

LEXINGTON

**Lexington-Fayette Urban County Government
Division of Engineering**

**CONTRACT DOCUMENTS
AND
SPECIFICATIONS**

**Fourth Street Corridor Enhancement and
Legacy Trail Phase 3 Projects**

LFUCG Bid No. : 77-2019

Prepared by: Strand Associates Inc.

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**Fourth Street Corridor Enhancement and
Legacy Trail Phase 3 Projects**

2019

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PART 1

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PART 1

ADVERTISEMENT FOR BIDS

1. INVITATION

Sealed proposals for the **Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects** will be received by the Lexington-Fayette Urban County Government (LFUCG) until 2:00 p.m., local time, **September 3, 2019**, for furnishing all labor and/or materials and performing all work as set forth by this advertisement, conditions (general and special), specifications, and/or the drawings prepared by and for Lexington-Fayette Urban County Government, Division of Traffic Engineering. Immediately following the scheduled closing time for reception of bids, all proposals which have been submitted in accordance with the above will be publicly opened and read aloud.

Except as otherwise indicated on the Plans, and in the Contract Documents and Specifications, all items of Work including materials, administration, construction methods, method of measurement and basis of payment shall comply with the current edition of the *Kentucky Department of Highways (KDOH) Standard Specifications for Road and Bridge Construction, 2012 Edition* and all current revisions.

2. DESCRIPTION OF WORK

Consisting of the construction and/or furnishing of items as listed in the Bid Schedule included in Part III, Form of Proposal, of this document, plus incidentals necessary to complete the work. The work entails construction of 8,000 feet of sidewalk removal and replacement, 5,000 feet of concrete curbs, 1,100 feet of restoring historic curb, ADA ramps, signage, crosswalks, seeding/sodding, landscaping, and associated facilities along Jefferson Street, Third Street, Fourth Street, and Elm Tree Lane.

Bids will only be accepted from plan holders who have purchased plans from Lynn Imaging and are subsequently registered as "official plan holders." Bidders and DBE subcontractors must be prequalified with the Kentucky Transportation Cabinet and possess a Certificate of Eligibility at the time of the bid opening. All other subcontractors must be prequalified when accepting subcontracts.

3. OBTAINING PLANS, SPECIFICATIONS, AND BID DOCUMENTS

Plans, Specifications, and Contract Documents shall be obtained from Ionwave (LFUCG's electronic bidding system). Ionwave can be accessed at <https://lexingtonky.ionwave.net>

4. METHOD OF RECEIVING BIDS

Bids will be received from KYTC Prequalified Prime Contracting firms on a Line Item Unit Price Basis for total Project. The Bidder must include a price for all bid items to be considered. Bids shall be submitted in the manner and subject to the conditions as set forth and described in the Instruction to Bidders and Special Conditions.

Mailed bids/proposals should be sent to the Director, Division of Central Purchasing, 200 East Main Street, Lexington, KY 40507.

5. METHOD OF AWARD

The Contract, if awarded, will be to the lowest responsive and responsible bidder for the total project whose qualifications indicate the award will be in the best interest of the OWNER and whose bid/proposal complies with all the prescribed requirements. No Notice of Award will be given until the OWNER has concluded such investigation as deemed necessary to establish the responsibility, qualifications and financial ability of Bidders to do the work in accordance with the Contract Documents to the satisfaction of the OWNER within the time prescribed. The OWNER reserves the right to reject the Bid of any Bidder who does not pass such investigation to the OWNER's satisfaction. In analyzing Bids, the OWNER may take into consideration alternate and unit prices, if requested by the Bid forms.

6. BID WITHDRAWAL

No bidder may withdraw his bid for a period of sixty (60) calendar days after the closing date for receipt of bids. Errors and omissions will not be cause for withdrawal of bid without forfeit of bid bond. Bids may be withdrawn in person prior to the closing date of receipt of bids.

