Piles”.

**SECTION 1015 – SIGNS AND PAVEMENT MARKINGS:**

Subsection 1015.04 – Sign Panels (05/07), Pages 832 and 833.

Delete the contents of Heading (a), Permanent Sign Panels and substitute the following.

**Supplemental Specifications (August 2008)**  
**Page 24 of 30**

(a) Permanent Sign Panels: Flat panels shall be aluminum sheets or plates complying with ASTM B 209, Alloy 6061-T6 or Alloy 5052-H38. Extruded aluminum panels shall comply with ASTM B 221 (ASTM B 221M), Alloy 6063-T6 and after fabrication, have a flatness equal to or less than 0.031 inch per foot of length and 0.004 inch per inch of width.

Subsection 1015.05 - Reflective Sheeting (04/08), Pages 833 – 838.

Delete the contents of this subsection and substitute the following.

1015.05 REFLECTIVE SHEETING.

(a) Permanent and Temporary Standard Sheeting: Reflective sheeting shall be one of the following standard types as specified on the plans and complying with ASTM D 4956 except as modified herein. Permanent warning, regulatory, guide and supplemental guide sign sheeting shall meet the requirements of ASTM D 4956 Type X. Reflective sheeting for temporary signs and devices shall meet the requirements of ASTM D 4956 Type III except as noted in Subsection 1015.05(f). Reflective sheeting shall be an approved product listed in QPL 13.

Type III - A high-intensity retroreflective sheeting that is typically encapsulated glass-bead retroreflective material.

Type VI - An elastomeric high-intensity retroreflective sheeting without adhesive. This sheeting is typically a vinyl microprismatic retroreflective material.

Type X - A super high-intensity retroreflective sheeting having highest retroreflectivity characteristics at medium distances. This sheeting is typically an unmetalized microprismatic retroreflective element material.

(b) Fluorescent Pink Retroreflective Sheeting: Signs for temporary control of traffic through incident management areas shall be Type VI fluorescent pink retroreflective sheeting and shall comply with the MUTCD. Temporary traffic control signs for incident management shall be placed to notify motorists of upcoming incidents on the roadway, and shall be removed from public view once the incident has been managed. Physical properties shall comply with ASTM D 4956. Photometric properties shall be as follows.

(1) Retroreflectivity: Minimum Coefficients of Retroreflection shall be as specified in Table 1015-1.

Table 1015-1  
Coefficients of Retroreflection for Fluorescent Pink Sheeting<sup>1</sup>

Observation Angle, degrees	Entrance Angle, degrees	Fluorescent Pink
0.2	-4	100
0.2	+30	40
0.5	-4	40
0.5	+30	15

<sup>1</sup>Minimum Coefficient of Retroreflection ( $R_A$ ) ( $\text{cd lx}^{-1}\text{m}^{-2}$ )

(2) Color and Daytime Luminance: Color Chromaticity Coordinates and Daytime Luminance Factors shall be as specified in Table 1015-2.

Table 1015-2  
Fluorescent Pink Color Specifications Limits (Daytime)

Chromaticity Coordinates (corner points) <sup>1</sup>								Luminance Factor, min.
1		2		3		4		Y%
x	y	x	y	x	y	x	y	25
0.450	0.270	0.590	0.350	0.644	0.290	0.536	0.230	

<sup>1</sup>The four pairs of chromaticity coordinates measured with CIE 2° Standard Observer and 45/0 (0/45) geometry and CIE D65 Standard Illuminant.

(c) Adhesive Classes: The adhesive required for retroreflective sheeting shall be Class 1 (pressure sensitive) as specified in ASTM D 4956.

(d) Accelerated Weathering: Reflective sheeting, when processed, applied and cleaned in accordance with the manufacturer's recommendations shall perform in accordance with the accelerated weathering standards in Table 1015-3.

Table 1015-3  
 Accelerated Weathering Standards<sup>1</sup>

Type	Retroreflectivity <sup>2</sup>				Colorfastness <sup>3</sup>	
	Orange/ Fluorescent Orange		All colors, except orange/Fluorescent Orange		Orange/ Fluorescent Orange	All colors, except orange/Fluorescent Orange
III	1 year	80 <sup>4</sup>	3 years	80 <sup>4</sup>	1 year	3 years
III (for drums)	1 year	80 <sup>4</sup>	1 year	80 <sup>4</sup>	1 year	1 year
VI	1/2 year	50 <sup>5</sup>	1/2 year	50 <sup>5</sup>	1/2 year	1/2 year
X	1 year	80 <sup>6</sup>	3 years	80 <sup>6</sup>	1 year	3 years

<sup>1</sup>At an angle of 45° from the horizontal and facing south in accordance with ASTM G 7 at an approved test facility in Louisiana or South Florida.

<sup>2</sup>Percent retained retroreflectivity of referenced table after the outdoor test exposure time specified.

<sup>3</sup>Colors shall conform to the color specification limits of ASTM D 4956 after the outdoor test exposure time specified.

<sup>4</sup>ASTM D 4956, Table 8.

<sup>5</sup>ASTM D 4956, Table 13.

<sup>6</sup>ASTM D 4956, Table 4.

(e) Expected Sign Life Data and Performance: The sheeting manufacturer shall supply expected retroreflectivity service life curves for each of the following sign sheeting colors: white, green, blue, brown, red, and yellow. The service life curves shall be plots of the 95 percent expected life plotted on an x-y graph with life years on the x-axis and retroreflectivity on the y-axis. The expected life shall account for worst case installations, equivalent to an installation in South Louisiana with the sign facing to the South. The sheeting manufacturer shall also supply a table of expected life values taken from the service life curves for Revision Number 2 to the 2003 Edition of the MUTCD minimum reflectivity requirements published in the Federal Register on December 21, 2007. Reflective sheeting for signs, when processed, applied and cleaned in accordance with the manufacturer's recommendations shall perform outdoors in accordance with the performance standards in Table 1015-4.

Table 1015-4  
 Reflective Sheeting Performance Standards

Type	Retroreflectivity <sup>1</sup> -- Durability <sup>2</sup>				Colorfastness <sup>3</sup>
	Orange/ Fluorescent Orange		All colors, except orange/Fluorescent Orange		
III	3 years	80 <sup>4</sup>	10 years	80 <sup>4</sup>	3 years
X	3 years	80 <sup>5</sup>	7years	80 <sup>5</sup>	3 years

<sup>1</sup>Percent retained retroreflectivity of referenced table after installation and the field exposure time specified.

<sup>2</sup>All sheeting shall maintain its structural integrity, adhesion and functionality after installation and the field exposure time specified.

<sup>3</sup>All colors shall conform to the color specification limits of ASTM D 4956 after installation and the field exposure time specified.

<sup>4</sup>ASTM D4956, Table 8.

<sup>5</sup>ASTM D 4956, Table 4.

(f) Temporary Signs, Barricades, Channelizing Devices, Drums and Cones: Reflective sheeting for temporary signs, barricades and channelizing devices, shall meet the requirements of ASTM D 4956, Type III except that temporary warning construction signs used on the mainline of freeways and expressways shall be fluorescent orange and meet the requirements of ASTM D 4956, Type X.

Reflective sheeting for vertical panels shall meet the requirements of ASTM D 4956, Type III.

Reflective sheeting for drums shall be a minimum of 6 inches (150 mm) wide and shall meet the requirements of ASTM D 4956, Type III, and the Supplementary Requirement S2 for Reboundable Sheeting as specified in ASTM D 4956. Reflective sheeting for traffic cone collars shall meet the requirements of ASTM D 4956, Type III or Type VI.

(g) Sheeting Guaranty. The contractor shall provide the Department with a guaranty from the sheeting manufacturer stating that if the retroreflective sheeting fails to comply with the performance requirements of this subsection, the sheeting manufacturer shall do the following:

Table 1015-5  
 Manufacturer's Guaranty-Reflective Sheeting

Type	Manufacturer shall restore the sign face in its field location to its original effectiveness at no cost to the Department if failure occurs during the time period <sup>1</sup> as specified below		Manufacturer shall replace the sheeting required to restore the sign face to its original effectiveness at no cost to the Department if failure occurs during the time period <sup>1</sup> as specified below
	Orange/Fluorescent Orange	All colors, except orange/Fluorescent Orange	All colors, except orange/Fluorescent Orange
III	<3 years	<7 years	7-10 years
X	<3 years	<5 years	5-7 years

<sup>1</sup> From the date of sign installation.

Replacement sheeting for sign faces, material, and labor shall carry the unexpired guaranty of the sheeting for which it replaces.

The sign fabricator shall be responsible for dating all signs with the month and year of fabrication at the time of sign fabrication. This date shall constitute the start of the guaranty obligation period.

Subsection 1015.11 - Preformed Plastic Pavement Marking Tape (06/07), Pages 842 – 844.

Delete the contents of this subsection and substitute the following.

1015.11 PREFORMED PLASTIC PAVEMENT MARKING TAPE.

(a) General: Preformed plastic pavement marking tape shall be approved products listed on QPL 64 and shall comply with ASTM D4505 Retroreflectivity Level I or Level II, or DOTD Intersection Grade (as specified below), except as modified herein. The marking tape shall be Class 2 or 3. The type and color shall be in accordance with the plans and the MUTCD.

(b) Thickness: All preformed plastic pavement marking tape shall have a minimum overall thickness of 0.060 inches (1.5 mm) when tested without the adhesive.

(c) Friction Resistance: The surface of the Retroreflectivity Level II preformed plastic pavement marking tape shall provide a minimum frictional resistance value of 35 British Polish Number (BPN) when tested according to ASTM E303. The surface of the Retroreflectivity Level I and DOTD Intersection Grade preformed plastic pavement marking tape shall provide a minimum frictional resistance value of 45 BPN when tested according to ASTM E303. Values for the Retroreflectivity Level I material with a raised surface pattern as defined in ASTM D4505 are calculated by averaging values taken at downweb and at a 45 degrees angle from downweb.

(d) Retroreflective Requirements: The preformed plastic pavement marking tape shall have the minimum initial specific luminance values shown in Table 1015-7 when measured in accordance with ASTM D 4061.

Table 1015-7  
Specific Luminance of Preformed Plastic Tape

Type	Observation Angle, degrees	Entrance Angle, degrees	Specific Luminance (mcd/sq m/lx)	
			White	Yellow
Retroreflectivity Level I	1.05	88.76	500	300
DOTD Intersection Grade	1.05	88.76	375	250
Retroreflectivity Level II	1.05	88.76	250	175

(e) Durability Requirements: The DOTD Intersection Grade preformed plastic pavement marking tape shall show no appreciable fading, lifting or shrinkage for a least 12 months after placement when placed in accordance with the manufacturer's recommended procedures on pavement surfaces having a daily traffic count not to exceed 15,000 ADT per lane.

The Retroreflectivity Level I preformed plastic pavement marking tape shall show no appreciable fading, lifting or shrinkage for a least 4 years after placement for longitudinal lines and at least 2 years after placement for symbols and legends.

The Retroreflectivity Level I preformed plastic pavement marking tape shall also retain the following reflectance values for the time period detailed in Table 1015-8.

Table 1015-8  
Retained Specific Luminance for Retroreflectivity Level I  
Preformed Plastic Pavement Marking Tape

Time	Observation Angle, degrees	Entrance Angle, degrees	Specific Luminance (mcd/sq m/lx)	
			White	Yellow
1 year	1.05	88.76	400	240
4 years (2 years for symbols and legend)	1.05	88.76	100	100

(f) Plastic Pavement Marking Tape Guaranty (DOTD Intersection Grade and Retroreflectivity Level I): If the plastic pavement marking tape fails to comply with the performance and durability requirements of this subsection within 12 months for DOTD Intersection Grade and 4 years for Retroreflectivity Level I, the manufacturer shall replace the plastic pavement marking material at no cost to the Department.

**SECTION 1020 – TRAFFIC SIGNALS:**

Subsection 1020.01 – Traffic Signal Heads (06/07), Pages 873 – 884.

Delete the contents of Heading (a), General Requirements and substitute the following.

**Supplemental Specifications (August 2008)**  
**Page 30 of 30**

(a) General Requirements: Traffic signal sections, beacon sections and pedestrian signal sections shall be of the adjustable type. Materials and construction of each section shall be the same.

Signals shall be constructed for either 8 or 12-inch (200 mm or 300 mm) lens in accordance with the plans. Signal sections shall have three to five sections per face and beacon sections have only one section per face. Signal sections and associated brackets shall be finished inside and out with two coats of high grade dark olive green enamel, color number 14056 according to Federal Standard No. 595b with each coat independently baked. Visors shall be coated green on the outside and black on the inside. Edges shall be deburred and smooth with no sharp edges.

Subsection 1020.04 – Poles for Traffic Signal Systems (06/07), Pages 890 – 894.

Delete the sixth paragraph of Heading (a), Pedestal Support Signal Poles, and substitute the following.

Pedestals shall be finished with at least one coat of rustproofing primer, applied to a clean surface and one coat of dark olive green enamel, color number 14056 according to Federal Standard No. 595b.

**LOUISIANA  
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
SUPPLEMENTAL SPECIFICATIONS**

**FEMALE AND MINORITY PARTICIPATION IN CONSTRUCTION**

The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the director of OFCCP. Execution of the contract by the successful bidder and any subsequent subcontracts will be considered the contractor's and subcontractor's commitment to the EEO provisions contained in this notice.

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

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals for 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:

AREA	PARISH OR COUNTY	GOAL (%)
<b>FEMALE PARTICIPATION</b>		
-	All Covered Areas	6.9
<b>MINORITY PARTICIPATION (UNDER NEW ORLEANS PLAN)</b>		
-	* See Note Below	20 to 23
<b>MINORITY PARTICIPATION (NOT UNDER NEW ORLEANS PLAN)</b>		
1	Jefferson LA, Orleans LA, St. Bernard LA, St. Tammany LA	31.0
2	Assumption LA, Lafourche LA, Plaquemines LA, St. Charles LA, St. James LA, St. John the Baptist LA, Tangipahou LA, Terrebonne LA, Washington LA, Forrest MS, Lamar MS, Marion MS, Pearl River MS, Perry MS, Pike MS, Walthall MS	27.7
3	Ascension LA, East Baton Rouge LA, Livingston LA, West Baton Rouge, LA	26.1
4	Concordia LA, East Feliciana LA, Iberville, LA, Pointe Coupee LA, St. Helena LA, West Feliciana LA, Adams MS, Amite MS, Wilkinson, MS	30.4
5	Lafayette LA	20.6
6	Acadia LA, Evangeline LA, Iberia LA, St. Landry LA, St. Martin LA, St. Mary LA, Vermillion LA	24.1
7	Calcasieu LA	19.3
8	Allen LA, Beauregard LA, Cameron LA, Jefferson Davis LA, Vernon LA	17.8
9	Grant LA, Rapides LA	25.7
10	Avoyelles LA, Bienville LA, Bossier LA, Caddo LA, Claiborne LA, DeSoto LA, Natchitoches LA, Red River LA, Sabine LA, Webster LA, Winn LA	29.3
11	Ouachita LA	22.8
12	Caldwell LA, Catahoula LA, East Carroll LA, Franklin LA, Jackson LA, LaSalle LA, Lincoln LA, Madison LA, Morehouse LA, Richland LA, Tensas LA, Union LA, West Carroll LA,	27.9

\*These goals apply only to those contractors signatory to the New Orleans Plan and only with respect to those trades which have unions participating in said Plan. The New Orleans Plan Covered Area is as follows: The parishes of Orleans, Jefferson, St. Bernard, St. Tammany, St. Charles, St. John the Baptist, Plaquemines, Washington, Terrebonne, Tangipahoa (that area east of the Illinois Central Railroad), Livingston (that area southeast of the line from a point off the Livingston and Tangipahoa Parish line adjacent from New Orleans and Baton Rouge), St. James (that area southeast of a line drawn from the Town of Gramercy to the point of intersection of St. James, Lafourche and Assumption Parishes), and Lafourche.

---

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 is also subject to the goals for both its federally involved and non-federally involved construction.

The contractor's compliance with the Executive Order and the regulations in 41 CFR 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. 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 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 purpose of meeting the contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Regional Administrator of the Office of Federal Contract Compliance Programs (555 Griffin Square Building, Dallas, TX 75202) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and geographical area in which the contract is to be performed.

4. As used in this Notice and in the contract, the "covered area" is that area shown in the foregoing table in which the project is located.

---

The following Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) shall be included in, and shall be a part of, all solicitations for offers and bids on all federal and federally assisted construction contracts or subcontracts in excess of \$10,000. Execution of the contract by the successful bidder and any

subsequent subcontracts will be considered the contractor's and subcontractor's commitment to the EEO provisions contained in these Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246).

**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. If the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, he shall include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is required to comply with his obligations under the EEO clause, and to make 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 contractor 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.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p 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 OFCCP 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 will be based on his 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 2 or more women to each construction project. The contractor shall 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 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 therefor, along with whatever additional actions the contractor has 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 set 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 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 his 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 on-site supervisory personnel such as superintendent, 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 ny advertising in the news media, 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 1 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 workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR 60-3.
- l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, 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 non-segregated 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 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 its obligations under 7a through 7p 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 his 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 goal for minorities and a separate goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a 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 minority group of women is underutilized).

10. The contractor shall not use the goals 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 a 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 his obligations under these specifications, shall implement specific affirmative actions steps, at least as extensive as the 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 will not be required to maintain separate records.

15. Nothing herein shall be construed as a limitation on the application of other laws which establish different standards of compliance or on the application of requirements for 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).

16. In addition to the reporting requirements set forth elsewhere in this contract, the contractor and subcontractors holding subcontracts (not including material suppliers) in excess of \$10,000

01/83 OFCCP 41 CFR 60-4  
(Required FHWA Provisions)  
Page 8 of 8

shall submit for every month of July during which work is performed, employment data as contained under Form FHWA-1391 in accordance with instructions included thereon.

**LOUISIANA  
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
SUPPLEMENTAL SPECIFICATIONS**

**SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES**

1. General

a. Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Orders 11246 and 11375 are set forth in Required Contract Provisions (Form FHWA-1273) and these Supplemental Specifications which are imposed pursuant to Section 140 of Title 23, U.S.C., as established by Section 22 of the Federal Aid Highway Act of 1968. The requirements set forth herein shall constitute the specific affirmative action requirements for project activities under this contract and supplement the EEO requirements set forth in the Required Contract Provisions.

b. The contractor shall work with the Department and the Federal Government in carrying out EEO obligations and in their review of his activities under the contract.

c. The contractor and all his subcontractors holding subcontracts not including material suppliers, of \$10,000 or more, shall comply with the following minimum specific requirement activities of EEO. The EEO requirements of Executive Order 11246, as set forth in the Federal-Aid Policy Guide 23 CFR 230A, are applicable to material suppliers as well as contractors and subcontractors. The contractor shall include these requirements in every subcontract of \$10,000 or more with such modification of language as necessary to make them binding on the subcontractor.

2. EEO Policy

The contractor shall accept as his operating policy the following statement which is designed to further the provision of EEO to all persons without regard to their race, color, religion, sex or national origin, and to promote the full realization of EEO through a positive continuing program:

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

3. EEO Officer

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

4. Dissemination of Policy

a. 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, shall be made fully cognizant of and shall 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 shall be taken as a minimum:

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

(2) All new supervisory or personnel office employees shall be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's EEO obligations within 30 days after their reporting for duty with the contractor.

(3) All personnel who are engaged in direct recruitment for the project shall be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.

b. To make the contractor's EEO policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor shall take the following actions:

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

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

## 5. Recruitment

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

b. The contractor shall, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor shall, through his EEO Officer, identify sources of potential minority group employees and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

If the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

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

## 6. 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 or national origin. The following procedures shall be followed.

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

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

d. The contractor shall promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, shall attempt to resolve such complaints, and shall 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 shall inform every complainant of all of his avenues of appeal.

## 7. Training and Promotion

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

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 job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. If the Supplemental Specifications for Job Training are provided under this contract, this subparagraph will be superseded as indicated in Attachment 2.

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

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

## 8. Unions

If the contractor relies in whole or in part upon unions as a source of employees, the contractor shall use his best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent shall include the procedures set forth below:

a. The contractor shall use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor shall use best 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 or national origin.

c. The contractor shall 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 Department and shall set forth what efforts have been made to obtain such information.

d. If the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor shall, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) If the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these specifications, such contractor shall immediately notify the Department.

#### 9. Subcontracting

a. The contractor shall use his best efforts to solicit bids from and utilize minority group subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of minority-owned construction firms from the Department.

b. The contractor shall use his best efforts to ensure subcontractor compliance with their EEO obligations.