7. BID SECURITY

If the bid is \$50,000 or greater, bid shall be accompanied by a certified check or bid bond payable to the Lexington-Fayette Urban County Government in an amount not less than Five Percent (5%) of the base bid. Bid bond shall be executed by a Surety Company authorized to do business in the Commonwealth of Kentucky and countersigned by a licensed Kentucky Resident Agent, representing the Surety Company. Bid Bonds are not required for bids under \$50,000. A cashier's check or irrevocable letter of credit is an acceptable form of bid security.

8. SUBMISSION OF BIDS

CONTRACTORS shall submit their bids to the Lexington-Fayette Urban County Government, Division of Central Purchasing, Third Floor, 200 East Main Street, Lexington, Kentucky 40507. Bids shall be submitted in a sealed envelope not later than 2:00 p.m. local time, **September 3, 2019**. Sealed proposals shall be clearly marked on the outside of the container as follows: Company Name and Address, Bid Invitation Number **77-2019**, and **Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects** to be opened at 2:00 p.m. local time **September 3, 2019**. Bids are to remain sealed until official Bid closure time. Bids received after the scheduled closing time for receipt of bids will not be considered and will be returned unopened.

9. RIGHT TO REJECT

The Lexington-Fayette Urban County Government reserves the right to reject any and all bids and to waive all informalities and/or technicalities where the best interest of the Lexington-Fayette Urban County Government may be served.

10. NOTIFICATION TO THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT FOR AFFIRMATIVE ACTION PLAN AND CURRENT WORKFORCE

The successful bidder must submit the following to the Lexington-Fayette Urban County Government:

1. Affirmative Action Plan for his/her firm.
2. Current Workforce Analysis Form

Failure to submit this as required herein may result in disqualification of the Bidder from the award of the contract.

All submissions should be directed to:

Lexington-Fayette Urban County Government
Division of Purchasing
200 East Main Street, 3rd Floor, Room 338
Lexington, Kentucky 40507

11. NOTICE CONCERNING DBE GOAL - LFUCG

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) contract participation.

The Lexington-Fayette Urban County Government has set a goal that not less than **ten percent (10%)** of the total value of this contract be subcontracted to Disadvantaged

Business Enterprises. The goal for the utilization of Disadvantaged Business Enterprises as subcontractors is a recommended goal. Contractors who fail to meet such goals will be expected to provide written explanations to the Director of the Division of Central Purchasing of efforts they have made to accomplish the recommended goals, and the extent to which they are successful in accomplishing the recommended goals will be a consideration in the procurement process.

For assistance in locating Disadvantaged Business Enterprises Subcontractors contact:

Sherita Miller, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor, Room 338
Lexington, Kentucky 40507
(859) 258-3323

12. NOTICE CONCERNING DBE GOAL - KYTC

Notice of requirement for Affirmative Action to ensure Equal Employment Opportunities and Disadvantaged Business Enterprises (DBE) contract participation.

The Kentucky Transportation Cabinet has set a recommended goal of not less than five percent (5%) of the total value of this contract be subcontracted to Disadvantaged Business Enterprises. DBE participation must be in compliance with the requirements of 49 CFR 26 and the policies of the Kentucky Transportation Cabinet. Bidders and DBE subcontractors must be prequalified with the Kentucky Transportation Cabinet and possess a Certificate of Eligibility at the time of the bid opening. All other subcontractors must be prequalified when accepting subcontracts.

13. PRE-BID MEETING (Non-Mandatory)

There is a pre-bid meeting scheduled for this project for 1:00 PM on August 19, 2019 on the 3rd Floor, 200 East Main St., Lexington, KY.

14. EXCLUDED PARTIES LIST SYSTEM (EPLS/SAM)

Prior to project being awarded, LFUCG will verify that the contractor is not listed on an "Excluded Parties List System" (suspended or debarred), as identified within the "SAM" site at <http://www.sam.gov>.

The EPLS is an electronic, web-based system that identifies those parties excluded from receiving Federal contracts, certain subcontracts and certain types of Federal financial and non-financial assistance and benefits. The EPLS keeps its user community aware of administrative and statutory exclusions across the entire government, and individual barred from entering the United States. The user is able to search, view, and download both current and archived exclusions.

EPLS access is available from any personal computer with Internet connectivity and a minimum web browser of Netscape 4.04 Internet Explorer 4.04 or Internet Explorer 4.0 at <http://www.sam.gov>.

END OF SECTION

PART II
INFORMATION FOR BIDDERS

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PART II
INFORMATION FOR BIDDERS

1. RECEIPT AND OPENING OF BIDS

The Lexington-Fayette Urban County Government (herein called the OWNER) invites bids from firms on the project described in the Advertisement for Bids. The OWNER will receive bids at the Division of Purchasing, at the time and in the manner set forth in the Advertisement for Bids, and the Bids will then be publicly opened and read aloud. The OWNER may consider informal any bid not prepared and submitted in accordance with the provisions hereof and may waive any informalities or reject any and all bids. Any bid may be withdrawn prior to the scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified shall not be considered. No bidder may withdraw a bid within 60 days after the actual time and date of the bid opening, but OWNER may, in its sole discretion, release any bid and return the Bid Security prior to that date.

The Lexington-Fayette Urban County Government assumes no responsibility for bids that are not addressed and delivered as indicated above. Bids that are not delivered to the Division of Central Purchasing by the stated time and date will be rejected.

2. PREPARATION OF BID

Each bid must be submitted on the prescribed Form of Proposal. **The bid must be submitted with the entire proposal and include all pages.** All blank spaces for the bid prices must be filled in, either in ink or typewritten, for both unit prices and extensions. Totals for each bid item must be added to show the total amount of the bid. Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, their address, the name of the project, the invitation number and time and date for which the bid is submitted. Bids must be addressed to the Director of Central Purchasing, Lexington-Fayette Urban County Government, Third Floor, 200 East Main Street, Lexington, Kentucky 40507. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified above.

3. SUBCONTRACTS

The bidder is specifically advised that any person, firm, or other party to whom it is proposed to award a subcontract under this Contract must be acceptable to the OWNER. All proposed subcontractors must be identified on the Form of Proposal. Prior to the award of Contract, the OWNER or the OWNER'S representative will advise the CONTRACTOR of the acceptance and approval thereof or of any action necessary to be taken. Should any Subcontractor be rejected by the OWNER, the CONTRACTOR shall present a new name and/or firm to the OWNER at no change in the Contract Price.

4. QUALIFICATION OF BIDDER

The OWNER may make such investigations as the OWNER deems necessary to determine the ability of the bidder to perform the Work, and the bidder shall furnish to the OWNER all such information and data for this purpose as the OWNER may request. The OWNER reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the OWNER that such bidder is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein. Conditional bids will not be accepted.

In evaluating Bids, OWNER shall consider the qualifications of the BIDDERS, whether or not the Bids comply with the prescribed requirements, and alternatives and unit prices, as requested. OWNER may consider maintenance requirements, performance data, and disruption or damage to private property. It is OWNER'S intent to accept alternatives by the bid forms, in the order in which they are listed in the Bid Form but OWNER may accept or decline them in order or combination. The contract, if awarded, will be awarded to the lowest responsive and qualified, responsible BIDDER based upon OWNER'S evaluation which indicates that the award will be in the best interest of OWNER and the general public.

In the event there is any question as to the bidder's qualifications and ability to complete the work, a final determination will be made in accordance with a fair evaluation by the Urban County Government of the above listed elements.

- A. If the OWNER requires filling out a detailed financial statement, the bidder may provide its current certified financial statement(s) for the required time interval.
- B. Corporate firms are required to be registered with the Office of the Secretary of State, Commonwealth of Kentucky.
- C. Documents Required of CONTRACTOR - (1) A sworn statement signed by the President or owner of the Company regarding all current work in progress anywhere; (2) A document showing the percent of completion of each project and the total worth of each project; and (3) Documentation showing the percentage of the DBE employment levels on each project of the Bidder's current work force, and DBE participation levels for Subcontractors.
- D. Optional OWNER Requirements - The OWNER, at its discretion, may require the BIDDER/CONTRACTOR to provide: (1) A current detailed financial statement for a period including up to 3 prior years. (2) Financial security or insurance in amounts and kinds acceptable to the OWNER to meet the financial responsibility requirements for the CONTRACTOR to indemnify the OWNER. (3) Additional information and/or DBE work force data, as well as DBE participation data.