#### 10. Records and Reports

a. The contractor shall keep such records as necessary to determine compliance with the contractor's EEO obligations. The records kept by the contractor shall indicate:

(1) the number of minority and nonminority group members and women employed in each work classification on the project,

(2) the progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force),

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

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

b. All such records must be retained for a period of 3 years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Department and the Federal Highway Administration.

c. The contractor shall submit an annual report to the Department each July for the duration of the project, indicating the number of minority, women and nonminority group employees currently engaged in each work classification required by the contract work. This information shall be reported on Form PR-1391. If job training is required, the contractor shall furnish Form DOTD 03-37-0014.

LOUISIANA  
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS

	Page
I. General.....	1
II. Nondiscrimination .....	1
III. Nonsegregated Facilities.....	3
IV. Payment of Predetermined Minimum Wage.....	3
V. Statements and Payrolls .....	6
VI. Record of Materials, Supplies, and Labor.....	7
VII. Subletting or Assigning the Contract .....	7
VIII. Safety: Accident Prevention.....	7
IX. False Statements Concerning Highway Projects.....	7
X. Implementation of Clean Air Act and Federal Water Pollution Control Act.....	8
XI. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion.....	8
XII. Certification Regarding Use of Contract Funds for Lobbying .....	10

ATTACHMENTS

A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

I. GENERAL

1. 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.

2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and 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. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.

3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.

4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:

- Section I, paragraph 2;
- Section IV, paragraphs 1, 2, 3, 4, and 7;
- Section V, paragraphs 1 and 2a through 2g.

5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 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 DOL, or the contractor's employees or their representatives.

6. **Selection of Labor:** During the performance of this contract, the contractor shall not:

a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or

b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

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 and 41 CFR 60) 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 Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American 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 State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.

b. The contractor will accept as his 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, preapprenticeship, and/or on-the-job training."*

2. **EEO Officer:** The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO 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 minority group employees.

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 minority groups 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 minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group 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, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group 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 his 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 his avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

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. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.

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 minority group and women employees 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 his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. 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 best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best 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 SHA 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 minority and women 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 minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) 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 SHA.

**8. 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.

a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.

b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.

c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.

**9. 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 completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.

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

(1) The number 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;

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and

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

b. The contractors will submit an annual report to the SHA 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. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

### III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability.

b. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

### IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

#### 1. General:

a. All mechanics and laborers 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 (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter "the wage determination") which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) 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. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, 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 paragraphs 4 and 5 of this Section IV.

b. 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.

c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

## 2. Classification:

a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.

b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:

(1) the work to be performed by the additional classification requested is not performed by a classification in the wage determination;

(2) the additional classification is utilized in the area by the construction industry;

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

(4) with respect to helpers, when such a classification prevails in the area in which the work is performed.

c. If the contractor or subcontractors, as appropriate, the laborers and mechanics (if known) to be employed in the additional

classification 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 DOL, Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Wage and Hour 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.

d. In the event the contractor or subcontractors, as appropriate, the laborers or mechanics to be employed in the additional 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. Said 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.

e. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 2c or 2d of this Section IV shall be paid to all workers performing work in the additional classification from the first day on which work is performed in the classification.

## 3. Payment of Fringe Benefits:

a. 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 or subcontractors, as appropriate, shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly case equivalent thereof.

b. If the contractor or subcontractor, as appropriate, does not make payments to a trustee or other third person, he/she may consider as a 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.

## 4. Apprentices and Trainees (Programs of the U.S. DOL) and Helpers:

### a. Apprentices:

(1) 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 DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State

apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeyman-level employees 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 employee 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 listed in 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 or subcontractor 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-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

(3) 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 journeyman-level 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 for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(4) In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

**b. Trainees:**

(1) 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 DOL, Employment and Training Administration.

(2) The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. 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.

(3) Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level 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-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.

(4) In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor 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. Helpers:**

Helpers will be permitted to work on a project if the helper classification is specified and defined on the applicable wage determination or is approved pursuant to the conformance procedure set forth in Section IV.2. Any worker listed on a payroll at a helper wage rate, who is not a helper under an approved definition, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed.

**5. 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.

**6. Withholding:**

The SHA shall upon its own action or upon written request of an authorized representative of the DOL withhold, or cause to be withheld, from the contractor or subcontractor 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, as 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 SHA contracting officer 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.

**7. Overtime Requirements:**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than

one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

#### 8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her 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, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

#### 9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies 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 8 above.

### V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

#### 1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

#### 2. Payrolls and Payroll Records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.

b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof 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. In addition, for Appalachian contracts, the payroll records shall contain a notation indicating whether the employee does, or does not, normally reside in the labor area as defined in Attachment A, paragraph 1. Whenever the Secretary of Labor, pursuant to Section IV, paragraph

3b, has found 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 and each subcontractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, that the plan or program has been communicated in writing to the laborers or mechanics affected, and show the cost anticipated or the actual cost incurred in providing benefits. Contractors or subcontractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprentices and trainees, and ratios and wage rates prescribed in the applicable programs.

c. Each contractor and subcontractor shall furnish, each week in which any contract work is performed, to the SHA resident engineer a payroll of wages paid each of its employees (including apprentices, trainees, and helpers described in Section IV, paragraphs 4 and 5, and watchmen and guards engaged on work during the preceding weekly payroll period). The payroll submitted shall set out accurately and completely all of the information required to be maintained under paragraph 2b of this Section V. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal stock number 029-005-0014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

(1) that the payroll for the payroll period contains the information required to be maintained under paragraph 2b of this Section V and that such information is correct and complete;

(2) that such laborer or mechanic (including each apprentice, trainee, and helper) 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 the Regulations, 29 CFR 3;

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

e. 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 2d of this Section V.

f. The falsification of any of the above certifications may subject the contractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

g. The contractor or subcontractor shall make the records required under paragraph 2b of this Section V available for inspection, copying, or transcription by authorized representatives of the SHA, the FHWA, or the DOL, 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 SHA, the FHWA, the DOL, or all

may, after written notice to the contractor, sponsor, applicant, or owner, take such actions 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.

## **VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR**

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:

a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, "Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds," prior to the commencement of work under this contract.

b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.

c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative to materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.

2. At the prime contractor's option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

## **VII. SUBLETTING OR ASSIGNING THE CONTRACT**

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 State. 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).

a. "Its own organization" shall be construed to include only workers employed and paid directly 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, assignee, or agent of the prime contractor.

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 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 VII 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 SHA 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 SHA 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 SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

## **VIII. SAFETY: ACCIDENT PREVENTION**

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 SHA 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. 333).

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. 333).

## **IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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, the following notice 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:

**Notice to all Personnel engaged on Federal-Aid Highway Projects**

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 not more than \$10,000 or imprisoned not more than 5 years or both."*

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

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*, as amended by Pub.L. 92-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*, as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

**XI. CERTIFICATION REGARDING DEBARMENT, INELIGIBILITY AND VOLUNTARY EXCLUSION**

**1. Instructions for Certification - Primary Covered Transactions:** (Applicable to all Federal-aid contracts - 49 CFR 29)

a. By signing and submitting this proposal, the prospective primary 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 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 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 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.

d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary 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," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.

f. 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.

g. 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.

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 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 portion of the "Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs" (Nonprocurement List) which is compiled by the General Services Administration.

i. 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.

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.

\*\*\*\*\*

### **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Primary Covered Transactions**

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

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

b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgement 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 1b of this certification; and

d. Have not within a 3-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.

\*\*\*\*\*

**2. Instructions for Certification - Lower Tier Covered Transactions:** (Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

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

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.

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 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.

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  
Covered Transactions:**

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

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

\* \* \* \* \*

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

(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 his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**LOUISIANA**  
**DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**  
**REQUIRED CONTRACT PROVISIONS FOR**  
**DBE PARTICIPATION IN FEDERAL AID CONSTRUCTION CONTRACTS**  
**(DBE GOAL PROJECT)**

**A. AUTHORITY AND DIRECTIVE:** The Code of Federal Regulations, Title 49, Part 26 (49 CFR Part 26) as amended and the Louisiana Department of Transportation and Development's (DOTD) Disadvantaged Business Enterprise (DBE) Program are hereby made a part of and incorporated by this reference into this contract. Copies of these documents are available, upon request, from DOTD Compliance Programs Office, P. O. Box 94245, Baton Rouge, LA 70804-9245.

**B. POLICY:** It is the policy of the DOTD that it shall not discriminate on the basis of race, color, national origin, or sex in the award of any United States Department of Transportation (US DOT) financially assisted contracts or in the administration of its DBE program or the requirements of 49 CFR Part 26. The DOTD shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT assisted contracts. The DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification of failure to carry out the approved DBE program, the US DOT may impose sanctions as provided for under 49 CFR Part 26 and may in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C.3801 et seq.).

**C. DBE OBLIGATION:** The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US 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 DOTD deems appropriate.

The preceding policy and DBE obligation shall apply to this contract and shall be included in the requirements of any subcontract. Failure to carry out the requirements set forth therein shall constitute a breach of contract and, after notification by DOTD, may result in termination of the contract, a deduction from the contract funds due or to become due the contractor or other such remedy as DOTD deems appropriate. The contractor is encouraged to use the services offered by banks in the community which are owned and controlled by minorities or women when feasible and beneficial. The term DBE is inclusive of women business enterprises (WBE) and all obligations applicable to DBE shall apply to firms certified and listed as WBE.

**D. FAILURE TO COMPLY WITH DBE REQUIREMENTS:** All contractors and subcontractors are hereby advised that failure to carry out the requirements set forth above shall constitute a breach of contract and, after notification by DOTD may result in rejection of the bid; termination of the contract; a deduction from the contract funds due or to become due the contractor; or other such remedy as DOTD deems appropriate. Failure to comply with the DBE requirements shall include but not be limited to failure to meet the established goal and/or failure to submit documentation of good faith efforts; failure to exert a reasonable good faith effort (as determined by DOTD) to meet established goals; and failure to realize the DBE participation set forth on approved Form CS-6AAA and attachments. Failure to submit Form CS-6AAA and attachments and/or reasonable good faith efforts' documentation within the specified time requirements will result in the Department taking the actions specified in Heading G(6) below. The utilization of DBE is in addition to all other equal opportunity requirements of the contract. The contractor shall include the provisions in Sections B, C and D of these provisions in subcontracts so that such provisions will be binding upon each subcontractor, regular dealer, manufacturer, consultant, or service agency.

**E. ELIGIBILITY OF DBE:** The DOTD has included as part of the solicitation of bids a current list containing the names of firms that have been certified as eligible to participate as DBE on US DOT assisted contracts. This list is not an endorsement of the quality of performance of the firm but is simply an acknowledgment of the firm's

eligibility as a DBE. This list indicates the project numbers and letting date for which this list is effective. Only DBE listed on this list may be utilized to meet the established DBE goal for these projects.

**F. COUNTING DBE PARTICIPATION TOWARD DBE GOALS:** DBE participation toward attainment of the goal will be credited on the basis of total subcontract prices agreed to between the contractor and subcontractors for the contract items or portions of items being sublet as reflected on Form CS-6AAA and attachments, in accordance with the DOTD DBE Program, and the following criteria.

(1) Credit will only be given for use of DBE that are certified by the Louisiana Unified Certification Program. Certification of DBE by other agencies is not recognized.

(2) The total value of subcontracts awarded for construction and services to an eligible DBE is counted toward the DBE goal provided the DBE performs a commercially useful function. The contractor is responsible for ensuring that the goal is met using DBE that perform a commercially useful function.

The contractor shall operate in a manner consistent with the guidelines set forth in the DOTD DBE Program. A commercially useful function is performed when a DBE is responsible for the execution of a distinct element of work by actually managing, supervising, and performing the work in accordance with standard industry practices except when such practices are inconsistent with 49 CFR Part 26 as amended, and the DOTD DBE Program, and when the DBE receives due compensation as agreed upon for the work performed. To determine whether a DBE is performing a commercially useful function, the DOTD shall evaluate the work subcontracted in accordance with the DOTD DBE Program, industry practices and other relevant factors. When an arrangement between the contractor and the DBE represents standard industry practice, if such arrangement erodes the ownership, control or independence of the DBE, or fails to meet the commercially useful function requirement, the contractor will not receive credit toward the goal.

(3) A DBE prime contractor may count only the contract amount toward DBE participation for work he/she actually performs and for which he/she is paid. Any subcontract amounts awarded to certified DBE by a DBE prime will also be credited toward DBE participation provided the DBE subcontractor performs a commercially useful function.

(4) A contractor may count toward the DBE goal 100 percent of verified delivery fees paid to a DBE trucker. The DBE trucker must manage and supervise the trucking operations with its own employees and use equipment owned by the DBE trucker. No credit will be counted for the purchase or sale of material hauled unless the DBE trucker is also a DOTD certified DBE supplier. No credit will be counted unless the DBE trucker is an approved subcontractor.

(5) A contractor may count toward the DBE goal that portion of the dollar value with a joint venture equal to the percentage of the ownership and control of the DBE partner in the joint venture. Such crediting is subject to a favorable DOTD review of the joint venture agreement to be furnished by the apparent low bidder before award of the contract. The joint venture agreement shall include a detailed breakdown of the following:

- a. Contract responsibility of the DBE for specific items of work.
- b. Capital participation by the DBE.
- c. Specific equipment to be provided to the joint venture by the DBE.
- d. Specific responsibilities of the DBE in the control of the joint venture.
- e. Specific manpower and skills to be provided to the joint venture by the DBE.
- f. Percentage distribution to the DBE of the projected profit or loss incurred by the joint venture.

(6) A contractor may count toward the DBE goal only expenditures for materials and supplies obtained from DBE suppliers and manufacturers in accordance with the following:

- a. The DBE supplier assumes actual and contractual responsibility for the provision of materials and supplies.
- b. The contractor may count 100 percent of expenditures made to a DBE manufacturer provided the DBE manufacturer operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.
- c. The contractor may count 60 percent of the expenditures to DBE suppliers who are regular dealers but not manufacturers, provided the DBE supplier performs a commercially useful function in the supply process including buying the materials or supplies, maintaining an inventory, and selling materials regularly to the public. Dealers in bulk items such as steel, cement, aggregates and petroleum products are not required to maintain items in stock, but they must own or operate distribution equipment. The DBE supplier shall be certified as such by DOTD.
- d. A DBE may not assign or lease portions of its supply, manufactured product, or service agreement without the written approval of the DOTD.

(7) A contractor may count toward the DBE goal reasonable expenditures to DBE firms including fees and commissions charged for providing a bona fide service; fees charged for hauling materials unless the delivery service is provided by the manufacturer or regular dealer as defined above; and fees and commissions for providing any bonds or insurance specifically required for the performance of the contract.

(8) The contractor will not receive credit if the contractor makes direct payment to the material supplier. However, it may be permissible for a material supplier to invoice the contractor and DBE jointly and be paid by the contractor making remittance to the DBE firm and material supplier jointly. Prior approval by DOTD is required.

(9) The contractor will not receive credit toward the DBE goal for any subcontracting arrangement contrived to artificially inflate the DBE participation.

**G. AWARD DOCUMENTATION AND PROCEDURE:** This project has specific DBE goal requirements set forth in the Special Provision for DBE Participation in Federal Aid Construction Contracts. The bidder by signing this bid certifies that:

(1) The goal for DBE participation prescribed in the special provisions shall be met or exceeded and arrangements have been made with certified DBE or good faith efforts made to meet the goal will be demonstrated.

(2) Affirmative actions have been taken to seek out and consider DBE as potential subcontractors. Bidders shall contact DBE to solicit their interest, capability, and prices in sufficient time to allow them to respond effectively, and shall retain, on file, proper documentation to substantiate their good faith efforts.

(3) Form CS-6AAA and "Attachment to Form CS-6AAA" and, if necessary, documentation of good faith efforts shall be submitted within 10 business days following the opening of bids to the DOTD Compliance Programs Office. Submittals shall be personally delivered and date and time stamped into the DOTD Compliance Programs Office by the close of business, 10 business days after opening of bids; or mailed to the DOTD Compliance Programs Office by certified mail, return receipt requested and post marked by the 10th business day after the opening of bids. A business day is defined as a normal working day of DOTD.

Should a bidder protest or appeal any matter regarding the bidding or award of a contract in accordance with Subsection 102.13 of the 2006 Standard Specifications (Subsection 102.13 of the 2000 Louisiana Standard Specifications) after the scheduled time of bid opening, the Compliance Programs Section will immediately suspend the ten day requirement for submission of the CS-6AAA and Attachments until further notice and will notify all parties involved of the suspension. Once the protest has been resolved the

Compliance Programs Section will notify the low bidder and issue a date for submission of the CS-6AAA and Attachments.

All attachments to Form CS-6AAA shall include:

- a. The names of DBE subcontractors that will actually participate in meeting the contract goal; and
- b. A complete description of the work to be performed by the DBE including the specific items or portions of items of work, quantities, and unit price(s) of each item; and
- c. The total dollar value of each item that can be credited toward the contract goal; and
- d. Any assistance to be provided to the DBE; and
- e. The original signature of each DBE and the contractor attesting that negotiations are in progress and that it is the intention of the parties to enter into a subcontract within 60 calendar days from the time the contract is finalized between the contractor and DOTD.

It shall be the bidder's responsibility to ascertain the certification status of designated DBEs. An extension of time for submittal of Form CS-6AAA and Attachments will not be granted beyond the stated time. Questionable technical points will be cleared with the DOTD Compliance Programs Office within the time period allowed. If the documentation required is not provided in the time and manner specified, DOTD will take the actions specified in Heading (6) below.

(4) If the apparent low bidder is not able to meet the DBE goal, the DBE firms that can meet a portion of the goal shall be listed on the form CS-6AAA. Form CS-6AAA and attachments shall be completed and submitted in accordance with Heading (3) above 10 business days after opening of bids. Form CS-6AAA shall indicate the DBE participation which has been secured along with documentation of good faith efforts. The apparent low bidder shall document and submit justification stating why the goal could not be met and demonstrate the good faith efforts as shown in Section J.

The DOTD's evaluation of good faith efforts in the pre-award stage will focus only on efforts made prior to submittal of the bid. For consideration, good faith efforts shall include the requirements listed in these provisions as well as other data the contractor feels is relevant.

(5) Form CS-6AAA and attachments, and documentation of good faith efforts, when appropriate, will be evaluated by DOTD in the selection of the lowest responsible bidder. The information provided shall be accurate and complete. The apparent low bidder's proposed attainment of the DBE goal and/or demonstration of good faith efforts will be considered in the award of the contract.

(6) An apparent low bidder's failure, neglect, or refusal to submit Form CS-6AAA and attachments committing to meet or exceed the DBE goal and/or documentation of good faith efforts, shall constitute just cause for forfeiture of the proposal guarantee and the DOTD rejecting the bid, pursuing award to the next lowest bidder, or re-advertising the project. The original apparent low bidder will not be allowed to bid on the project should readvertisement occur.

The apparent low bidder shall forfeit the proposal guarantee unless the bidder can show that the reason for not meeting the requirements given in these DBE Provisions was beyond the bidder's control. The DOTD DBE Oversight Committee will review the bidder's reasons for not meeting these DBE Provisions and will decide if the reasons are sufficient to allow return of the proposal guarantee.

(7) The bidder has the right to appeal the DOTD's findings and rulings to the DOTD Chief Engineer. The bidder may present information to clarify the previously submitted documentation. The decision rendered by the DOTD Chief Engineer will be administratively final. There shall be no appeal to the US DOT. If the DOTD Chief Engineer does not rule in favor of the original apparent low bidder, the new apparent low bidder shall submit, in detail, its subsequent proposed DBE participation within 14 calendar days after notification.

- (8) Agreements between the bidder and the DBE, whereby the DBE agrees not to provide subcontracting quotations to other bidders, are prohibited.

## **H. POST AWARD COMPLIANCE**

- (1) If the contract is awarded on less than full DBE goal participation, such award will not relieve the contractor of the responsibility to continue exerting good faith efforts. The contractor shall submit documentation of good faith efforts with requests to sublet prior to approval of subcontracting work being performed on the project.
- (2) The contractor shall establish a program which will effectively promote increased participation by DBE in the performance of contracts and subcontracts. The contractor shall also designate and make known to the DOTD a liaison officer who will be responsible for the administration of the contractor's DBE program.
- (3) The contractor shall enter into subcontracts or written agreements with the DBE identified on Form CS-6AAA and attachments for the kind and amount of work specified. The subcontracting requirements of the contract will apply. The contractor shall submit copies of subcontracts or agreements with DBE to DOTD upon request.
- (4) The contractor shall keep each DBE informed of the construction progress schedule and allow each DBE adequate time to schedule work, stockpile materials, and otherwise prepare for the subcontract work.
- (5) At any point during the project when it appears that the scheduled amount of DBE participation may not be achieved, the contractor shall provide evidence demonstrating how the goal will be met.
- (6) If the contractor is unable to demonstrate to the DOTD's satisfaction that it failed to achieve the scheduled DBE participation due to reasons other than quantitative underruns or elimination of items contracted to DBE and that good faith efforts have been used to obtain the scheduled contract participation, the DOTD may withhold an amount equal to the difference between the DBE goal and the actual DBE participation achieved as damages.
- (7) When the DOTD has reason to believe the contractor, subcontractor, or DBE may not be operating in compliance with the terms of these DBE provisions, to include, but not be limited to the encouragement of fronting, brokering, or not providing a commercially useful function, the DOTD will conduct an investigation of such activities with the cooperation of the parties involved. If the DOTD finds that any person or entity is not in compliance, the DOTD will notify such person or entity in writing as to the specific instances or matters found to be in noncompliance.