Each bidder agrees to waive any claim it has or may have against the Owner, the Architect/Engineer, and their respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any bid.

E. Bids will only be accepted from plan holders who have accessed plans from Ionwave. Bidders and DBE subcontractors must be prequalified with the Kentucky Transportation Cabinet and possess a Certificate of Eligibility at the time of the bid opening. All other subcontractors must be prequalified when accepting subcontracts.

F. **Prequalified DBE list can be found at:
<http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Pages/Certified-and-Prequalified-DBEs.aspx>**

5. BID SECURITY

- A. Each bid must be accompanied by a bid bond prepared on a Form of Bid Bond and attached hereto, duly executed by the bidder as principal and having as surety thereon a surety company approved by the OWNER, in the amount of 5% of the bid. Such bid bond will be returned to the unsuccessful bidder(s) only upon written request to the Director of Central Purchasing within seven (7) days of opening of bids. Bid bond shall be made payable to the Lexington-Fayette Urban County Government. Bid security is not required for projects under \$50,000.
- B. Bonds shall be placed with an agent licensed in Kentucky with surety authorized to do business within the state. When the premium is paid for such coverage, the full commission payable shall be paid to such local agent who shall not divide such commission with any person other than a duly licensed resident local agent.

6. LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT

The successful bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within ten (10) days after he has received notice of the acceptance of his bid, shall forfeit to the OWNER, as liquidated damages for such failure or refusal, the security deposited with his bid.

7. TIME OF COMPLETION AND LIQUIDATED DAMAGES

It is mutually agreed by and between the parties hereto that time is of the essence of this Contract, and that there will be sustained by the OWNER damages, monetary and otherwise, in the event of delay in the completion of the Work hereby contracted. The

CONTRACTOR will be held responsible to the OWNER for delays in completion of the Work herein contracted beyond the date set for completion. Completion is defined in Section 108.03 of the KDOH Standard Specifications, Current Edition. Such monetary damage shall be deducted from the Contract sum in the amount of SEVEN HUNDRED FIFTY DOLLARS (\$750.00) per calendar day of such delay. If the Work contracted to be done shall not, in good faith, be commenced at the time specified, then the CONTRACTOR together with the Surety or Sureties upon the bond herein provided for, shall be liable for and shall pay to the OWNER all damages sustained by reason of such failure for breach of Contract, and the OWNER may immediately re-let the Work involved.

Bidder must agree to commence work on or before a date to be specified in a written "Notice to Proceed" from the OWNER and to fully complete the Project within the time as specified in the Contract. Bidder must agree also to pay liquidated damages, or the sum as specified in the Contract for each consecutive calendar day thereafter as hereinafter provided in the General Conditions.

8. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- A. It is the responsibility of each Bidder before submitting a Bid, to (a) examine the Contract Documents thoroughly, (b) visit the site(s) to become familiar with local conditions that may affect cost, progress, performance or furnishing of the work, (c) consider Federal, State and Local laws and regulations that may affect cost, progress, performance or furnishing of the work, (d) study and carefully correlate Bidder's observations with the Contract Documents, and (e) notify Engineer of all conflicts, errors or discrepancies in the Contract Documents.

- B. Bidders should examine the requirements of Section 4 of the General Conditions for information pertaining to subsurface conditions, underground structures, underground facilities, and availability of lands, easements, and rights-of-way. The completeness of data, presented in the Contract Documents, pertaining to subsurface conditions, underground structures, and underground facilities for the purposes of bidding or construction is not assured. The Bidder will, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface and subsurface) which may affect cost, progress, performance or furnishing of the Work and which Bidder deems necessary to determine its Bid for performing and furnishing the Work in accordance with the time, price, and other terms and conditions of the Contract Documents. On request in advance, OWNER will provide access to the site to conduct such explorations and tests as each Bidder deems necessary for submission of a bid. Bidder shall fill all holes, clean up and restore the site to its former condition upon completion of such explorations.