At the option of the DOTD, the person or entity may be allowed a specified time to correct the deficiencies noted and to achieve compliance. In the event that the person or entity cannot achieve compliance, or fails or refuses to do so, the DOTD reserves the right to initiate administrative action against the contractor which may include but not be limited to terminating the contract; withholding a percentage of the contractor's next partial payment equal to the shortfall amount until corrective action is taken; or other action the DOTD deems appropriate. The contractor has the right to appeal the DOTD's finding and rulings to the DOTD Chief Engineer.

The contractor may present additional information to clarify that previously submitted. Any new information not included in the original submittal will not be used in the final determination. The decision rendered by the DOTD Chief Engineer will be administratively final.

- (8) To ensure that the obligations under subcontracts awarded to subcontractors are met, the DOTD will review the contractor's efforts to promptly pay subcontractors for work performed in accordance with the executed subcontracts. The contractor shall promptly pay subcontractors and suppliers, including DBE, their respective subcontract amount within 14 calendar days after the contractor receives payment from DOTD for the items satisfactorily performed by the subcontractors in accordance with Louisiana Revised Statute 9:2784. The contractor shall provide the DBE with a full accounting to include quantities paid and

deductions made from the DBE's partial payment at the time the check is delivered. Retainage may not be held by the contractor. Delay or postponement of payment to the subcontractor may be imposed by the contractor only when there is evidence that the subcontractor has failed to pay its labor force and suppliers for materials received and used on the project. Delay or postponement of payment must have written approval by the Project Engineer. Failure to promptly pay subcontractors or to release subcontractors' retainage shall constitute a breach of contract and after notification by the DOTD may result in (1) a deduction from the contract funds due or to become due the contractor, (2) disqualification of a contractor as non-responsive, or (3) any other such remedy under the contract as DOTD deems appropriate. All subcontracting agreements made by the contractor shall include the current payment to subcontractors provisions as incorporate in the contract. All disputes between contractors and subcontractors relating to payment of completed work or retainage shall be referred to the DBE Oversight Committee. Members of the DBE Oversight Committee are: the Deputy Chief Engineer,; the DOTD Compliance Programs Director; and a FHWA Division Representative.

(9) The contractor shall meet the requirements of Subsection 108.01 Subletting of Contract, and shall submit DOTD Forms OMF-1A, Request to Sublet and OMF-2A, Subcontractor's EEO Certification. These forms shall be approved by DOTD before any subcontract work is performed.

(10) DOTD reserves the right to withhold any partial payment from the contractor when it is determined that a DBE is not performing a commercially useful function or that achievement of the goal is in jeopardy. Payment may be withheld in the amount of the DBE goal that is in jeopardy until either the contractor submits to DOTD a revised plan for achieving the contract goal and the plan is approved, or the DBE goal amount in question has been met.

(11) The DOTD will monitor the contractor's DBE involvement during the contract, the level of effort by the contractor in meeting or exceeding the goal requirements in the contract, the contractor's attempts to do so, and the efforts in soliciting such involvement. If, at the completion of the project, the contractor has failed to meet the DBE goal and has not demonstrated good faith efforts or obtained a waiver or reduction of the goal, DOTD will withhold an amount equal to the difference between the DBE goal and the actual DBE participation achieved as damages.

## **I. SUBSTITUTIONS OF DBE FIRMS AFTER AWARD**

(1) The contractor shall conform to the scheduled amount of DBE participation.

(2) Contract items designated to be performed by the DBE on Form CS-6AAA and attachments shall be performed by the designated DBE or DOTD approved substitute. Substitutions of named DBE shall be approved in writing by the DOTD Compliance Programs Section. Substituted DBE shall not commence work until the contractor is able to demonstrate that the listed DBE is unable to perform because of default, overextension on other jobs, or other acceptable justification. It is not intended that a contractor's ability to negotiate a more advantageous contract with another subcontractor be considered a valid basis for change. Substitution of DBE will be allowed only when the DBE is unable to perform due to default, overextension on other jobs, or other similar justification. Evidence of good faith efforts exerted by the contractor shall be submitted to DOTD for approval. Pay items of work eliminated from the project will not diminish the contractor's DBE participation.

(3) Under no circumstances will a contractor perform work originally designated to be performed by a DBE without prior written approval from the DOTD Compliance Programs Section.

(4) When a listed DBE is unwilling or unable to perform the items of work specified in the Form CS-6AAA and attachments, the contractor shall immediately notify the DOTD Compliance Programs Section.

When a contractor's request to be relieved of the obligation to use the named DBE results in a DBE Goal shortfall, the contractor shall immediately take steps to obtain another certified DBE to perform an equal amount of allowable credit work or make documented good faith efforts to do so. The new DBE's name and designated work shall be submitted to the DOTD for approval using Form OMF-1A, Request to Sublet, prior to proceeding with the work.

If the contractor is unable to replace a defaulting DBE with another DBE for the applicable item, a good faith effort shall be made to subcontract other items to DBE for the purpose of meeting the goal. The DOTD Compliance Programs Section will determine if the contractor made an acceptable good faith effort in awarding work to DBE firms. Any disputes concerning good faith efforts will be referred to the DBE Oversight Committee. The DOTD Compliance Programs Section may allow a waiver or adjustment of the goal as may be appropriate, depending on individual project circumstances.

**J. GOOD FAITH EFFORTS:** Good faith efforts are required by the contractor when the DBE goals established for a contract are not met, or at anytime during the contract when achievement of the DBE goal is in jeopardy. It is the contractor's responsibility to provide sufficient evidence for DOTD to ascertain the efforts made. The contractor shall demonstrate good faith efforts to maximize participation by DBE prior to award and during the life of the contract. Good faith efforts include personal contacts, follow-ups and earnest negotiations with DBE. DOTD will consider, at a minimum, the following efforts as relevant, although this listing is not exclusive or exhaustive and other factors and types of efforts may be relevant:

(1) Efforts made to select portions of the work to be performed by DBE in order to increase the likelihood of achieving the stated goal. It is the contractor's responsibility to make a sufficient portion of the work available to subcontractors and suppliers and to select those portions of work or materials consistent with the availability of DBE subcontractors and suppliers to assure meeting the goal for DBE participation. Selection of portions of work are required to at least equal the DBE goal in the contract.

(2) Written notification at least 14 calendar days prior to bid opening which solicits a reasonable number of DBE interested in participation in the contract as a subcontractor, regular dealer, manufacturer, or consultant for specific items of work. The contractor shall provide notice to a reasonable number of DBE that their interest in the contract is being solicited, with sufficient time to allow the DBE to participate effectively. The contractor shall seek DBE in the same geographic area from which it generally seeks subcontractors for a given project. If the contractor cannot meet the goal using DBE from the normal area, the contractor shall expand its search to a wider geographic area.

(3) Demonstrated efforts made to negotiate in good faith with interested DBE for specific items of work include:

a. The names, addresses and telephone numbers of DBE contacted. The dates of initial contact and whether initial solicitations of interest were followed-up personally, by mail, or by phone to determine the DBE interest.

b. A description of the information provided to DBE regarding the nature of the work, the plans and specifications and estimated quantities for portions of the work to be performed.

c. A statement of why additional agreements with DBE were not reached.

d. Documentation of each DBE contacted but rejected and the reasons for rejection. All bids and quotations received from DBE subcontractors whether verbal or written, and the contractor's efforts to negotiate a reasonable price shall be submitted. Rejecting a DBE's bid because it was not the lowest quotation received will not be satisfactory reason without an acceptable explanation of how it was determined to be unreasonable. A statement that the DBE's quotation was more than the contractor's bid price for an item or items will not be acceptable.

e. Copies of all bids and quotations received from DBE subcontractors and an explanation of why they were not used.

- f. Scheduling meetings to discuss proposed work or to walk the job-site with DBE.
- g. Informing DBE of any pre-bid conferences scheduled by the DOTD.
- h. Assisting DBE in obtaining bonding, insurance, or lines of credit required by the contractor.
- i. Evidence of DBE contacted but rejected as unqualified, accompanied by reason for rejection based on a thorough investigation of the DBEs capabilities.
- j. Any additional information not included above which would aid the DOTD in evaluation of the contractor's good faith efforts.

(4) The following are examples of actions that will not be accepted as justification by the contractor for failure to meet DBE contract goals:

- a. Failure to contract with a DBE solely because the DBE was unable to provide performance and/or payment bonds.
- b. Rejection of a DBE bid or quotation based on price alone.
- c. Failure to contract with a DBE because the DBE will not agree to perform items of work at the unit price bid.
- d. Failure to contract with a DBE because the contractor normally would perform all or most of the work in the contract.
- e. Rejection of a DBE as unqualified without sound reasons based on a thorough investigation of their capabilities.
- f. Failure to make more than mail solicitations.

**K. RECORD KEEPING REQUIREMENTS:** The contractor shall keep such records as are necessary for the DOTD to determine compliance with the DBE contract obligations. These records shall include the names of subcontractors, including DBE; copies of subcontracts; the type of work being performed; documentation such as canceled checks and paid invoices verifying payment for work, services, and procurement; and documentation of correspondence, verbal contacts, telephone calls, and other efforts to obtain services of DBE. When requested, the contractor shall submit all subcontracts and other financial transactions executed with DBE in such form, manner and content as prescribed by DOTD. The DOTD reserves the right to investigate, monitor and/or review actions, statements, and documents submitted by any contractor, subcontractor, or DBE.

**L. REPORTING REQUIREMENTS:** The contractor shall submit monthly reports on DBE involvement. At the conclusion of each estimate period the contractor shall submit the Form CP-1A, CONTRACTORS MONTHLY DBE PARTICIPATION, to the project engineer to verify actual payments to DBE for the previous month's reporting period. These reports will be required until all DBE subcontracting activity is complete or the DBE Goal has been achieved. Reports are required regardless of whether or not DBE activity has occurred in the monthly reporting period.

Upon completion of all DBE participation, the contractor shall submit the Form CP-2A, DBE FINAL REPORT, to the DOTD Compliance Programs Section with a copy to the project engineer detailing all DBE subcontract payments. When the actual amount paid to DBE is less than the award amount, a complete explanation of the difference is required. If the DBE goal is not met, documentation supporting good faith efforts shall be submitted. Failure to submit the required reports will result in the withholding of partial payments to the contractor until the reports are submitted. All payments due subcontractors which affect DBE goal attainment, including retainage, shall be paid by the contractor before the DOTD releases the payment/performance/retainage bond.

The DOTD reserves the right to conduct an audit of DBE participation prior to processing the final estimate and at any time during the work.

**M. APPLICABILITY OF PROVISIONS TO DBE BIDDERS:** These provisions are applicable to all bidders including DBE bidders. The DBE bidder is required to perform at least 50 percent of the work of the contract with its own work force in accordance with the terms of the contract, normal industry practices, and the DOTD DBE Program. If the DBE bidder sublets any portion of the contract, the DBE bidder shall comply with provisions regarding contractor and subcontractor relationships. A DBE prime contractor may count only the contract amount toward DBE participation for work that he/she actually performs and any amounts awarded to other certified DBE subcontractors that perform a commercially useful function.

**FORM CS-6AAA  
BIDDERS ASSURANCE OF DBE PARTICIPATION**

S.P.#	Contract Amount: \$
F.A.P.#	DBE Goal Percentage
Letting Date:	DBE Goal Dollar Value: \$

By its signature affixed hereto, the contractor assures the DOTD that one of the following situations exists (check only one box):

- The project goal will be met or exceeded.
- A portion of the project goal can be met, as indicated below. Good faith effort documentation is attached. DBE Goal Participation Amount \_\_\_\_\_ % \$ \_\_\_\_\_.

The contractor certifies that each firm listed is currently on the DBE list as maintained by DOTD and is certified for the items of work shown on the attachment(s). The contractor having assured that the goal for DBE participation prescribed in the special provisions will be met or exceeded, or that the portion of the DBE goal will be met or exceeded, attests that negotiations are in progress or complete and that a subcontract(s) will be executed with the firm(s) listed below within 60 calendar days after award of contract.

NAME OF DBE FIRM(S)	INTENDED SUBCONTRACT PRICE <sup>1</sup>

<sup>1</sup>For supplier list only the value of the subcontract that can be credited toward the DBE goal. This amount shall be equal to the amount shown for the supplier on the Attachment to Form CS-6AAA. Details are listed on the attachment(s) to Form CS-6AAA.

The contractor assessed the capability and availability of named firm(s) and sees no impediment to prevent award of subcontract(s) as described on the attachments.

The contractor shall evaluate the subcontract work or services actually performed by the DBE to ensure that a commercially useful function is being served in accordance with the Required Contract Provisions for DBE Participation in Federal Aid Construction Contracts. The contractor understands that no credit toward the DBE goal will be allowed for DBE that do not perform a commercially useful function. The contractor has a current copy of the DOTD DBE Program Implementation Guide which details the methods of operation that are acceptable on projects containing DBE goals. Copies of this guide may be obtained by calling the DOTD Compliance Programs Section at (225) 379-1382.

NAME OF CONTRACTOR	
AUTHORIZED SIGNATURE	
TYPED OR PRINTED NAME	
TITLE	
CONTRACTOR'S DBE LIAISON OFFICER (typed or printed name)	
PHONE NUMBER	
DATE	TAX ID#



**FORM CP-1A  
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
CONTRACTOR'S MONTHLY DBE PARTICIPATION**

STATE PROJECT NO. _____	CONTRACTOR: _____
FEDERAL AID PROJECT NO. _____	REPORT PERIOD: _____ TO _____
ESTIMATE NO. _____	

DOTD CERTIFIED DBE SUBCONTRACTOR OR SUPPLIER	ITEMS PERFORMED AND PAID THIS ESTIMATE PERIOD	AMOUNT PAID THIS MONTH <sup>1</sup>	TOTAL PAID TO DATE <sup>1</sup>

<sup>1</sup>For suppliers, list total amount paid and the 60 percent value counted toward the goal.

This report covers the previous estimate period and shall be submitted to the Project Engineer with the current month's pay estimate. Estimates will be withheld until required form is submitted. Questions should be directed to the DOTD Compliance Programs Section at (225) 379-1382.

**The Contractor certifies that the above amounts were paid to the listed DBEs and that documentation of these payments is available for inspection.**  
Project Engineer has reviewed this form. \_\_\_\_\_ (Signature of Project Engineer).

Authorized Signature
Typed or Printed Name
Title
Phone No.
Date

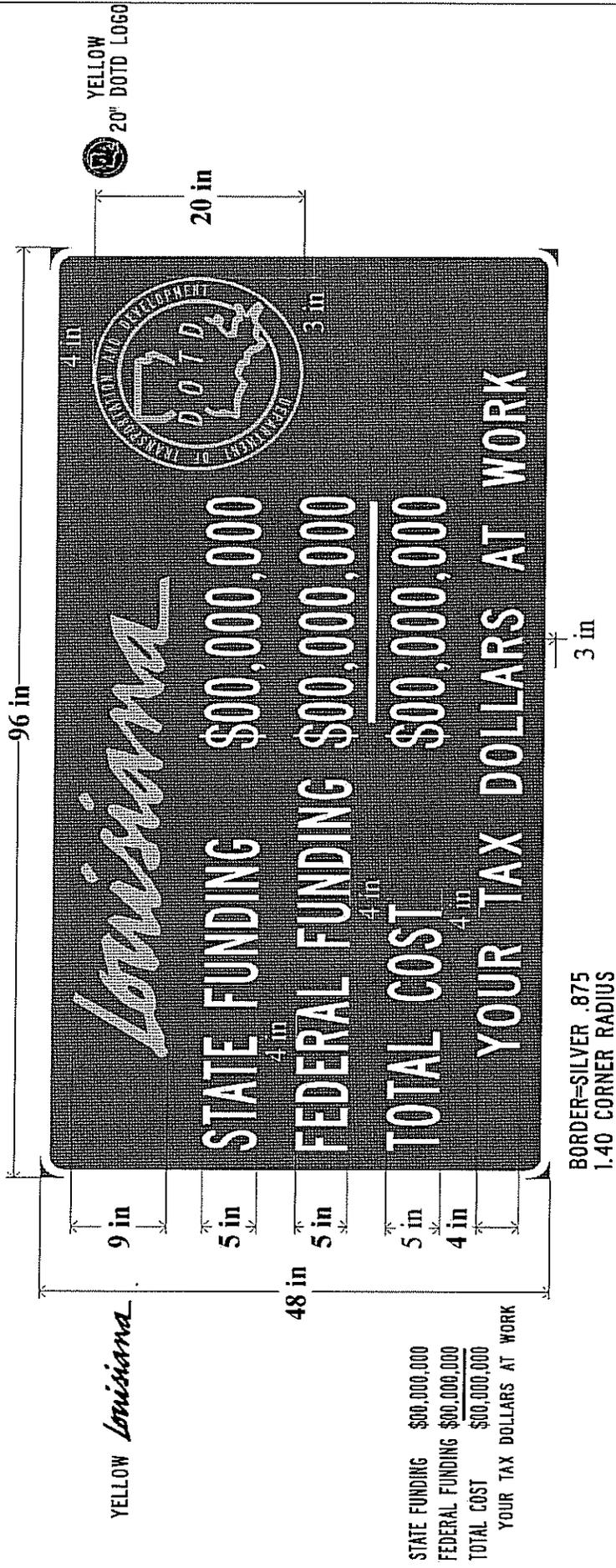
06/08



PROJECT SIGN  
 LA TAX DOLLARS AT WORK  
 (COLOR ARTWORK FURNISHED UPON REQUEST)

Silver Font - TRAFFICAD C

BLUE BACKGROUND  
 WITH SILVER LETTERS



General Decision Number: LA080003 04/17/2009 LA3

Superseded General Decision Number: LA20070005

State: Louisiana

Construction Type: Building

Counties: Allen, Assumption, Avoyelles, Beauregard, Bienville, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson Davis, La Salle, Lincoln, Madison, Morehouse, Natchitoches, Pointe Coupee, Red River, Richland, Sabine, St Helena, St Mary, Tangipahoa, Tensas, Union, Vermilion, Vernon, Washington, West Carroll, West Feliciana and Winn Counties in Louisiana.

BUILDING CONSTRUCTION PROJECTS (Does not include residential construction consisting of single family homes and apartments up to and including 4 stories)

Modification Number	Publication Date
0	02/08/2008
1	03/07/2008
2	04/04/2008
3	05/09/2008
4	06/13/2008
5	07/11/2008
6	09/05/2008
7	01/16/2009
8	02/13/2009
9	03/13/2009
10	03/20/2009
11	04/17/2009

ELEC0130-001 12/01/2008

ASSUMPTION and ST. MARY (Northeast of Atchafalaya River) PARISHES

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring and installation of fire alarms, security systems, telephones, computers, and temperature controls).....	\$ 25.00	8.33

ELEC0194-001 09/04/2008

BIENVILLE, CLAIBORNE, DE SOTO, NATCHITOCHEs (Northeast of the Red River), AND RED RIVER PARISHES

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring and installation of fire alarms, security systems, telephones, computers, and temperature controls).....	\$ 23.95	8.61

---

ELEC0446-001 03/01/2009

CALDWELL, EAST CARROLL, FRANKLIN, JACKSON, LINCOLN, MADISON, MOREHOUSE, RICHLAND, TENSAS, UNION AND WEST CARROLL PARISHES

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring and installation of fire alarms, security systems, telephones, computers, and temperature controls).....	\$ 19.65	8.18

---

ELEC0576-001 03/01/2009

AVOYELLES, CATAHOULA, CONCORDIA, EVANGELINE, GRANT, LA SALLE, NATCHITOCHE (Southwest of Red River), SABINE, VERNON AND WINN PARISHES

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring and installation of fire alarms, security systems, telephones, computers, and temperature controls).....	\$ 21.60	5.62

---

\* ELEC0861-001 04/01/2009

ALLEN, BEAUREGARD, CAMERON, IBERIA, JEFFERSON DAVIS, ST. MARY (Southwest of Atchafalaya River), AND VERMILION PARISHES

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring and installation of fire alarms, security systems, telephones, computers, and temperature controls).....	\$ 23.50	9.00

---

ELEC0995-001 01/01/2009

EAST FELICIANA, IBERVILLE, POINTE COUPEE, ST. HELENA, AND WEST FELICIANA PARISHES

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring and installation of fire alarms, security systems, telephones, computers, and temperature controls).....	\$ 21.87	7.67
-----		
ELEC1077-001 03/01/2009		

TANGIPAHOA AND WASHINGTON PARISHES

	Rates	Fringes
ELECTRICIAN (includes low voltage wiring).....	\$ 21.50	6.26
-----		
IRON0058-001 06/01/2008		

TANGIPAHOA (Southeastern Portion) AND WASHINGTON PARISHES

	Rates	Fringes
Ironworkers, Structural.....	\$ 19.40	6.82
-----		
IRON0591-001 06/01/2008		

BIENVILLE, CLAIBORNE, DESOTO, NATCHITOCHEs, RED RIVER, AND SABINE PARISHES

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 19.45	6.48
-----		
IRON0623-001 06/01/2008		

ASSUMPTION, AVOYELLES, CATAHOULA (Southern Tip Only), CONCORDIA (Southern Portion), EAST FELICIANA, IBERIA, IBERVILLE, POINTE COUPEE, ST. HELENA, ST. MARY, TANGIPAHOA (Northwestern Portion), AND WEST FELICIANA PARISHES

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 19.60	6.32
-----		
IRON0710-001 06/01/2008		

ALLEN, BEAUREGARD, CALDWELL, CAMERON, CATAHOULA, CONCORDIA (Northern Portion), EAST CARROLL, EVANGELINE, FRANKLIN, GRANT,

JACKSON, JEFFERSON DAVIS, LASALLE, LINCOLN, MADISON, MOREHOUSE,  
 RICHLAND, TENSAS, UNION, VERMILION, VERNON, WEST CARROLL, AND  
 WINN PARISHES

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 19.50	6.43

-----  
 \* SFLA0669-001 04/01/2009

	Rates	Fringes
SPRINKLER FITTER.....	\$ 25.77	11.80

-----  
 SHEE0214-001 07/01/2007

Washington Parish

	Rates	Fringes
SHEET METAL WORKER (includes HVAC Duct).....	\$ 22.86	8.72

-----  
 SHEE0214-004 08/01/2007

Allen, Assumption, Beauregard, Cameron, East Feliciana,  
 Evangeline, Iberia, Iberville, Jefferson Davis, Pointe Coupee,  
 St. Helena, St. Mary, Tangipahoa, Vermilion, and West Feliciana  
 Parishes

	Rates	Fringes
SHEET METAL WORKER (includes HVAC duct).....	\$ 23.36	8.315

-----  
 SHEE0361-001 01/01/2009

AVOYELLES, BIENVILLE, CALDWELL, CATAHOULA, CLAIBORNE,  
 CONCORDIA, DE SOTO, EAST CARROLL, FRANKLIN, GRANT, JACKSON, LA  
 SALLE, LINCOLN, MADISON, MOREHOUSE, NATCHITOCHEs, RED RIVER,  
 RICHLAND, SABINE, TENSAS, UNION, VERNON, WEST CARROLL AND WINN  
 PARISHES

	Rates	Fringes
Sheet Metal Worker (includes HVAC duct).....	\$ 24.18	9.10

-----  
 SULA2004-004 03/25/2004

	Rates	Fringes
Carpenters Drywall & Metal Stud		

Installation.....	\$ 14.05	0.00
Formbuilding/Formsetting....	\$ 13.31	0.00
All Other Work.....	\$ 12.70	1.21
LABORER		
Common.....	\$ 8.74	0.00
Grade Checker.....	\$ 10.00	0.00
PAINTER		
Brush, Roller, & Spray.....	\$ 10.00	0.00
PLUMBER (including HVAC pipe)....	\$ 16.90	0.00
Power Equipment Operator		
Backhoe/Excavator.....	\$ 13.50	0.00
Bulldozer.....	\$ 14.83	1.62
Forklift.....	\$ 14.29	0.00
Front End Loader.....	\$ 12.88	0.00
Roller.....	\$ 11.50	0.00
Trackhoe.....	\$ 14.63	1.62

-----

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)).

-----

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

-----

#### 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



Bobcat/Skid Loader.....	\$ 10.33
Broom Sweeper.....	\$ 8.70
Bulldozer.....	\$ 11.87
Concrete Saw.....	\$ 12.46
Crane.....	\$ 13.63
Front End Loader.....	\$ 9.62
Grade Checker.....	\$ 9.00
Mechanic.....	\$ 13.67
Milling/Cold Planing Machine including rotomill and CMI cutter.....	\$ 11.65
Motor Grader/Blade.....	\$ 11.23
MTV/Shuttlebuggy.....	\$ 10.14
Oiler.....	\$ 10.20
Post Driver including guardrails.....	\$ 12.21
Roller.....	\$ 9.68
Scraper.....	\$ 10.93
Stabilizer.....	\$ 9.85
Trackhoe.....	\$ 11.92
Tractor.....	\$ 9.49
Truck drivers	
Dump (all types).....	\$ 8.56
Flatbed.....	\$ 9.86
Lowboy.....	\$ 11.02
Pickup including paint truck	\$ 9.30
Tack.....	\$ 9.61
Trailer.....	\$ 10.00
Water.....	\$ 9.27

-----  
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)).  
-----

In the listing above, the "SU" designation means that rates  
listed under the identifier do not reflect collectively  
bargained wage and fringe benefit rates. Other designations  
indicate unions whose rates have been determined to be  
prevailing.  
-----

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

# SUPPLEMENTARY CONDITIONS

These Supplementary Conditions modify, change, delete from or add to the General Conditions of the Contract for Construction, AIA Document A201, 1997 Edition. Where any Article of the General Conditions is modified or any Paragraph, Subparagraph or Clause thereof is modified or deleted by these supplements, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

Articles, Paragraphs, Subparagraphs or Clauses modified or deleted have the same numerical designation as those occurring in the General Conditions.

## ARTICLE 1

### GENERAL PROVISIONS

#### 1.1 DEFINITIONS

##### 1.1.1 THE CONTRACT DOCUMENTS

In Subparagraph 1.1.1 delete the third sentence, and add the following sentence:

"The Contract Documents shall include the Bidding Documents as listed in the Instructions to Bidders and any modifications made thereto by addenda."

#### 1.6 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS [R.S.38:2317]

1.6.1 In the third sentence: delete the remainder of the sentence starting with "and unless otherwise indicated ..."

## ARTICLE 2

### OWNER

2.2.1 Delete this paragraph.

2.2.2 In the first sentence, delete: all before "the Owner shall secure"

2.4.1 In the first sentence, delete: all after "the owner" to the end  
In the second sentence, delete: all before "the owner may"

## ARTICLE 3

### CONTRACTOR

3.4.2 Delete this paragraph

#### 3.7 PERMITS, FEES AND NOTICES (R.S. 40:1724[A] )

Delete Subparagraph 3.7.1 and 3.7.2 and add the following Subparagraph 3.7.2

The Contractor shall comply with and give notices required by laws, rules, ordinances, regulations and lawful orders of state authorities bearing on performance of the Work.

### **3.8 ALLOWANCES**

Delete Subparagraph 3.8.1, 3.8.2 and 3.8.3 in their entirety and add the following new Subparagraph 3.8.1:

3.8.1 Allowances shall not be made on any of the Work.

### **3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES**

3.10.1: Add the following: For projects with a contract sum greater than \$1,000,000.00, the Contractor shall include with the schedule, for the Owner's and Architect's information, a network analysis to identify those tasks which are on the critical path, i.e. where any delay in the completion of these tasks will lengthen the project timescale, unless action is taken. A revised schedule shall be submitted with each Application and Certificate for Payment. No payment will be made until this schedule is received.

3.10.3: Add the following: If the work is not on schedule, as determined by the Architect, and the Contractor fails to take action to bring the work on schedule, then the Contractor shall be deemed in default under this Contract and the progress of the work shall be deemed unsatisfactory. Such default may be considered grounds for termination by the Owner for cause in accordance with 14.2.

Add: 3.10.4 Submittal by the contractor of a schedule or other documentation showing a completion date for his work prior to the completion date stated in the contract shall not impose any obligation or responsibility on the Owner or Architect for the earlier completion date.

## **ARTICLE 4**

### **ADMINISTRATION OF THE CONTRACT**

#### **4.1 ARCHITECT**

Delete Subparagraph 4.1.1 and substitute the following:

4.1.1 "The term Architect, when used in the Contract Documents, shall mean the prime Designer (Architect, Engineer or Landscape Architect), or his authorized representative, lawfully licensed to practice architecture, engineering or landscape architecture in the State of Louisiana, identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number."

#### **4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT**

4.2.10 Add the following sentence to the end of Subsection 4.2.10:

"There will be no restriction on the owner having a Representative."

#### **4.3. CLAIMS AND DISPUTES**

4.3.2 Add the following to the end of the paragraph:

A "Reservation of Rights" and similar stipulations shall not be recognized under this contract as having any effect. A party must make a claim as defined herein within the time limits provided.

Delete paragraph 4.3.7.2 and substitute the following:

If adverse weather conditions are the basis for a claim for additional time, the Contractor shall document that weather conditions had an adverse effect on the scheduled construction. An increase in the contract time due to weather shall not be cause for an increase in the contract sum.

4.3.7.3 Add the following Subparagraph:

The following are considered reasonably anticipated days of adverse weather on a monthly basis:

January	<u>11</u> days	May	<u>5</u> days	September	<u>4</u> days
February	<u>10</u> days	June	<u>6</u> days	October	<u>3</u> days
March	<u>8</u> days	July	<u>6</u> days	November	<u>5</u> days
April	<u>7</u> days	August	<u>5</u> days	December	<u>8</u> days

The Contractor shall ask for total adverse weather days, the Contractor's request shall be considered only for days over the allowable number of days stated above.

*Note: Contract is on a calendar day basis.*

4.4.1 In the second sentence, delete the words "mediation, arbitration or"

4.4.5 In the second sentence, delete all after "the parties"

4.4.6 Delete paragraph

4.4.8 In the first sentence, delete "by mediation or by arbitration."

#### **4.5 MEDIATION**

Delete Article 4.5

#### **4.6 ARBITRATION**

Delete Article 4.6

### **ARTICLE 5**

#### **SUBCONTRACTORS**

#### **5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

Delete Subparagraph 5.2.1, and substitute the following:

5.2.1 Unless otherwise required by the Contract Documents, the Contractor shall furnish at the Pre-Construction Conference, to the Owner and the Architect, in writing, the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the work. No Contractor payments shall be made until this information is received."

Delete Subparagraph 5.2.2 and substitute the following:

5.2.2 The Contractor shall be solely responsible for selection and performance of all subcontractors. The Contractor shall not be entitled to claims for additional time and/or an increase in the contract sum due to a problem with performance or non-performance of a subcontractor.

Delete Subparagraph 5.2.3 and 5.2.4 and add the following:

5.2.3 The contractor shall notify the owner when a subcontractor is to be changed and substituted with another subcontractor.

#### 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

Delete Subparagraph 5.4.1 and 5.4.2.

### ARTICLE 7

#### CHANGES IN THE WORK

##### 7.1 GENERAL

Add the following paragraph:

7.1.4 As part of the pre-construction conference submittals, the contractor is to submit the following prior to the commencement of work.

Fixed job site overhead cost itemized with documentation to support daily rates.  
Bond Premium Rate with supporting information from the General Contractor's carrier.  
Labor Burden by trade for both Subcontractors and General Contractor.  
Internal Rate Charges for all significant company owned equipment.

##### 7.2 CHANGE ORDERS

Delete Subparagraph clauses 7.2.1, and 7.2.2, and substitute the following paragraphs:

7.2.1 "A Change Order is a written order to the Contractor signed by the Owner and the Architect, issued after execution of the Contract, authorizing a change in the work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates his agreement therewith, including the adjustment in the Contract Sum or the Contract Time."

7.2.2 "Cost of the Work" for the purpose of Change Orders shall be costs required to be incurred in performance of the work and paid by the Contractor and Subcontractors which shall consist of:

1. Wages paid direct labor personnel, delineating a labor burden markup for applicable payroll taxes, worker's compensation insurance, unemployment compensation, and social security taxes.
2. Cost of all materials and supplies, including the identification of each item and its cost.
3. Identify each necessary piece of machinery and equipment and its individual cost.
4. Other documented direct costs.

Credit will not be required for overhead and profit.

7.2.3 "Overhead and profit" The Contractor and Subcontractor shall be due job-site and home office fixed overhead and profits on the Cost of the Work, but shall not exceed a total of 25% of the direct cost of any portion of work:

The credit to the Owner resulting from a change in the work shall be the sum of those items above, except credit will not be required for overhead and profit. Where a change results in both credits to the Owner and extras to the Contractor for related items, overhead and profit will only be computed on the net extra cost to the Contractor.

7.2.4 The cost to the Owner resulting from a change in the work shall be the sum of:  
"Cost of the Work" ( as defined at 7.2.2) and "Overhead and profit" (as defined at 7.2.4), and shall be computed as follows:

7.2.4.1 When all of the work is General Contract work; 15% markup on the Cost of the Work.

7.2.4.2 When the work is all Subcontract work; 15% markup on the Cost of the Work for Subcontractor's Overhead and Profit, plus 10% markup on the Cost of the Work, not including the Subcontractor's Overhead and Profit markup, for General Contractor's Overhead and Profit.

7.2.4.3 When the work is a combination of General Contract work and Subcontract work; that portion of the direct cost that is General Contract work shall be computed per 7.2.4.1 and that portion of the direct cost that is subcontract work shall be computed per 7.2.4.2

Bond premiums may be included, but after the markup is added to the cost of the work.

7.2.4.4 "Subcontract cost shall consist of the items in 7.2.2 above plus overhead and profit as defined in 7.2.4."

7.2.5 "Before a Change Order is prepared, the Contractor shall provide and deliver to the Architect the following information concerning the Cost of the Work, not subject to waiver, within a reasonable time after being notified to prepare said Change Order:

A detailed itemized list of labor, material and equipment costs for the General Contractor's work including quantities and unit costs for each item of labor, material and equipment.

An itemized list of labor, material and equipment costs for each Subcontractor's and/or Sub-Subcontractor's work including quantities and unit costs for each item of labor, material, and equipment.

7.2.6 "After a Change Order has been approved, no future requests for extensions of time or additional cost shall be considered for that Change Order."

7.2.7 The Contractor will be due extended fixed job-site overhead for time delays only when complete stoppage of work occurs causing a contract completion extension, and the Contractor is unable to mitigate financial damages through replacement work. The stoppage must be due to acts or omissions solely attributable to the Owner. In all cases the Contractor is to notify the Designer in writing as required by article 4.3.2. Reasonable proof may be required by the architect that alternate work could not be preformed. Reasonable proof may be required by the architect that the stoppage affected the Completion Date.

7.2.8 "Cost of the work whether General Contract cost or Subcontract cost shall not apply to the following:

Salaries or other compensation of the Contractor's personnel at the Contractor's principal office and branch offices.

Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the work.

Overhead and general expenses of any kind or the cost of any item not specifically and expressly included above in cost of the work.

Cost of supervision not specifically required by the Change Order.

7.2.9 "When applicable as provided by the Contract, the cost to Owner for Change Orders shall be determined by quantities and unit prices. The quantity of any item shall be as submitted by the Contractor and approved by the Architect. Unit prices shall cover cost of Material, Labor, Equipment, Overhead and Profit."

7.3.3 At the end of the first sentence add:

“, but not to exceed a specified amount.”

7.3.6 replace the five cost of work descriptions with the following four:

1. Wages paid direct labor personnel, with a labor burden markup for applicable payroll taxes, worker’s compensation insurance, unemployment compensation, and social security taxes.
2. Cost of all materials and supplies.
3. Cost of necessary machinery and equipment.
4. Other documented direct costs.

7.3.8 Delete the second and third sentences.

## **ARTICLE 8**

### **TIME**

#### **8.1 DEFINITIONS**

Add the following:

8.1.5 The Contract Time shall not be changed by the submission of a schedule that shows an early completion date unless specifically authorized by change order.

#### **8.2 PROGRESS AND COMPLETION**

Delete Subparagraph 8.2.1 and substitute the following:

"Time is of the essence and completion of the work must be within the Time for Completion stated in the Agreement, subject to such extensions as may be granted under Section 8.3. The Contractor agrees to commence work not later than fourteen (14) days after the transmittal date of Written Notice to Proceed from the Owner and to substantially complete the project within the time stated in the Contract. The Owner will suffer financial loss if the project is not substantially complete in the time set forth in the Contract Documents. The Contractor and the Contractor's Surety shall be liable for and shall pay to the Owner the sum stated in the Contract Documents as fixed, agreed and liquidated damages for each consecutive calendar day (Saturdays, Sundays, and holidays included) of delay until the work is substantially complete. The owner shall be entitled to the sum stated in the Contract Documents. Such Liquidated Damages shall be withheld by the owner from the amounts due the Contractor for progress payments

Delete Subparagraph 8.2.2.

#### **8.3 DELAYS AND EXTENSIONS OF TIME**

8.3.1 In the first sentence after the words "owner pending" delete the words "mediation and arbitration" and add the word "litigation" and delete the last word "determine" and add the following:

"recommend, subject to Owner's approval of Change Order. If the claim is not made within the limits of paragraph 4.3, all right for future claims for that month are waived."

## **ARTICLE 9**

### **PAYMENTS AND COMPLETION**

#### **9.2 SCHEDULE OF VALUES**

Delete Subparagraph 9.2.1 and substitute the following:

9.2.1 At the Pre-Construction Conference, the Contractor shall submit to the Owner and the Architect a Schedule of Values prepared as follows:

9.2.1.1 The attached Schedule of Values Format shall be used. If applicable, the cost of work for each section listed under each division, shall be given. The cost for each section shall include labor, materials, overhead and profit.

9.2.1.2 The Total of all items shall equal the Total Contract Sum. This schedule, when approved by the Architect, shall be used only as a basis for the Contractor's Applications for Payment."

#### **9.3 APPLICATIONS FOR PAYMENT**

Delete Subparagraph 9.3.1 and clause 9.3.1.1 and 9.3.1.2 and substitute the following:

9.3.1 "Monthly, the Contractor shall submit to the Architect an Application & Certificate for Payment on the AIA Document G702-1992, accompanied by AIA Document G703-1992, and supported by any additional data substantiating the Contractor's right to payment as the Owner or the Architect may require. Application for Payment shall be submitted on or about the first of each month for the value of labor and materials incorporated into the work and of materials, suitably stored, at the site as of the twenty-fifth day of the preceding month, less normal retainage as follows, per R.S.38:2248:

9.3.1.1 Projects with Contract price up to \$500,000.00 - 10% of the Contract price.

9.3.1.2 Projects with Contract price of \$500,000.00, or more - 5% of the Contract price.

9.3.1.3 No payment will be made until the revised schedule required by 3.10.1 is received.

The normal retainage shall not be due the Contractor until after substantial completion and expiration of the forty-five day lien period and submission to the Architect of a clear lien certificate and invoice for retainage."

Delete Subparagraph 9.3.2 and substitute the following:

9.3.2 "Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. Payments for materials or equipment stored on the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner

to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, including applicable insurance."

## 9.6 PROGRESS PAYMENTS

Delete Subparagraph 9.6.1 and substitute the following:

9.6.1 "After the Architect has issued a Certificate for Payment, the Owner shall make payment within twenty days except for projects funded fully or in part by a Federal reimbursement program. For such projects the Owner will make payment in a timely manner consistent with reimbursement."

9.6.2 After the end of the second sentence, add the following:

"R.S. 9:2784 (A) and (C) requires a Contractor or Subcontractor to make payment due to each Subcontractor and supplier within fourteen (14) consecutive days of the receipt of payment from the Owner. If not paid, a penalty in the amount of 1/2 of 1% per day is due, up to a maximum of 15%, from the expiration date until paid. The contractor or subcontractor, whichever is applicable, is solely responsible for payment of a penalty."

9.6.4 Add the following:

Pursuant to La. R.S. 38:2242, when the Owner receives any claim of nonpayment arising out of the Contract, the owner shall deduct 125% of such claim from the Contract Sum. The Contractor, or any interested party, may deposit security, in accordance with La. R.S. 38:2242.2, guaranteeing payment of the claim with the recorder of mortgages of the parish where the Work has been done. When the Owner receives original proof of such guarantee from the recorder of mortgages, the claim deduction will be added back to the Contract Sum.

## 9.7 FAILURE OF PAYMENT

Delete Subparagraph 9.7.1.

## 9.8 SUBSTANTIAL COMPLETION: Delete this section and substitute the following:

### 9.8 SUBSTANTIAL COMPLETION

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The Architect shall determine if the project is substantially complete in accordance with this Subparagraph.

9.8.2 When the Contractor considers that the Work is Substantially Complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work is substantially complete. A prerequisite to the work being accepted as substantially complete, is the Owner's receipt of the executed Roofing Contractor's and Roofing Manufacturer's guarantees, where roofing work is part of the Contract. Prior to inspection by the Architect, the Contractor shall notify the Architect that the project is ready for inspection by the State Fire Marshal's office. If the Architect's inspection discloses any item, whether or not

included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use, the Contractor shall, before acceptance of the work as Substantially Complete, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

9.8.4 When the Architect determines that the project is Substantially Complete, he shall prepare a "punch list" of exceptions and the dollar value related thereto. The monetary value assigned to this list will be the sum of the cost estimate for each particular item of work the Architect develops based on the mobilization, labor, material and equipment costs of correcting the item and shall be retained from the monies owed the contractor, above and beyond the standard lien retainage. The cost of these items shall be prepared in the same format as the schedule of values. At the end of the 45 day lien period payment shall be approved for all punch list items completed up to that time. After that payment, none of the remaining funds shall be due the contractor until all punch list items are completed and are accepted by the Architect. If the dollar value of the punch list exceeds the amount of funds, less the retainage amount, in the remaining balance of the Contract, then the Project shall not be accepted as substantially complete. If funds remaining are less than that required to complete the work, the Contractor shall pay the difference.

9.8.5 When the "punch list" is complete the Architect shall prepare a Recommendation of Acceptance" incorporating the punch list and submit it to the Owner. Upon approval of the Recommendation of Acceptance, the Owner may issue a Notice of Acceptance of Building Contract which shall establish the Date of Substantial Completion. The Contractor will record the Notice of Acceptance with the Clerk of Court in the Parish in which the work has been performed. If the Notice of Acceptance has not been recorded seven (7) days after issuance, the owner may record the acceptance at the Contractor's expense.

9.8.6 Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work unless otherwise agreed to in writing by the Owner and Contractor. Unless otherwise agreed to in writing by the Owner and Contractor, security, maintenance, heat, utilities, damage to the Work not covered by the punch list and insurance shall become the Owner's responsibility on the Date of Substantial Completion.

9.8.7 If all punch list items have not been completed by the end of the forty-five (45) day lien period, through no fault of the Architect or Owner, the Owner may hold the Contractor in default. If the Owner finds the Contractor is in default, the Surety shall be notified. If within forty-five (45) days after notification, the Surety has not completed the punch list, through no fault of the Architect or Owner, the Owner may, at his option, contract to have the balance of the work completed and pay for such work with the unpaid funds remaining in the Contract sum. Finding the Contractor in default shall constitute a reason for disqualification of the Contractor from bidding on future state contracts. If the surety fails to complete the punch list within the stipulated time period, the Owner may not accept bonds submitted, in the future, by the surety.

## **9.9 Partial Occupancy or Use**

9.9.1 Delete paragraph and substitute the following:

"Partial Occupancy is that stage in the progress of the Work when a designated portion of the Work is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the designated portion of the Work for its intended use. The Owner may occupy or use any substantially completed portion of the Work so designated by separate agreement with the Contractor and authorized by public authorities having jurisdiction over the Work. Such occupancy or use may commence provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, if any, security,

maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers the designated portion substantially complete the Contractor shall prepare and submit a list to the Architect as provided under Subparagraph 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonable withheld."

## **9.10 FINAL COMPLETION AND FINAL PAYMENT**

9.10.1 After the first sentence, add the following:

If the Architect does not find the work acceptable under the Contract Documents, the Architect shall make one additional inspection; if the work is still not acceptable, the Architect, and each of the Architect's principal consultants, shall be paid \$150.00/hour for their time at the project site, for each additional inspection, to be withheld from the unpaid funds remaining in the Contract sum. The payment shall be made by the owner and deducted from the construction contract funds.

Add the following clause 9.10.6:

9.10.6 In response to Federal Arbitrage regulations: If such compliance has not been effected within 90 days of the date of acceptance, the contract shall be terminated and no further opportunity will be granted the Contractor and no further payments will be made on this contract.

## **ARTICLE 10**

### **PROTECTION OF PERSONS AND PROPERTY**

#### **10.2 SAFETY OF PERSONS AND PROPERTY**

10.2.2, In the first sentence, between the words "bearing on" and "safety", add the words "the health and",

#### **10.3 HAZARDOUS MATERIALS**

10.3.1 In the first sentence after "(PCB)" add "or lead"

10.3.2 After the first sentence, delete all after "Unless .."  
Add at the end "The Contract time shall be extended appropriately."

Delete Subparagraph 10.3.3

#### **10.6 EMERGENCIES**

Delete Subparagraph 10.6.1 and substitute the following:

10.6.1 "In an emergency affecting the safety of persons or property, the Contractor shall notify the Owner and Architect immediately of the emergency, simultaneously acting at his discretion to prevent damage, injury, or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 4.3 and Article 7."

## ARTICLE 11

### INSURANCE AND BONDS

Delete all of Paragraphs 11.1 and 11.2 and substitute the following:

#### INSURANCE REQUIREMENT FOR NEW CONSTRUCTION AND RENOVATIONS

#### 11.1 STANDARDIZED INSURANCE REQUIREMENTS FOR ALL STATE CONTRACTS

11.1.1 This paragraph not used.

11.1.2 All policies and certificates of insurance of the Contractor/Subcontractor shall contain the following clauses:

11.1.2.1 The Contractor/Subcontractor's insurer will have no right of recovery or subrogation against the Owner, it being the intention of the parties that the insurance policies so affected shall protect both parties and the primary coverage for any and all losses covered by the below described insurance.

11.1.2.2 The Owner shall be named as an additional insured as regards negligence by the contractor (ISO Forms CG 20 10, Current form approved for use in Louisiana).

11.1.2.3 The insurance companies issuing the policy or policies shall have no recourse against the Owner for payment of any premiums or for assessments under any form of policy.

11.1.2.4 Any and all deductibles in the below described insurance policies shall be assumed by and be at the sole risk of the Contractor or Subcontractor.

#### 11.1.3 INSURANCE:

The Contractor/Subcontractor, prior to commencing work, shall provide at his own expense, proof of the following insurance coverages required by the contract to the Owner in insurance companies authorized in the State of Louisiana. Insurance is to be placed with insurers with an A. M. Best's rating of no less than A-:VI. This rating requirement will be waived for the workers' compensation coverage.

Thirty days prior notice of cancellation shall be given to the Owner by registered mail, return receipt requested, on all of the required coverage provided to the Owner. All notices will name the Contractor/ Subcontractor and identify the contract number.

Insurance coverage specified in the GENERAL CONDITIONS (AIA Document A 201, 1997 Edition) to be provided by the Contractor, and any other insurance described below shall be furnished with the following minimum limits:

11.1.3.1 Workers' Compensation - Statutory - in compliance with the Compensation Law of the State. Exception: Employers liability to be \$1,000,000 when work is to be over water and involves maritime exposures.

11.1.3.2 Commercial General Liability Insurance with a combined single limit per occurrence for bodily injury and property damage. This insurance shall include coverage for bodily injury and property damage, and indicate on the Certificate of Insurance which of the seven (7) coverages required below are not included in the policy, if any:

1 Premises - Operations;

- 2 Broad Form Contractual Liability;
- 3 Products and Completed Operations;
- 4 Use of Contractors and Subcontractors;

- 5 Personal Injury;
- 6 Broad Form Property Damage;
- 7 Explosion, Collapse and Underground (XCU) Coverage.

*NOTE: On the certification of insurance, under the description of operations, the following wording is required: THE AGGREGATE LOSS LIMIT APPLIES TO EACH PROJECT, or a copy of ISO form CG2503 (Current form approved for use in Louisiana) shall be submitted.*

**COMBINED SINGLE LIMIT (CSL) - AMOUNT OF INSURANCE REQUIRED**

Type of Construction	Projects Under \$100,000	Projects \$100,001 - \$1,000,000	Projects Over \$1,000,000
----------------------	--------------------------	----------------------------------	---------------------------

**New Buildings:**

-Each Occurrence/ Minimum Limit	\$500,000	\$1,000,000	\$3,000,000
-Aggregate (Applicable to this Contract ONLY)	\$500,000	\$1,000,000	\$3,000,000

**Renovations:**      *The building(s) value for this Project is: \$ \_\_\_\_\_*

-Each Occurrence/ Minimum Limit	\$500,000*** (Depends On Building Value)	\$1,000,000*** (Depends On Building Value)	\$3,000,000*** (Depends On Building Value)
-Aggregate (Applicable to this Contract ONLY)	\$500,000*** (Depends On Building Value)	\$1,000,000*** (Depends On Building Value)	\$3,000,000*** (Depends On Building Value)

*\*\*\*While the minimum combined single limit of \$500,000 is required for all renovations, the value of a building shall be multiplied by 10% and insurance requirements will be increased at \$1,000,000 intervals and rounded to the nearest \$1,000,000. Example: Renovation on \$33,000,000 building would require \$3,000,000 minimum combined single limit of coverage. Maximum limit required is \$5,000,000.00 regardless of building value.*

11.1.3.3 Business Automobile Liability Insurance with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage, unless otherwise indicated. This insurance shall include for bodily injury and property damage the following coverages:

- 1 Owned automobiles;
- 2 Hired automobiles;
- 3 Non-owned automobiles.

11.1.3.4 An Umbrella Policy may be used to meet minimum requirements.

11.1.4 All property losses shall be made payable to and adjusted with the Owner.

11.1.5 All policies of insurance shall be approved by the contracting Owner prior to the inception of any work.

11.1.6 Other insurance required is as follows:

11.1.6.1 Owner's Protective Liability Insurance shall be furnished by the Contractor and naming the State of Louisiana as the Insured.

	Projects Under <u>\$100,000</u>	Projects \$100,001- <u>\$1,000,000</u>	Projects Over <u>\$1,000,000</u>
CSL - Each Occurrence	\$500,000	\$1,000,000	\$3,000,000

11.1.6.2 Asbestos Abatement Liability  
*(required when asbestos abatement is included in the work)*

The contractor or subcontractor who will be doing the asbestos abatement as outlined in this contract shall obtain and maintain such liability coverage for the asbestos abatement hazard and exposure with minimum limits of \$1,000,000 per occurrence for the duration of the project. The policy shall name the State of Louisiana, all State departments, agencies, boards and commissions as an additional insured for the project. The policy shall be written on an "occurrence" form without a sunset clause. Claims-made coverage is unacceptable. The insurance company shall have an A.M. Best rating of at least A-:VI or better.

11.1.7 If, at any time, any of the said policies shall be or become unsatisfactory to the Owner, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Contractor/Subcontractor shall promptly obtain a new policy, submit the same to the Owner for approval and submit a certificate thereof as hereinabove provided.

Upon failure of the Contractor/Subcontractor to furnish, deliver and maintain such insurance as above provided, this contract, at the election of the Owner, may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor/Subcontractor to take out and/or to maintain or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor/Subcontractor from any liability under the contract, nor shall the insurance requirements be construed to conflict with the obligations of the Contractor/Subcontractor concerning indemnification. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

11.1.8 RISKS AND INDEMNIFICATIONS ASSUMED BY THE CONTRACTOR Neither the acceptance of the completed work nor payment therefor shall release the Contractor/Subcontractor from his obligations from the insurance requirements or indemnification agreement.

11.1.8.1 Additional insurance may be required on an individual basis for extra hazardous contracts and specific service agreements.

If such additional insurance is required for a specific contract, that requirement will be described in the "Special Conditions" of the contract specifications.

11.1.8.2 If any of the Property and Casualty insurance requirements are not complied with at their renewal dates, payments to the Contractor/Subcontractor will be withheld until those

requirements have been met, or at the option of the Owner, the Owner may pay the Renewal Premium and withhold such payments from any monies due the Contractor/Subcontractor.

11.1.8.3 All property losses shall be made payable to and adjusted with the Owner.

11.1.8.4 All policies and certificates of insurance shall be approved by the contracting agency prior to the inception of any work.

11.1.8.5 If at any time any of the foregoing policies shall be or become unsatisfactory to the Owner, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Contractor/Subcontractor shall, upon notice to that effect from the Owner, promptly obtain a new policy, submit the same to the Owner for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Contractor/Subcontractor to furnish, deliver and maintain such insurance as above provided, this Contract, at the election of the Owner, may be forthwith declared suspended, discontinued or terminated. Failure of the Contractor/Subcontractor to take out and/or maintain or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor/Subcontractor from any liability under the Contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Contractor/Subcontractor concerning indemnification. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

#### 11.1.9 SUBCONTRACTORS

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates from each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

#### 11.1.10 CERTIFICATE OF INSURANCE

Contractor shall furnish the Owner with certificates of insurance affecting coverage required by this clause. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates of insurance must also contain the following in the "Description of Operations" section:

If the contractor is a General Contractor, then so state.

If the contractor is a specialty contractor, then so state and provide the list of specialties for which the contractor is insured.

The certificates are to be received and approved by the Owner before work commences. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

### 11.2 INSURANCE REQUIREMENTS FOR CONTRACTORS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the Contractor's bid.

#### 11.2.1 MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

11.2.1.1 Insurance Services Office Commercial General Liability coverage ("occurrence") form CG 0001. (Current form approved for use in Louisiana.) "Claims Made" form is unacceptable. The "occurrence form" shall not have a "sunset clause".

11.2.1.2 Insurance Services Office form number CA 0001 (Current form approved for use in Louisiana.) covering Automobile Liability. The policy shall provide coverage for owned, hired, and non-owned coverage. If an automobile is to be utilized in the execution of this contract, and the vendor/contractor does not own a vehicle, then proof of hired and non-owned coverage is sufficient.

11.2.1.3 Workers' Compensation insurance as required by the Labor Code of the State of Louisiana, including Employers Liability insurance.

#### 11.2.2 MINIMUM LIMITS OF INSURANCE

Contractor shall maintain limits no less than:

11.2.2.1 Commercial General Liability: \$500,000 combined single limit per occurrence for bodily injury, personal injury and property damage (or higher limits depending on size of contract.)

11.2.2.2 Automobile Liability: \$500,000 combined single limit per accident, for bodily injury and property damage (or higher limits depending on size of contract).

11.2.2.3 Workers Compensation and Employers Liability: Workers' Compensation limits as required by the Labor Code of the State of Louisiana and Employers Liability coverage. Exception: Employers liability limit is to be \$1,000,000 when work is to be over water and involves maritime exposure.

#### 11.2.3 DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the Owner. At the option of the Owner, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

#### 11.2.4 OTHER INSURANCE PROVISIONS

The policies are to contain, or be endorsed to contain, the following provisions:

##### 11.2.4.1 General Liability and Automobile Liability Coverages

11.2.4.1.1 The Owner, its officers, officials, employees, Boards and Commissions and volunteers are to be added as "additional insureds" as respects liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor, premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the Owner, its officers, officials, employees or volunteers.

It is understood that the business auto policy under "Who is an Insured" automatically provides liability coverage in favor of the State of Louisiana.

11.2.4.1.2 Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Owner, its officers, officials, employees, Boards and Commissions or volunteers.

11.2.4.1.3 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**11.2.4.2 Workers' Compensation and Employers' Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the Owner, its officers, officials, employees and volunteers for losses arising from work performed by the Contractor for the Owner.

**11.2.4.3 All Coverages**

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Owner.

**11.2.5 ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with an A.M. Best's rating of no less than A-:VI. This rating requirement will be waived for the workers' compensation coverage.

**11.2.6 VERIFICATION OF COVERAGE**

Contractor shall furnish the Owner with certificates of insurance effecting coverage required. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates of insurance must also contain the following in the "Description of Operations" section:

If the contractor is a General Contractor, then so state.

If the contractor is a specialty contractor, then so state and provide the list of specialties for which the contractor is insured.

The certificates are to be received and approved by the Owner before work commences. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

**11.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE**

Delete Subparagraphs 11.3.1, 11.3.2, & 11.3.3

**11.4 PROPERTY INSURANCE**

Delete all Subparagraphs 11.4.1 through 11.4.10 and substitute the following:

11.4.1 The General Contractor shall purchase and maintain property insurance upon the entire work included in the contract for an amount equal to the greater of the full-completed value or the amount of the construction contract including any amendments thereto . The general contractor's policy shall provide "ALL RISK" Builder's Risk insurance (extended to include the perils of wind, collapse, vandalism/malicious mischief, and theft, including theft of materials whether or not attached to any structure.) The "All Risk" Builder's Risk Insurance must also cover architects' and engineers' fees that may be necessary to provide plans and specifications and supervision of work for the repair and/or replacement of property damage caused by a covered peril not to exceed 10% of the cost of those repair and/or replacements.

Flood coverage shall be provided by the Contractor on the first floor and below for projects North of the Interstate Corridor beginning at the Texas - Louisiana border at Interstate 10 East to the Baton Rouge junction of Interstate 12, East to Slidell junction with Interstate 10 to the Louisiana - Mississippi border. Flood sub-limit shall equal an amount no lower than ten percent (10%) of the total contract cost per occurrence. Coverage for roofing projects shall **not** require flood coverage.

On projects South of this corridor, flood coverage shall be provided by the State of Louisiana, as the owner, through the National Flood Insurance Program (NFIP). The Contractor will be liable for the \$5,000 deductible on the NFIP policy from the Notice to Proceed date through the Notice of Final Acceptance date of the project.

A specialty contractor shall purchase and maintain property insurance upon the system to be installed for an amount equal to the greater of the full-completed value or the amount of the contract including any amendments thereto. The specialty contractor may provide an installation floater with the same coverage as the "ALL RISK" Builder's Risk insurance policy.

The policy must include the interest of the Owner, Contractor and Subcontractors as their interest may appear. The contractor has the right to purchase coverage or self-insure any exposures not required by the bid specifications, but shall be held liable for all losses, deductibles, self-insurance for coverages not required.

Policies insuring projects involving additions, alterations or repairs to existing buildings or structures must include an endorsement providing the following:

In the event of a disagreement regarding a loss covered by this policy which may also be covered by the State of Louisiana policy of self-insurance or any commercial property insurance policy purchased by the State of Louisiana, Office of Risk Management (ORM) covering in excess of the State of Louisiana, policy of self-insurance, this company agrees to follow the following procedure to establish coverage and/or the amount of loss:

Any party to a loss may make written demand for an appraisal of the matter in disagreement. Within 20 days of receipt of written demand, this company and either ORM or its commercial insurance company shall each select a competent and impartial appraiser and notify the other of the appraiser selected. The two appraisers will select a competent and impartial umpire. The appraisers will then identify the policy or policies under which the loss is insured and, if necessary, state separately the value of the property and the amount of the loss that must be borne by each policy. If the two appraisers fail to agree, they shall submit their differences to the umpire. A written decision by any two shall determine the policy or policies and the amount of the loss. Each insurance company (or ORM) agree that the decision of the appraisers and the umpire if involved, will be

binding and final and that neither party will resort to litigation. Each of the two parties shall pay its chosen appraiser and bear the cost of the umpire equally.

Add the following Subparagraph 11.5.3:

**11.5.3 RECORDATION OF CONTRACT AND BOND[38:2241A(2)]**

"The Owner shall record within thirty (30) days the Contract Between Owner and Contractor and Performance and Payment Bond with the Clerk of Court in the Parish in which the work is to be performed."

**ARTICLE 12**

**UNCOVERING AND CORRECTION OF WORK**

12.2.2.1 At the end of the paragraph add the following sentences: "If the Contractor fails to correct Work identified as defective and covered by warranties, the Owner may hold the Contractor in default. If the Owner finds the Contractor is in default, the Surety shall be notified. Finding the Contractor in default shall constitute a reason for disqualification of the Contractor from bidding on future state contracts.

**ARTICLE 13**

**MISCELLANEOUS PROVISIONS**

**13.2 SUCCESSORS AND ASSIGNS**

13.2.1 In the second sentence, Delete "Except as.....13.2.2"

Delete paragraph 13.2.2

Add the following clause 13.4.3.

13.4.3 The Nineteenth Judicial Court in and for the Parish of East Baton Rouge, State of Louisiana shall have sole jurisdiction and venue in any action brought under this contract.

**13.5 TESTS AND INSPECTIONS**

In Subparagraph 13.5.1 delete the second sentence and substitute the following:

"The Contractor shall make arrangements for such tests, inspections and approvals with the Testing Laboratory provided by the Owner, and the Owner shall bear all related costs of tests, inspections and approvals."

Delete the last sentence of Subparagraph 13.5.1.

**13.6 INTEREST**

Delete Paragraph 13.6.

**13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD**

Delete paragraph 13.7. (R.S.38:2189)

**ARTICLE 14**

**TERMINATION OR SUSPENSION OF THE CONTRACT**

**14.1 TERMINATION BY THE CONTRACTOR**

Delete clause 14.1.1.4.

**14.2 TERMINATION BY THE OWNER FOR CAUSE**

Add the following clause:

14.2.1.5 "Failure to complete the punch list within the lien period as provided in 9.8.2.3."

14.2.3 Add the following sentence:

"Termination by the Owner shall not suspend assessment of liquidated damages against the surety."

14.2.5 Add the following Subparagraph:

"If an agreed sum of liquidated damages has been established, termination by the Owner under this Article will not relieve the Contractor and/or surety of his obligations under the liquidated damages provisions and the Contractor and/or surety shall be liable to the Owner for per diem liquidated damages."

**ARTICLE 15**

Add the following as Article 15:

**EQUAL OPPORTUNITY**

- 15.1 The Contractor and all Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

15.2 The Contractor and all Subcontractors shall, in all solicitations or advertisement for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.



# AIA<sup>®</sup> Document A201<sup>™</sup> – 1997

## General Conditions of the Contract for Construction

**for the following PROJECT:**

*(Name and location or address):*

Rest Area Improvements  
I-20 at Mound  
Mound, Louisiana  
Madison Parish  
Dept. of Transportation and Development  
FAP No. 20-4(049)174  
State Project No. 695-06-0004

**THE OWNER:**

*(Name and address):*

Dept. of Transportation and Development  
Baton Rouge, Louisiana

**THE ARCHITECT:**

*(Name and address):*

CSRS, Inc.  
6767 Perkins Road, Suite 200  
Baton Rouge, LA 70808

**TABLE OF ARTICLES**

1	GENERAL PROVISIONS
2	OWNER
3	CONTRACTOR
4	ADMINISTRATION OF THE CONTRACT
5	SUBCONTRACTORS
6	CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
7	CHANGES IN THE WORK
8	TIME
9	PAYMENTS AND COMPLETION
10	PROTECTION OF PERSONS AND PROPERTY
11	INSURANCE AND BONDS
12	UNCOVERING AND CORRECTION OF WORK
13	MISCELLANEOUS PROVISIONS
14	TERMINATION OR SUSPENSION OF THE CONTRACT

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document has been approved and endorsed by The Associated General Contractors of America

## INDEX

(Numbers and Topics in Bold are Section Headings)

### **Acceptance of Nonconforming Work**

9.6.6, 9.9.3, 12.3

### **Acceptance of Work**

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3

### **Access to Work**

**3.16, 6.2.1, 12.1**

### **Accident Prevention**

4.2.3, 10

### **Acts and Omissions**

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 4.3.8, 4.4.1, 8.3.1, 9.5.1, 10.2.5, 13.4.2, 13.7, 14.1

### **Addenda**

1.1.1, 3.11

### **Additional Costs, Claims for**

4.3.4, 4.3.5, 4.3.6, 6.1.1, 10.3

### **Additional Inspections and Testing**

9.8.3, 12.2.1, 13.5

### **Additional Time, Claims for**

4.3.4, 4.3.7, 8.3.2

## **ADMINISTRATION OF THE CONTRACT**

3.1.3, 4, 9.4, 9.5

### **Advertisement or Invitation to Bid**

1.1.1

### **Aesthetic Effect**

4.2.13, 4.5.1

### **Allowances**

3.8

### **All-risk Insurance**

11.4.1.1

### **Applications for Payment**

4.2.5, 7.3.8, 9.2, 9.3, 9.4, 9.5.1, 9.6.3, 9.7.1, 9.8.5, 9.10, 11.1.3, 14.2.4, 14.4.3

### **Approvals**

2.4, 3.1.3, 3.5, 3.10.2, 3.12, 4.2.7, 9.3.2, 13.4.2, 13.5

### **Arbitration**

4.3.3, 4.4, 4.5.1, 4.5.2, 4.6, 8.3.1, 9.7.1, 11.4.9, 11.4.10

### **Architect**

4.1

### **Architect, Definition of**

4.1.1

### **Architect, Extent of Authority**

2.4, 3.12.7, 4.2, 4.3.6, 4.4, 5.2, 6.3, 7.1.2, 7.3.6, 7.4, 9.2, 9.3.1, 9.4, 9.5, 9.8.3, 9.10.1, 9.10.3, 12.1, 12.2.1, 13.5.1, 13.5.2, 14.2.2, 14.2.4

### **Architect, Limitations of Authority and**

### **Responsibility**

2.1.1, 3.3.3, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3, 4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 4.4, 5.2.1, 7.4, 9.4.2, 9.6.4, 9.6.6

### **Architect's Additional Services and Expenses**

2.4, 11.4.1.1, 12.2.1, 13.5.2, 13.5.3, 14.2.4

### **Architect's Administration of the Contract**

3.1.3, 4.2, 4.3.4, 4.4, 9.4, 9.5

### **Architect's Approvals**

2.4, 3.1.3, 3.5.1, 3.10.2, 4.2.7

### **Architect's Authority to Reject Work**

3.5.1, 4.2.6, 12.1.2, 12.2.1

### **Architect's Copyright**

1.6

### **Architect's Decisions**

4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.3.4, 4.4.1, 4.4.5, 4.4.6, 4.5, 6.3, 7.3.6, 7.3.8, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.5.2, 14.2.2, 14.2.4

### **Architect's Inspections**

4.2.2, 4.2.9, 4.3.4, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.5

### **Architect's Instructions**

3.2.3, 3.3.1, 4.2.6, 4.2.7, 4.2.8, 7.4.1, 12.1, 13.5.2

### **Architect's Interpretations**

4.2.11, 4.2.12, 4.3.6

### **Architect's Project Representative**

4.2.10

### **Architect's Relationship with Contractor**

1.1.2, 1.6, 3.1.3, 3.2.1, 3.2.2, 3.2.3, 3.3.1, 3.4.2, 3.5.1, 3.7.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.1.3, 4.2, 4.3.4, 4.4.1, 4.4.7, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 11.4.7, 12, 13.4.2, 13.5

### **Architect's Relationship with Subcontractors**

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.4.7

### **Architect's Representations**

9.4.2, 9.5.1, 9.10.1

### **Architect's Site Visits**

4.2.2, 4.2.5, 4.2.9, 4.3.4, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

### **Asbestos**

10.3.1

### **Attorneys' Fees**

3.18.1, 9.10.2, 10.3.3

### **Award of Separate Contracts**

6.1.1, 6.1.2

### **Award of Subcontracts and Other Contracts for Portions of the Work**

5.2

## **Basic Definitions**

### **1.1**

### **Bidding Requirements**

1.1.1, 1.1.7, 5.2.1, 11.5.1

### **Boiler and Machinery Insurance**

11.4.2

### **Bonds, Lien**

9.10.2

### **Bonds, Performance, and Payment**

7.3.6.4, 9.6.7, 9.10.3, 11.4.9, 11.5

### **Building Permit**

3.7.1

### **Capitalization**

1.3

### **Certificate of Substantial Completion**

9.8.3, 9.8.4, 9.8.5  
**Certificates for Payment**  
4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7.1, 9.10.1,  
9.10.3, 13.7, 14.1.1.3, 14.2.4  
**Certificates of Inspection, Testing or Approval**  
13.5.4  
**Certificates of Insurance**  
9.10.2, 11.1.3  
**Change Orders**  
1.1.1, 2.4.1, 3.4.2, 3.8.2.3, 3.11.1, 3.12.8, 4.2.8, 4.3.4,  
4.3.9, 5.2.3, 7.1, 7.2, 7.3, 8.3.1, 9.3.1.1, 9.10.3,  
11.4.1.2, 11.4.4, 11.4.9, 12.1.2  
**Change Orders, Definition of**  
7.2.1  
**CHANGES IN THE WORK**  
3.11, 4.2.8, 7, 8.3.1, 9.3.1.1, 11.4.9  
**Claim, Definition of**  
4.3.1  
**Claims and Disputes**  
3.2.3, 4.3, 4.4, 4.5, 4.6, 6.1.1, 6.3, 7.3.8, 9.3.3, 9.10.4,  
10.3.3  
**Claims and Timely Assertion of Claims**  
4.6.5  
**Claims for Additional Cost**  
3.2.3, 4.3.4, 4.3.5, 4.3.6, 6.1.1, 7.3.8, 10.3.2  
**Claims for Additional Time**  
3.2.3, 4.3.4, 4.3.7, 6.1.1, 8.3.2, 10.3.2  
**Claims for Concealed or Unknown Conditions**  
4.3.4  
**Claims for Damages**  
3.2.3, 3.18, 4.3.10, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3,  
11.1.1, 11.4.5, 11.4.7, 14.1.3, 14.2.4  
**Claims Subject to Arbitration**  
4.4.1, 4.5.1, 4.6.1  
**Cleaning Up**  
3.15, 6.3  
**Commencement of Statutory Limitation Period**  
13.7  
**Commencement of the Work, Conditions Relating to**  
2.2.1, 3.2.1, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 4.3.5, 5.2.1,  
5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.4.1, 11.4.6,  
11.5.1  
**Commencement of the Work, Definition of**  
8.1.2  
**Communications Facilitating Contract Administration**  
3.9.1, 4.2.4  
**Completion, Conditions Relating to**  
1.6.1, 3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8,  
9.9.1, 9.10, 12.2, 13.7, 14.1.2  
**COMPLETION, PAYMENTS AND**  
**9**  
**Completion, Substantial**  
4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3,  
9.10.4.2, 12.2, 13.7  
**Compliance with Laws**  
1.6.1, 3.2.2, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 4.4.8, 4.6.4,  
4.6.6, 9.6.4, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1,  
13.5.2, 13.6, 14.1.1, 14.2.1.3  
**Concealed or Unknown Conditions**  
4.3.4, 8.3.1, 10.3  
**Conditions of the Contract**  
1.1.1, 1.1.7, 6.1.1, 6.1.4  
**Consent, Written**  
1.6, 3.4.2, 3.12.8, 3.14.2, 4.1.2, 4.3.4, 4.6.4, 9.3.2,  
9.8.5, 9.9.1, 9.10.2, 9.10.3, 11.4.1, 13.2, 13.4.2  
**CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**  
1.1.4, 6  
**Construction Change Directive, Definition of**  
7.3.1  
**Construction Change Directives**  
1.1.1, 3.12.8, 4.2.8, 4.3.9, 7.1, 7.3, 9.3.1.1  
**Construction Schedules, Contractor's**  
1.4.1.2, 3.10, 3.12.1, 3.12.2, 4.3.7.2, 6.1.3  
**Contingent Assignment of Subcontracts**  
5.4, 14.2.2.2  
**Continuing Contract Performance**  
4.3.3  
**Contract, Definition of**  
1.1.2  
**CONTRACT, TERMINATION OR SUSPENSION OF THE**  
5.4.1.1, 11.4.9, 14  
**Contract Administration**  
3.1.3, 4, 9.4, 9.5  
**Contract Award and Execution, Conditions Relating to**  
3.7.1, 3.10, 5.2, 6.1, 11.1.3, 11.4.6, 11.5.1  
**Contract Documents, The**  
1.1, 1.2  
**Contract Documents, Copies Furnished and Use of**  
1.6, 2.2.5, 5.3  
**Contract Documents, Definition of**  
1.1.1  
**Contract Sum**  
3.8, 4.3.4, 4.3.5, 4.4.5, 5.2.3, 7.2, 7.3, 7.4, 9.1, 9.4.2,  
9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.4.1, 14.2.4, 14.3.2  
**Contract Sum, Definition of**  
9.1  
**Contract Time**  
4.3.4, 4.3.7, 4.4.5, 5.2.3, 7.2.1.3, 7.3, 7.4, 8.1.1, 8.2,  
8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 14.3.2  
**Contract Time, Definition of**  
8.1.1  
**CONTRACTOR**  
3  
**Contractor, Definition of**  
3.1, 6.1.2  
**Contractor's Construction Schedules**  
1.4.1.2, 3.10, 3.12.1, 3.12.2, 4.3.7.2, 6.1.3  
**Contractor's Employees**

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.1.1, 11.4.7, 14.1, 14.2.1.1,  
**Contractor's Liability Insurance**  
**11.1**  
 Contractor's Relationship with Separate Contractors and Owner's Forces  
 3.12.5, 3.14.2, 4.2.4, 6, 11.4.7, 12.1.2, 12.2.4  
 Contractor's Relationship with Subcontractors  
 1.2.2, 3.3.2, 3.18.1, 3.18.2, 5, 9.6.2, 9.6.7, 9.10.2, 11.4.1.2, 11.4.7, 11.4.8  
 Contractor's Relationship with the Architect  
 1.1.2, 1.6, 3.1.3, 3.2.1, 3.2.2, 3.2.3, 3.3.1, 3.4.2, 3.5.1, 3.7.3, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.2, 4.1.3, 4.2, 4.3.4, 4.4.1, 4.4.7, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 11.4.7, 12, 13.4.2, 13.5  
 Contractor's Representations  
 1.5.2, 3.5.1, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2  
 Contractor's Responsibility for Those Performing the Work  
 3.3.2, 3.18, 4.2.3, 4.3.8, 5.3.1, 6.1.3, 6.2, 6.3, 9.5.1, 10  
 Contractor's Review of Contract Documents  
 1.5.2, 3.2, 3.7.3  
 Contractor's Right to Stop the Work  
 9.7  
 Contractor's Right to Terminate the Contract  
 4.3.10, 14.1  
 Contractor's Submittals  
 3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.6, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3, 11.1.3, 11.5.2  
 Contractor's Superintendent  
 3.9, 10.2.6  
 Contractor's Supervision and Construction Procedures  
 1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 4.3.3, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 7.3.6, 8.2, 10, 12, 14  
 Contractual Liability Insurance  
 11.1.1.8, 11.2, 11.3  
 Coordination and Correlation  
 1.2, 1.5.2, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1  
 Copies Furnished of Drawings and Specifications  
 1.6, 2.2.5, 3.11  
 Copyrights  
 1.6, 3.17  
 Correction of Work  
 2.3, 2.4, 3.7.4, 4.2.1, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, 12.2, 13.7.1.3  
 Correlation and Intent of the Contract Documents  
 1.2  
 Cost, Definition of  
 7.3.6  
 Costs  
 2.4, 3.2.3, 3.7.4, 3.8.2, 3.15.2, 4.3, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.6, 7.3.7, 7.3.8, 9.10.2, 10.3.2, 10.5, 11.3, 11.4, 12.1, 12.2.1, 12.2.4, 13.5, 14  
 Cutting and Patching

6.2.5, 3.14  
 Damage to Construction of Owner or Separate Contractors  
 3.14.2, 6.2.4, 9.2.1.5, 10.2.1.2, 10.2.5, 10.6, 11.1, 11.4, 12.2.4  
 Damage to the Work  
 3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.6, 11.4, 12.2.4  
 Damages, Claims for  
 3.2.3, 3.18, 4.3.10, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1, 11.4.5, 11.4.7, 14.1.3, 14.2.4  
 Damages for Delay  
 6.1.1, 8.3.3, 9.5.1.6, 9.7, 10.3.2  
 Date of Commencement of the Work, Definition of  
 8.1.2  
 Date of Substantial Completion, Definition of  
 8.1.3  
 Day, Definition of  
 8.1.4  
 Decisions of the Architect  
 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.3.4, 4.4.1, 4.4.5, 4.4.6, 4.5, 6.3, 7.3.6, 7.3.8, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.5.2, 14.2.2, 14.2.4  
**Decisions to Withhold Certification**  
 9.4.1, 9.5, 9.7, 14.1.1.3  
 Defective or Nonconforming Work, Acceptance, Rejection and Correction of  
 2.3, 2.4, 3.5.1, 4.2.6, 6.2.5, 9.5.1, 9.5.2, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1, 13.7.1.3  
 Defective Work, Definition of  
 3.5.1  
 Definitions  
 1.1, 2.1.1, 3.1, 3.5.1, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 4.3.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 7.3.6, 8.1, 9.1, 9.8.1  
**Delays and Extensions of Time**  
 3.2.3, 4.3.1, 4.3.4, 4.3.7, 4.4.5, 5.2.3, 7.2.1, 7.3.1, 7.4.1, 8.3, 9.5.1, 9.7.1, 10.3.2, 10.6.1, 14.3.2  
 Disputes  
 4.1.4, 4.3, 4.4, 4.5, 4.6, 6.3, 7.3.8  
**Documents and Samples at the Site**  
**3.11**  
 Drawings, Definition of  
 1.1.5  
 Drawings and Specifications, Use and Ownership of  
 1.1.1, 1.3, 2.2.5, 3.11, 5.3  
 Effective Date of Insurance  
 8.2.2, 11.1.2  
**Emergencies**  
 4.3.5, 10.6, 14.1.1.2  
 Employees, Contractor's  
 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.1.1, 11.4.7, 14.1, 14.2.1.1  
 Equipment, Labor, Materials and  
 1.1.3, 1.1.6, 3.4, 3.5.1, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.6, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.2  
 Execution and Progress of the Work

1.1.3, 1.2.1, 1.2.2, 2.2.3, 2.2.5, 3.1, 3.3, 3.4, 3.5, 3.7, 3.10, 3.12, 3.14, 4.2.2, 4.2.3, 4.3.3, 6.2.2, 7.1.3, 7.3.4, 8.2, 9.5, 9.9.1, 10.2, 10.3, 12.2, 14.2, 14.3  
 Extensions of Time  
 3.2.3, 4.3.1, 4.3.4, 4.3.7, 4.4.5, 5.2.3, 7.2.1, 7.3, 7.4.1, 9.5.1, 9.7.1, 10.3.2, 10.6.1, 14.3.2  
 Failure of Payment  
 4.3.6, 9.5.1.3, 9.7, 9.10.2, 14.1.1.3, 14.2.1.2, 13.6  
 Faulty Work  
 (See Defective or Nonconforming Work)  
 Final Completion and Final Payment  
 4.2.1, 4.2.9, 4.3.2, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.4.1, 11.4.5, 12.3.1, 13.7, 14.2.4, 14.4.3  
 Financial Arrangements, Owner's  
 2.2.1, 13.2.2, 14.1.1.5  
 Fire and Extended Coverage Insurance  
 11.4

**GENERAL PROVISIONS**

**1**

**Governing Law**

**13.1**

Guarantees (See Warranty)

Hazardous Materials

10.2.4, 10.3, 10.5

Identification of Contract Documents

1.5.1

Identification of Subcontractors and Suppliers

5.2.1

Indemnification

3.17, 3.18, 9.10.2, 10.3.3, 10.5, 11.4.1.2, 11.4.7

Information and Services Required of the Owner

2.1.2, 2.2, 3.2.1, 3.12.4, 3.12.10, 4.2.7, 4.3.3, 6.1.3,

6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3,

11.2, 11.4, 13.5.1, 13.5.2, 14.1.1.4, 14.1.4

Injury or Damage to Person or Property

4.3.8, 10.2, 10.6

Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.2,

9.8.3, 9.9.2, 9.10.1, 12.2.1, 13.5

Instructions to Bidders

1.1.1

Instructions to the Contractor

3.2.3, 3.3.1, 3.8.1, 4.2.8, 5.2.1, 7, 12, 8.2.2, 13.5.2

Insurance

3.18.1, 6.1.1, 7.3.6, 8.2.1, 9.3.2, 9.8.4, 9.9.1, 9.10.2,

9.10.5, 11

Insurance, Boiler and Machinery

11.4.2

Insurance, Contractor's Liability

11.1

Insurance, Effective Date of

8.2.2, 11.1.2

Insurance, Loss of Use

11.4.3

Insurance, Owner's Liability

11.2

Insurance, Project Management Protective Liability

11.3

Insurance, Property

10.2.5, 11.4

Insurance, Stored Materials

9.3.2, 11.4.1.4

**INSURANCE AND BONDS**

**11**

Insurance Companies, Consent to Partial Occupancy

9.9.1, 11.4.1.5

Insurance Companies, Settlement with

11.4.10

Intent of the Contract Documents

1.2.1, 4.2.7, 4.2.12, 4.2.13, 7.4

Interest

13.6

Interpretation

1.2.3, 1.4, 4.1.1, 4.3.1, 5.1, 6.1.2, 8.1.4

Interpretations, Written

4.2.11, 4.2.12, 4.3.6

Joinder and Consolidation of Claims Required

4.6.4

Judgment on Final Award

4.6.6

Labor and Materials, Equipment

1.1.3, 1.1.6, 3.4, 3.5.1, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,

4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.6, 9.3.2, 9.3.3, 9.5.1.3,

9.10.2, 10.2.1, 10.2.4, 14.2.1.2

Labor Disputes

8.3.1

Laws and Regulations

1.6, 3.2.2, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 4.4.8, 4.6,

9.6.4, 9.9.1, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1,

13.5.2, 13.6, 14

Liens

2.1.2, 4.4.8, 8.2.2, 9.3.3, 9.10

Limitation on Consolidation or Joinder

4.6.4

Limitations, Statutes of

4.6.3, 12.2.6, 13.7

Limitations of Liability

2.3, 3.2.1, 3.5.1, 3.7.3, 3.12.8, 3.12.10, 3.17, 3.18,

4.2.6, 4.2.7, 4.2.12, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.10.4,

10.3.3, 10.2.5, 11.1.2, 11.2.1, 11.4.7, 12.2.5, 13.4.2

Limitations of Time

2.1.2, 2.2, 2.4, 3.2.1, 3.7.3, 3.10, 3.11, 3.12.5, 3.15.1,

4.2.7, 4.3, 4.4, 4.5, 4.6, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4,

8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9,

9.10, 11.1.3, 11.4.1.5, 11.4.6, 11.4.10, 12.2, 13.5,

13.7, 14

Loss of Use Insurance

11.4.3

Material Suppliers

1.6, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.6, 9.10.5

Materials, Hazardous

10.2.4, 10.3, 10.5

Materials, Labor, Equipment and  
 1.1.3, 1.1.6, 1.6.1, 3.4, 3.5.1, 3.8.2, 3.8.23, 3.12, 3.13,  
 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.6, 9.3.2, 9.3.3,  
 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.2  
 Means, Methods, Techniques, Sequences and  
 Procedures of Construction  
 3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2  
 Mechanic's Lien  
 4.4.8  
 Mediation  
 4.4.1, 4.4.5, 4.4.6, 4.4.8, 4.5, 4.6.1, 4.6.2, 8.3.1, 10.5  
 Minor Changes in the Work  
 1.1.1, 3.12.8, 4.2.8, 4.3.6, 7.1, 7.4  
**MISCELLANEOUS PROVISIONS**  
**13**  
 Modifications, Definition of  
 1.1.1  
 Modifications to the Contract  
 1.1.1, 1.1.2, 3.7.3, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1,  
 9.7, 10.3.2, 11.4.1  
 Mutual Responsibility  
**6.2**  
 Nonconforming Work, Acceptance of  
 9.6.6, 9.9.3, **12.3**  
 Nonconforming Work, Rejection and Correction of  
 2.3, 2.4, 3.5.1, 4.2.6, 6.2.5, 9.5.1, 9.8.2, 9.9.3, 9.10.4,  
 12.2.1, 13.7.1.3  
 Notice  
 2.2.1, 2.3, 2.4, 3.2.3, 3.3.1, 3.7.2, 3.7.4, 3.12.9, 4.3,  
 4.4.8, 4.6.5, 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 11.1.3,  
 11.4.6, 12.2.2, 12.2.4, 13.3, 13.5.1, 13.5.2, 14.1, 14.2  
 Notice, Written  
 2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 4.3, 4.4.8, 4.6.5,  
 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 11.4.6,  
 12.2.2, 12.2.4, **13.3, 14**  
 Notice of Testing and Inspections  
 13.5.1, 13.5.2  
 Notice to Proceed  
 8.2.2  
 Notices, Permits, Fees and  
 2.2.2, 3.7, 3.13, 7.3.6.4, 10.2.2  
 Observations, Contractor's  
 1.5.2, 3.2, 3.7.3, 4.3.4  
 Occupancy  
 2.2.2, 9.6.6, 9.8, 11.4.1.5  
 Orders, Written  
 1.1.1, 2.3, 3.9, 4.3.6, 7, 8.2.2, 11.4.9, 12.1, 12.2,  
 13.5.2, 14.3.1  
**OWNER**  
**2**  
 Owner, Definition of  
 2.1  
 Owner, Information and Services Required of the  
 2.1.2, 2.2, 3.2.1, 3.12.4, 3.12.10, 4.2.7, 4.3.3, 6.1.3,  
 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3,  
 11.2, 11.4, 13.5.1, 13.5.2, 14.1.1.4, 14.1.4  
 Owner's Authority

1.6, 2.1.1, 2.3, 2.4, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2,  
 4.1.3, 4.2.4, 4.2.9, 4.3.6, 4.4.7, 5.2.1, 5.2.4, 5.4.1,  
 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.1, 9.3.2, 9.5.1,  
 9.9.1, 9.10.2, 10.3.2, 11.1.3, 11.3.1, 11.4.3, 11.4.10,  
 12.2.2, 12.3.1, 13.2.2, 14.3, 14.4  
 Owner's Financial Capability  
 2.2.1, 13.2.2, 14.1.1.5  
 Owner's Liability Insurance  
**11.2**  
 Owner's Loss of Use Insurance  
 11.4.3  
 Owner's Relationship with Subcontractors  
 1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2  
 Owner's Right to Carry Out the Work  
 2.4, 12.2.4, 14.2.2.2  
 Owner's Right to Clean Up  
**6.3**  
 Owner's Right to Perform Construction and to  
 Award Separate Contracts  
**6.1**  
 Owner's Right to Stop the Work  
**2.3**  
 Owner's Right to Suspend the Work  
 14.3  
 Owner's Right to Terminate the Contract  
 14.2  
 Ownership and Use of Drawings, Specifications  
 and Other Instruments of Service  
 1.1.1, 1.6, 2.2.5, 3.2.1, 3.11.1, 3.17.1, 4.2.12, 5.3  
 Partial Occupancy or Use  
 9.6.6, 9.9, 11.4.1.5  
 Patching, Cutting and  
**3.14, 6.2.5**  
 Patents  
 3.17  
 Payment, Applications for  
 4.2.5, 7.3.8, 9.2, 9.3, 9.4, 9.5.1, 9.6.3, 9.7.1, 9.8.5,  
 9.10.1, 9.10.3, 9.10.5, 11.1.3, 14.2.4, 14.4.3  
 Payment, Certificates for  
 4.2.5, 4.2.9, 9.3.3, 9.4, 9.5, 9.6.1, 9.6.6, 9.7.1, 9.10.1,  
 9.10.3, 13.7, 14.1.1.3, 14.2.4  
 Payment, Failure of  
 4.3.6, 9.5.1.3, 9.7, 9.10.2, 14.1.1.3, 14.2.1.2, 13.6  
 Payment, Final  
 4.2.1, 4.2.9, 4.3.2, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.4.1,  
 11.4.5, 12.3.1, 13.7, 14.2.4, 14.4.3  
 Payment Bond, Performance Bond and  
 7.3.6.4, 9.6.7, 9.10.3, 11.4.9, **11.5**  
 Payments, Progress  
 4.3.3, 9.3, 9.6, 9.8.5, 9.10.3, 13.6, 14.2.3  
**PAYMENTS AND COMPLETION**  
**9**  
 Payments to Subcontractors  
 5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 11.4.8,  
 14.2.1.2  
 PCB  
 10.3.1

**Performance Bond and Payment Bond**

7.3.6.4, 9.6.7, 9.10.3, 11.4.9, 11.5

**Permits, Fees and Notices**

2.2.2, 3.7, 3.13, 7.3.6.4, 10.2.2

**PERSONS AND PROPERTY, PROTECTION OF 10**

**Polychlorinated Biphenyl**

10.3.1

**Product Data, Definition of**

3.12.2

**Product Data and Samples, Shop Drawings**

3.11, 3.12, 4.2.7

**Progress and Completion**

4.2.2, 4.3.3, 8.2, 9.8, 9.9.1, 14.1.4

**Progress Payments**

4.3.3, 9.3, 9.6, 9.8.5, 9.10.3, 13.6, 14.2.3

**Project, Definition of the**

1.1.4

**Project Management Protective Liability**

**Insurance**

11.3

**Project Manual, Definition of the**

1.1.7

**Project Manuals**

2.2.5

**Project Representatives**

4.2.10

**Property Insurance**

10.2.5, 11.4

**PROTECTION OF PERSONS AND PROPERTY 10**

**Regulations and Laws**

1.6, 3.2.2, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 4.4.8, 4.6, 9.6.4, 9.9.1, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14

**Rejection of Work**

3.5.1, 4.2.6, 12.2.1

**Releases and Waivers of Liens**

9.10.2

**Representations**

1.5.2, 3.5.1, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.8.2, 9.10.1

**Representatives**

2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.1, 4.2.10, 5.1.1, 5.1.2, 13.2.1

**Resolution of Claims and Disputes**

4.4, 4.5, 4.6

**Responsibility for Those Performing the Work**

3.3.2, 3.18, 4.2.3, 4.3.8, 5.3.1, 6.1.3, 6.2, 6.3, 9.5.1, 10

**Retainage**

9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3

**Review of Contract Documents and Field**

**Conditions by Contractor**

1.5.2, 3.2, 3.7.3, 3.12.7, 6.1.3

**Review of Contractor's Submittals by Owner and Architect**

3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2

**Review of Shop Drawings, Product Data and**

**Samples by Contractor**

3.12

**Rights and Remedies**

1.1.2, 2.3, 2.4, 3.5.1, 3.15.2, 4.2.6, 4.3.4, 4.5, 4.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.2, 12.2.4, 13.4, 14

**Royalties, Patents and Copyrights**

3.17

**Rules and Notices for Arbitration**

4.6.2

**Safety of Persons and Property**

10.2, 10.6

**Safety Precautions and Programs**

3.3.1, 4.2.2, 4.2.7, 5.3.1, 10.1, 10.2, 10.6

**Samples, Definition of**

3.12.3

**Samples, Shop Drawings, Product Data and**

3.11, 3.12, 4.2.7

**Samples at the Site, Documents and**

3.11

**Schedule of Values**

9.2, 9.3.1

**Schedules,**

1.4.1.2, 3.10, 3.10.1, 3.12.1, 3.12.2, 4.3.7.2, 6.1.3

**Separate Contracts and Contractors**

1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 4.6.4, 6, 8.3.1, 11.4.7, 12.1.2, 12.2.5

**Shop Drawings, Definition of**

3.12.1

**Shop Drawings, Product Data and Samples**

3.11, 3.12, 4.2.7

**Site, Use of**

3.13, 6.1.1, 6.2.1

**Site Inspections**

1.2.2, 3.2.1, 3.3.3, 3.7.1, 4.2, 4.3.4, 9.4.2, 9.10.1, 13.5

**Site Visits, Architect's**

4.2.2, 4.2.9, 4.3.4, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

**Special Inspections and Testing**

4.2.6, 12.2.1, 13.5

**Specifications, Definition of the**

1.1.6

**Specifications, The**

1.1.1, 1.1.6, 1.1.7, 1.2.2, 1.6, 3.11, 3.12.10, 3.17

**Statute of Limitations**

4.6.3, 12.2.6, 13.7

**Stopping the Work**

2.3, 4.3.6, 9.7, 10.3, 14.1

**Stored Materials**

6.2.1, 9.3.2, 10.2.1.2, 10.2.4, 11.4.1.4

**Subcontractor, Definition of**

5.1.1

**SUBCONTRACTORS**

5  
 Subcontractors, Work by  
 1.2.2, 3.3.2, 3.12.1, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7  
 Subcontractual Relations  
 5.3, 5.4, 9.3.1.2, 9.6, 9.10 10.2.1, 11.4.7, 11.4.8, 14.1, 14.2.1, 14.3.2  
 Submittals  
 1.6, 3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.6, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3, 11.1.3  
 Subrogation, Waivers of  
 6.1.1, 11.4.5, 11.4.7  
 Substantial Completion  
 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 9.10.4.2, 12.2, 13.7  
 Substantial Completion, Definition of  
 9.8.1  
 Substitution of Subcontractors  
 5.2.3, 5.2.4  
 Substitution of Architect  
 4.1.3  
 Substitutions of Materials  
 3.4.2, 3.5.1, 7.3.7  
 Sub-subcontractor, Definition of  
 5.1.2  
 Subsurface Conditions  
 4.3.4  
 Successors and Assigns  
 13.2  
 Superintendent  
 3.9, 10.2.6  
 Supervision and Construction Procedures  
 1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 4.3.3, 6.1.3, 6.2.4, 7.1.3, 7.3.6, 8.2, 8.3.1, 9.4.2, 10, 12, 14  
 Surety  
 4.4.7, 5.4.1.2, 9.8.5, 9.10.2, 9.10.3, 14.2.2  
 Surety, Consent of  
 9.10.2, 9.10.3  
 Surveys  
 2.2.3  
 Suspension by the Owner for Convenience  
 14.4  
 Suspension of the Work  
 5.4.2, 14.3  
 Suspension or Termination of the Contract  
 4.3.6, 5.4.1.1, 11.4.9, 14  
 Taxes  
 3.6, 3.8.2.1, 7.3.6.4  
 Termination by the Contractor  
 4.3.10, 14.1  
 Termination by the Owner for Cause  
 4.3.10, 5.4.1.1, 14.2  
 Termination of the Architect  
 4.1.3  
 Termination of the Contractor  
 14.2.2

**TERMINATION OR SUSPENSION OF THE CONTRACT**

14  
 Tests and Inspections  
 3.1.3, 3.3.3, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 11.4.1.1, 12.2.1, 13.5  
 TIME  
 8  
 Time, Delays and Extensions of  
 3.2.3, 4.3.1, 4.3.4, 4.3.7, 4.4.5, 5.2.3, 7.2.1, 7.3.1, 7.4.1, 8.3, 9.5.1, 9.7.1, 10.3.2, 10.6.1, 14.3.2  
 Time Limits  
 2.1.2, 2.2, 2.4, 3.2.1, 3.7.3, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 4.3, 4.4, 4.5, 4.6, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 11.4.1.5, 11.4.6, 11.4.10, 12.2, 13.5, 13.7, 14  
 Time Limits on Claims  
 4.3.2, 4.3.4, 4.3.8, 4.4, 4.5, 4.6  
 Title to Work  
 9.3.2, 9.3.3  
 UNCOVERING AND CORRECTION OF WORK  
 12  
 Uncovering of Work  
 12.1  
 Unforeseen Conditions  
 4.3.4, 8.3.1, 10.3  
 Unit Prices  
 4.3.9, 7.3.3.2  
 Use of Documents  
 1.1.1, 1.6, 2.2.5, 3.12.6, 5.3  
 Use of Site  
 3.13, 6.1.1, 6.2.1  
 Values, Schedule of  
 9.2, 9.3.1  
 Waiver of Claims by the Architect  
 13.4.2  
 Waiver of Claims by the Contractor  
 4.3.10, 9.10.5, 11.4.7, 13.4.2  
 Waiver of Claims by the Owner  
 4.3.10, 9.9.3, 9.10.3, 9.10.4, 11.4.3, 11.4.5, 11.4.7, 12.2.2.1, 13.4.2, 14.2.4  
 Waiver of Consequential Damages  
 4.3.10, 14.2.4  
 Waiver of Liens  
 9.10.2, 9.10.4  
 Waivers of Subrogation  
 6.1.1, 11.4.5, 11.4.7  
 Warranty  
 3.5, 4.2.9, 4.3.5.3, 9.3.3, 9.8.4, 9.9.1, 9.10.4, 12.2.2, 13.7.1.3  
 Weather Delays  
 4.3.7.2  
 Work, Definition of  
 1.1.3  
 Written Consent

1.6, 3.4.2, 3.12.8, 3.14.2, 4.1.2, 4.3.4, 4.6.4, 9.3.2,  
9.8.5, 9.9.1, 9.10.2, 9.10.3, 11.4.1, 13.2, 13.4.2

**Written Interpretations**

4.2.11, 4.2.12, 4.3.6

**Written Notice**

2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 4.3, 4.4.8, 4.6.5,  
5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 11.4.6,  
12.2.2, 12.2.4, 13.3, 14

**Written Orders**

1.1.1, 2.3, 3.9, 4.3.6, 7, 8.2.2, 11.4.9, 12.1, 12.2,  
13.5.2, 14.3.1

## ARTICLE 1 GENERAL PROVISIONS

### § 1.1 BASIC DEFINITIONS

#### § 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter the Agreement), Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of Addenda relating to bidding requirements).

#### § 1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor, (3) between the Owner and Architect or (4) between any persons or entities other than the Owner and Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### § 1.1.3 THE WORK

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### § 1.1.4 THE PROJECT

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

#### § 1.1.5 THE DRAWINGS

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

#### § 1.1.6 THE SPECIFICATIONS

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### § 1.1.7 THE PROJECT MANUAL

The Project Manual is a volume assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

### § 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

### § 1.3 CAPITALIZATION

§ 1.3.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

### § 1.4 INTERPRETATION

§ 1.4.1 In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### § 1.5 EXECUTION OF CONTRACT DOCUMENTS

§ 1.5.1 The Contract Documents shall be signed by the Owner and Contractor. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect shall identify such unsigned Documents upon request.

§ 1.5.2 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

### § 1.6 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

§ 1.6.1 The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect's consultants, and unless otherwise indicated the Architect and the Architect's consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of Instruments of Service, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' copyrights or other reserved rights.

## ARTICLE 2 OWNER

### § 2.1 GENERAL

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### § 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 The Owner shall, at the written request of the Contractor, prior to commencement of the Work and thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Furnishing of such evidence shall be a condition precedent to commencement or

continuation of the Work. After such evidence has been furnished, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 Except for permits and fees, including those required under Section 3.7.1, which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 Information or services required of the Owner by the Contract Documents shall be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Contractor's performance of the Work under the Owner's control shall be furnished by the Owner after receipt from the Contractor of a written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.

### § 2.3 OWNER'S RIGHT TO STOP THE WORK

§ 2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or persistently fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

### § 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

§ 2.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may after such seven-day period give the Contractor a second written notice to correct such deficiencies within a three-day period. If the Contractor within such three-day period after receipt of such second notice fails to commence and continue to correct any deficiencies, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

## ARTICLE 3 CONTRACTOR

### § 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

### § 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Drawings and other Contract Documents relative to that portion of the

Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered by the Contractor shall be reported promptly to the Architect as a request for information in such form as the Architect may require.

§ 3.2.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to the Contractor shall be reported promptly to the Architect.

§ 3.2.3 If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the Architect in response to the Contractor's notices or requests for information pursuant to Sections 3.2.1 and 3.2.2, the Contractor shall make Claims as provided in Sections 4.3.6 and 4.3.7. If the Contractor fails to perform the obligations of Sections 3.2.1 and 3.2.2, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized such error, inconsistency, omission or difference and knowingly failed to report it to the Architect.

### § 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any resulting loss or damage.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### § 3.4 LABOR AND MATERIALS

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

### § 3.5 WARRANTY

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

### § 3.6 TAXES

§ 3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### § 3.7 PERMITS, FEES AND NOTICES

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

§ 3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 3.8 ALLOWANCES

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents:

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances;
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner in sufficient time to avoid delay in the Work.

### § 3.9 SUPERINTENDENT

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important

communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

### § 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

### § 3.11 DOCUMENTS AND SAMPLES AT THE SITE

§ 3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record field changes and selections made during construction, and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work.

### § 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action.

§ 3.12.6 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

### § 3.13 USE OF SITE

§ 3.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### § 3.14 CUTTING AND PATCHING

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

### § 3.15 CLEANING UP

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

### § 3.16 ACCESS TO WORK

§ 3.16.1 The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

### § 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

§ 3.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

### § 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Section 11.3, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

## ARTICLE 4 ADMINISTRATION OF THE CONTRACT

### § 4.1 ARCHITECT

§ 4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a new Architect against whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the former Architect.

### § 4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents, and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and

deficiencies in the Work, and (3) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect will have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

### § 4.3 CLAIMS AND DISPUTES

§ 4.3.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 4.3.2 Time Limits on Claims. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Architect and the other party.

§ 4.3.3 Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing or as provided in Section 9.7.1 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 4.3.4 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Section 4.4.

§ 4.3.5 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.6.

§ 4.3.6 If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with this Section 4.3.

**§ 4.3.7 Claims for Additional Time**

**§ 4.3.7.1** If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

**§ 4.3.7.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

**§ 4.3.8 Injury or Damage to Person or Property.** If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

**§ 4.3.9** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

**§ 4.3.10 Claims for Consequential Damages.** The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

- 1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- 2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 4.3.10 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

**§ 4.4 RESOLUTION OF CLAIMS AND DISPUTES**

**§ 4.4.1 Decision of Architect.** Claims, including those alleging an error or omission by the Architect but excluding those arising under Sections 10.3 through 10.5, shall be referred initially to the Architect for decision. An initial decision by the Architect shall be required as a condition precedent to mediation, arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no decision having been rendered by the Architect. The Architect will not decide disputes between the Contractor and persons or entities other than the Owner.

**§ 4.4.2** The Architect will review Claims and within ten days of the receipt of the Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Architect is unable to resolve the Claim if the Architect lacks sufficient information to evaluate the merits of the Claim or if the Architect concludes that, in the Architect's sole discretion, it would be inappropriate for the Architect to resolve the Claim.

**§ 4.4.3** In evaluating Claims, the Architect may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision. The Architect may request the Owner to authorize retention of such persons at the Owner's expense.

**§ 4.4.4** If the Architect requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either provide a response on the requested supporting data, advise the Architect when the response or supporting data will be furnished or advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Architect will either reject or approve the Claim in whole or in part.

§ 4.4.5 The Architect will approve or reject Claims by written decision, which shall state the reasons therefor and which shall notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Architect shall be final and binding on the parties but subject to mediation and arbitration.

§ 4.4.6 When a written decision of the Architect states that (1) the decision is final but subject to mediation and arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.

§ 4.4.7 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 4.4.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by the Architect, by mediation or by arbitration.

#### § 4.5 MEDIATION

§ 4.5.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5 shall, after initial decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

§ 4.5.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 4.5.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

#### § 4.6 ARBITRATION

§ 4.6.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5, shall, after decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with the provisions of Section 4.5.

§ 4.6.2 Claims not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association, and a copy shall be filed with the Architect.

§ 4.6.3 A demand for arbitration shall be made within the time limits specified in Sections 4.4.6 and 4.6.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Section 13.7.

**§ 4.6.4 Limitation on Consolidation or Joinder.** No arbitration arising out of or relating to the Contract shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if complete relief is to be accorded in arbitration. No person or entity other than the Owner, Contractor or a separate contractor as described in Article 6 shall be included as an original third party or additional third party to an arbitration whose interest or responsibility is insubstantial. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of a Claim not described therein or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

**§ 4.6.5 Claims and Timely Assertion of Claims.** The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

**§ 4.6.6 Judgment on Final Award.** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

## **ARTICLE 5 SUBCONTRACTORS**

### **§ 5.1 DEFINITIONS**

**§ 5.1.1** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

**§ 5.1.2** A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

### **§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

**§ 5.2.1** Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection.

**§ 5.2.2** The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

**§ 5.2.3** If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

**§ 5.2.4** The Contractor shall not change a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitute.

### § 5.3 SUBCONTRACTUAL RELATIONS

§ 5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

### § 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that:

- 1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- 2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

## ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

### § 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Section 4.3.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights which apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

### § 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

§ 6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

### § 6.3 OWNER'S RIGHT TO CLEAN UP

§ 6.3.1 If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

### § 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect, stating their agreement upon all of the following:

- .1 change in the Work;
- .2 the amount of the adjustment, if any, in the Contract Sum; and
- .3 the extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.

### § 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

**§ 7.3.3** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 as provided in Section 7.3.6.

**§ 7.3.4** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**§ 7.3.5** A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

**§ 7.3.6** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.6 shall be limited to the following:

- .1 costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 additional costs of supervision and field office personnel directly attributable to the change.

**§ 7.3.7** The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

**§ 7.3.8** Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Architect will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a claim in accordance with Article 4.

**§ 7.3.9** When the Owner and Contractor agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

#### **§ 7.4 MINOR CHANGES IN THE WORK**

**§ 7.4.1** The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

## ARTICLE 8 TIME

### § 8.1 DEFINITIONS

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

### § 8.2 PROGRESS AND COMPLETION

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by the Contract Documents or a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

### § 8.3 DELAYS AND EXTENSIONS OF TIME

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending mediation and arbitration, or by other causes which the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Section 4.3.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## ARTICLE 9 PAYMENTS AND COMPLETION

### § 9.1 CONTRACT SUM

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

### § 9.2 SCHEDULE OF VALUES

§ 9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

### § 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to

payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.8, such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

#### § 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that, to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of:

- .1 defective Work not remedied;

- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

#### § 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

§ 9.6.5 Payment to material suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

#### § 9.7 FAILURE OF PAYMENT

§ 9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by arbitration, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

## § 9.8 SUBSTANTIAL COMPLETION

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

## § 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.4.1.5 and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## § 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in

the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 SAFETY PRECAUTIONS AND PROGRAMS

§ 10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

### § 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

### § 10.3 HAZARDOUS MATERIALS

§ 10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 The Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in Article 7.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

§ 10.4 The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were required by the Contract Documents.

§ 10.5 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

#### § 10.6 EMERGENCIES

§ 10.6.1 In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Section 4.3 and Article 7.

### ARTICLE 11 INSURANCE AND BONDS

#### § 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 claims for bodily injury or property damage arising out of completed operations; and
- .8 claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Section 9.10.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

#### § 11.2 OWNER'S LIABILITY INSURANCE

§ 11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

#### § 11.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE

§ 11.3.1 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the Contract. Unless otherwise required by the Contract Documents, the Owner shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage, and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability Insurance under Sections 11.1.1.2 through 11.1.1.5.

§ 11.3.2 To the extent damages are covered by Project Management Protective Liability insurance, the Owner, Contractor and Architect waive all rights against each other for damages, except such rights as they may have to the proceeds of such insurance. The policy shall provide for such waivers of subrogation by endorsement or otherwise.

§ 11.3.3 The Owner shall not require the Contractor to include the Owner, Architect or other persons or entities as additional insureds on the Contractor's Liability Insurance coverage under Section 11.1.

#### § 11.4 PROPERTY INSURANCE

§ 11.4.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.4 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.4.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

§ 11.4.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

§ 11.4.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.4.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.4.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.4.2 Boiler and Machinery Insurance. The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.4.3 Loss of Use Insurance. The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

§ 11.4.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.4.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.4.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.4.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.4. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

§ 11.4.7 Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.4.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.4.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.4.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or in accordance with an arbitration award in which case the procedure shall be as provided in Section 4.6. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.4.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved as provided in Sections 4.5 and 4.6. The Owner as fiduciary shall, in the case of arbitration, make settlement with insurers in accordance with directions of the arbitrators. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

#### § 11.5 PERFORMANCE BOND AND PAYMENT BOND

§ 11.5.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

§ 11.5.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

## ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

### § 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered which the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

### § 12.2 CORRECTION OF WORK

#### § 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

§ 12.2.1.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

#### § 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract

Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

#### § 12.3 ACCEPTANCE OF NONCONFORMING WORK

§ 12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

### ARTICLE 13 MISCELLANEOUS PROVISIONS

#### § 13.1 GOVERNING LAW

§ 13.1.1 The Contract shall be governed by the law of the place where the Project is located.

#### § 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to an institutional lender providing construction financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

#### § 13.3 WRITTEN NOTICE

§ 13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.

#### § 13.4 RIGHTS AND REMEDIES

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

#### § 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

#### § 13.6 INTEREST

§ 13.6.1 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

#### § 13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

§ 13.7.1 As between the Owner and Contractor:

1. Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;
2. Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and
3. After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any Warranty provided under Section 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Section 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

### ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

#### § 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

1. issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;
2. an act of government, such as a declaration of national emergency which requires all Work to be stopped;
3. because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
4. the Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work

by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has persistently failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

#### § 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 accept assignment of subcontracts pursuant to Section 5.4; and
- .3 finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

#### § 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent:

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

**§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE**

**§ 14.4.1** The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

**§ 14.4.2** Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

**§ 14.4.3** In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

**STATE OF LOUISIANA  
DEPARTMENT OF TRANSPORTATION AND  
DEVELOPMENT**



**CONSTRUCTION PROPOSAL  
INFORMATION  
FOR**

**FEDERAL AID PROJECT**

**STATE PROJECT NO. 695-06-0004  
MOUND REST AREA IMPROVEMENTS  
I-20 AT MOUND  
ROUTE I-20  
MADISON PARISH**

## BID BOND

A Bid Bond is required when the bidder's total bid amount as calculated by the Department in accordance with Subsection 103.01 is greater than \$50,000. (See Section 102 of the Project Specifications.)

\_\_\_\_\_, as Principal  
(Bidder) and \_\_\_\_\_, as Surety,  
are bound unto the State of Louisiana, Department of Transportation and Development, (hereinafter called the Department) in the sum of five percent (5%) of the bidder's total bid amount as calculated by the Department for payment, of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, as solidary obligors.

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

The condition of this obligation is such that, whereas the Principal has submitted a bid to the Department on a contract for the construction of **STATE PROJECT NO. 695-06-0004, FEDERAL AID PROJECT NO. 20-4(049)174, MOUND REST AREA IMPROVEMENTS, I-20 AT MOUND, located in MADISON PARISH, ROUTE I-20**, if the bid is accepted and the Principal, within the specified time, enters into the contract in writing and gives bond with Surety acceptable to the Department for payment and performance of said contract, this obligation shall be void; otherwise to remain in effect.

\_\_\_\_\_  
Principal (Bidder or First Partner to Joint Venture)  
By \_\_\_\_\_  
Authorized Officer-Owner-Partner  
\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
If a Joint Venture, Second Partner  
By \_\_\_\_\_  
Authorized Officer-Owner-Partner  
\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Surety  
By \_\_\_\_\_ (Seal)  
Agent or Attorney-in-Fact  
\_\_\_\_\_  
Typed or Printed Name

To receive a copy of the contract and subsequent correspondence / communication from LA DOTD, with respect to the bid bonds, the following information must be provided:

Bonding Agency or Company Name	Address
Agent or Representative	Phone Number / Fax Number

LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT  
 SCHEDULE OF ITEMS

LEAD PROJECT: 695-06-0004  
 OTHER PROJECTS:

DATE: 05/05/09 14:29 PAGE: 1

ITEM NUMBER	APPROXIMATE QUANTITY	UNIT OF MEASURE	PAY ITEM UNIT PRICE (IN WORDS, INK OR TYPED)
S-001	LUMP	LUMP SUM	REST AREA IMPROVEMENTS, I-20 AT MOUND  _____ DOLLARS _____ CENTS

# CONSTRUCTION PROPOSAL SIGNATURE AND EXECUTION FORM

THIS FORM, THE SCHEDULE OF ITEMS, AND THE PROPOSAL GUARANTY MUST BE COMPLETED AS INDICATED AND SUBMITTED TO THE LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT (DOTD) TO CONSTITUTE A VALID BID

STATE PROJECT NO. 695-06-0004

FEDERAL AID PROJECT NO. 20-4(049)174

NAME OF PROJECT MOUND REST AREA IMPROVEMENT, I-20 AT MOUND

I (WE) HEREBY CERTIFY THAT I (WE) HAVE CAREFULLY EXAMINED THE PROPOSAL, PLANS AND SPECIFICATIONS, INCLUDING ANY AND ALL ADDENDA, AND THE SITE OF THE ABOVE PROJECT AND AM (ARE) FULLY COGNIZANT OF ALL PROPOSAL DOCUMENTS, THE MASTER COPY OF WHICH IS ON FILE AT DOTD HEADQUARTERS IN BATON ROUGE, LA., AND ALL WORK, MATERIALS AND LABOR REQUIRED THEREIN, AND AGREE TO PERFORM ALL WORK, AND SUPPLY ALL NECESSARY MATERIALS AND LABOR REQUIRED FOR SUCCESSFUL AND TIMELY COMPLETION OF THE ABOVE PROJECT AND TO ACCEPT THE SUMMATION OF THE PRODUCTS OF THE UNIT PRICES BID ON THE SCHEDULE OF ITEMS ATTACHED HERETO AND MADE A PART HEREOF MULTIPLIED BY THE ACTUAL QUANTITY OF UNIT OF MEASURE PERFORMED FOR EACH ITEM, AS AUDITED BY DOTD, AS FULL AND FINAL PAYMENT FOR ALL WORK, LABOR AND MATERIALS NECESSARY TO COMPLETE THE ABOVE PROJECT, SUBJECT TO INCREASE ONLY FOR PLAN CHANGES (CHANGE ORDERS) APPROVED BY THE DOTD CHIEF ENGINEER OR HIS DESIGNEE. THIS BID IS SUBMITTED IN ACCORDANCE WITH THE GENERAL BIDDING REQUIREMENTS IN THE CONSTRUCTION PROPOSAL AND ALL SPECIAL PROVISIONS, PLANS, SUPPLEMENTAL SPECIFICATIONS, AND THE LOUISIANA STANDARD SPECIFICATIONS FOR ROADS AND BRIDGES (2006 EDITION). I (WE) UNDERSTAND THAT THE SUMMATION OF THE PRODUCTS OF THE UNIT PRICES BID ON THE SCHEDULE OF ITEMS MULTIPLIED BY THE ESTIMATED QUANTITY OF UNIT OF MEASURE FOR EACH ITEM, ALONG WITH ANY OTHER FACTORS SPECIFIED TO BE APPLICABLE SUCH AS CONSTRUCTION TIME AND/OR LANE RENTAL, SHALL BE THE BASIS FOR THE COMPARISON OF BIDS. I (WE) UNDERSTAND THAT THE SCHEDULE OF ITEMS MUST CONTAIN UNIT PRICES WRITTEN OUT IN WORDS AND THAT THE SCHEDULE OF ITEMS SUBMITTED AS PART OF THIS BID IS ON THE FORM SUPPLIED BY DOTD IN THE BID PROPOSAL. MY (OUR) PROPOSAL GUARANTY IN THE AMOUNT SPECIFIED FOR THE PROJECT IS ATTACHED HERETO AS EVIDENCE OF MY (OUR) GOOD FAITH TO BE FORFEITED IF THIS BID IS ACCEPTED BY DOTD AND I (WE) FAIL TO COMPLY WITH ANY REQUIREMENT NECESSARY FOR AWARD AND EXECUTION OF THE CONTRACT, AS WELL AS, SIGN AND DELIVER THE CONTRACT AND PAYMENT/PERFORMANCE/RETAINAGE BOND AS REQUIRED IN THE SPECIFICATIONS.

## NONCOLLUSION DECLARATION (APPLICABLE TO FEDERAL-AID PROJECTS)

I (WE) DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES AND THE STATE OF LOUISIANA THAT I (WE) HAVE NOT DIRECTLY OR INDIRECTLY, ENTERED INTO ANY AGREEMENT, PARTICIPATED IN ANY COLLUSION, OR OTHERWISE TAKEN ANY ACTION IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THE CONTRACT FOR THIS PROJECT NOR VIOLATED LA. R.S. 48:254.

## BIDDER'S DBE GOAL STATEMENT (APPLICABLE TO DBE GOAL PROJECTS)

IF THIS PROJECT IS DESIGNATED BY SPECIAL PROVISION AS A DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL PROJECT IN ACCORDANCE WITH THE DBE PROVISIONS OF THIS CONTRACT, THE BIDDER ASSURES DOTD THAT HE/SHE WILL MEET OR EXCEED THE DBE CONTRACT GOAL, OR IF THE BIDDER CANNOT MEET THE REQUIRED DBE GOAL, THE BIDDER ASSURES DOTD THAT HE/SHE HAS MADE AND CAN DOCUMENT GOOD FAITH EFFORTS MADE TOWARDS MEETING THE GOAL REQUIREMENT IN ACCORDANCE WITH THE CONTRACT AND DBE PROGRAM MANUAL INCORPORATED HEREIN BY REFERENCE.

THE APPARENT LOW BIDDER SHALL COMPLETE AND SUBMIT TO THE DOTD COMPLIANCE PROGRAMS OFFICE, FORM CS-6AAA AND ATTACHMENT(S) AND, IF NECESSARY, DOCUMENTATION OF GOOD FAITH EFFORTS MADE BY THE BIDDER TOWARD MEETING THE GOAL, WITHIN TEN BUSINESS DAYS AFTER THE OPENING OF BIDS FOR THIS PROJECT. RESPONSIVENESS OF INFORMATION SUPPLIED IN THIS SECTION OF THIS CONSTRUCTION PROPOSAL SIGNATURE AND EXECUTION FORM IS GOVERNED BY THE DBE REQUIREMENTS INCLUDED WITHIN THE SPECIFICATIONS AND DBE PROGRAM MANUAL.

## CERTIFICATION OF EMPLOYMENT OF LOUISIANA RESIDENTS TRANSPORTATION INFRASTRUCTURE MODEL FOR ECONOMIC DEVELOPMENT (TIME) PROJECTS (APPLICABLE TO TIME PROJECTS)

IF THIS PROJECT IS DESIGNATED BY SPECIAL PROVISION AS A TRANSPORTATION INFRASTRUCTURE MODEL FOR ECONOMIC DEVELOPMENT (TIME) PROJECT AS DEFINED IN ACT NO. 16 OF THE 1989 FIRST EXTRAORDINARY SESSION OF THE LEGISLATURE WHICH ENACTED PART V OF CHAPTER 7 OF SUBTITLE II OF TITLE 47 OF THE LOUISIANA REVISED STATUTES OF 1950, COMPRISED OF R.S. 47:820.1 THROUGH 820.6.

THE BIDDER CERTIFIES THAT AT LEAST 80 PERCENT OF THE EMPLOYEES EMPLOYED ON THIS TIME PROJECT WILL BE LOUISIANA RESIDENTS IN ACCORDANCE WITH LOUISIANA R.S. 47:820.3.

## NON PARTICIPATION IN PAYMENT ADJUSTMENT (ASPHALT CEMENT AND FUELS) STATEMENT

IF THIS PROJECT IS DESIGNATED BY SPECIAL PROVISION AS BEING SUBJECT TO PAYMENT ADJUSTMENT FOR ASPHALT CEMENT AND/OR FUELS, THE BIDDER HAS THE OPTION OF REQUESTING EXCLUSION FROM SAID PAYMENT ADJUSTMENT PROVISIONS THAT ARE ESTABLISHED BY SPECIAL PROVISION ELSEWHERE HEREIN.

IF THE BIDDER DESIRES TO BE EXCLUDED FROM THESE PAYMENT ADJUSTMENT PROVISIONS,

THE BIDDER IS REQUIRED TO MARK HERE

FAILURE TO MARK THIS BOX PRIOR TO BID OPENING WILL CONSTITUTE FORFEITURE OF THE BIDDER'S OPTION TO REQUEST EXCLUSION.

CS-14A  
08/06

STATE PROJECT NO. 695-06-0004

## BIDDER SIGNATURE REQUIREMENTS (APPLICABLE TO ALL PROJECTS)

THIS BID FOR THE CAPTIONED PROJECT IS SUBMITTED BY:

\_\_\_\_\_  
(Name of Principal (Individual, Firm, Corporation, or Joint Venture))

\_\_\_\_\_  
(If Joint Venture, Name of First Partner)

\_\_\_\_\_  
(Louisiana Contractor's License Number of Bidder or First Partner to Joint Venture)

\_\_\_\_\_  
(Business Street Address)

\_\_\_\_\_  
(Business Mailing Address, if different)

\_\_\_\_\_  
(Area Code and Telephone Number of Business)

\_\_\_\_\_  
(Telephone Number and Name of Contact Person)

\_\_\_\_\_  
(Telecopier Number, if any)

\_\_\_\_\_  
(If Joint Venture, Name of Second Partner)

\_\_\_\_\_  
(Louisiana Contractor's License Number of Second Partner to Joint Venture)

\_\_\_\_\_  
(Business Street Address)

\_\_\_\_\_  
(Business Mailing Address, if different)

\_\_\_\_\_  
(Area Code and Telephone Number of Business)

\_\_\_\_\_  
(Telephone Number and Name of Contact Person)

\_\_\_\_\_  
(Telecopier Number, if any)

ACTING ON BEHALF OF THE BIDDER, THIS IS TO ATTEST THAT THE UNDERSIGNED DULY AUTHORIZED REPRESENTATIVE OF THE ABOVE CAPTIONED FIRM, CORPORATION OR BUSINESS, BY SUBMISSION OF THIS BID, AGREES AND CERTIFIES THE TRUTH AND ACCURACY OF ALL PROVISIONS OF THIS PROPOSAL, INCLUSIVE OF THE REQUIREMENTS, STATEMENTS, DECLARATIONS AND CERTIFICATIONS ABOVE AND IN THE SCHEDULE OF ITEMS AND PROPOSAL GUARANTY. EXECUTION AND SIGNATURE OF THIS FORM AND SUBMISSION OF THE SCHEDULE OF ITEMS AND PROPOSAL GUARANTY SHALL CONSTITUTE AN IRREVOCABLE AND LEGALLY BINDING OFFER BY THE BIDDER.

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

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date of Signature)

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

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date of Signature)

CONTRACTOR'S TOTAL BASE BID \$ \_\_\_\_\_

IT IS AGREED THAT THIS TOTAL, DETERMINED BY THE BIDDER, IS FOR PURPOSES OF OPENING AND READING BIDS ONLY, AND THAT THE LOW BID FOR THIS PROJECT WILL BE DETERMINED FROM THE EXTENSION AND TOTAL OF THE BID ITEMS BY DOTD.

CS-14AA  
08/06