- C. The submission of a Bid will constitute an incontrovertible representation by the Bidder that Bidder has complied with every requirement of this paragraph; that without exception the Bid is premised upon furnishing and performing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents; and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

9. **ADDENDA AND INTERPRETATIONS**

No interpretation of the meaning of the Contract Documents will be made to any bidder orally. Every request for such interpretation should be in writing addressed to the Director of Central Purchasing, who in turn will have an addendum issued under signature of the Engineer for the Lexington-Fayette Urban County Government, and to be given consideration must be received at least seven (7) days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested, faxed or emailed to all prospective bidders. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.

10. **SECURITY FOR FAITHFUL PERFORMANCE**

- A. Simultaneously with his delivery of the executed Contracts, the CONTRACTOR shall furnish a surety bond or bonds as security for the faithful performance of this Contract and for payment of all persons performing labor on the Project under this Contract and furnishing materials in connection with this Contract, as specified in the General Conditions. The surety on such bond or bonds shall be a duly authorized surety company satisfactory to the OWNER and authorized to do business in the Commonwealth of Kentucky.
- B. All bonds required by this Contract and laws of this State shall be placed with agents licensed in the State of Kentucky. When the premium is paid for such coverages, the full commission shall be paid to such local agent who shall not divide such commission with any person other than a duly licensed resident local agent.
- C. **Contractor shall use standard Performance and Payment Bond forms such as documents provided with this contract book or AIA form A312-1984 (or later).**

11. POWER OF ATTORNEY

Attorney-in-fact who signs bid bonds or contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

12. TAXES AND WORKMEN'S COMPENSATION

The CONTRACTOR and subcontractor will be required to accept liability for payment of all payroll taxes, sales and use tax, and all other taxes or deductions required by local, state or federal law. Each shall carry Workmen's Compensation Insurance to the full amounts as required by Statutes and shall include the cost of all foregoing items in the proposal. The CONTRACTOR will not otherwise be reimbursed or compensated for such tax payments. The CONTRACTOR is urged to ascertain at his own risk his actual tax liability in connection with the execution or performance of his Contract.

13. LAWS AND REGULATIONS

The bidder's attention is directed to the fact that all applicable state laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout, and they will be deemed to be included in the contract, the same as though herein written out in full.

14. EROSION AND SEDIMENT CONTROL AND PERMITS

The CONTRACTOR and Subcontractors performing work on projects on behalf of the OWNER shall also comply with all applicable federal, state, and local environmental regulations and all requirements and conditions set forth in "special" permits including but not limited to Corp of Engineers 404 permits, 401 Water Quality Certifications, Stream Crossing and Floodplain Encroachment Permits as described in Part 4 General Conditions Paragraph 5.17.

15. PREVAILING WAGE LAW AND MINIMUM HOURLY RATES

Federal wage rates and regulations, if required for this Project, will be as described in the Special Conditions.

16. AFFIRMATIVE ACTION PLAN

The successful Bidder must submit the entire proposal with their bid, the following items to the Urban County Government:

1. Certification of Bid Proposal/DBE – see Part III
2. KYTC DBE Provisions – see Part III
3. DBE Subcontractor Bidders List – see Part III

A Work Force Analysis Form shall be submitted for each Contract. Failure to submit any of these items as required herein may result in disqualification of the Bidder from award of the Contract.

All submissions should be directed to:

Director, Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, Third Floor
Lexington, KY 40507

17. CONTRACT TIME

The number of calendar days within which the Work is to be substantially completed and ready for final payment (the Contract Time) is set forth in the Form of Proposal and the Agreement.

18. SUBSTITUTE OR "APPROVED EQUAL" ITEMS

The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "approved equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "approved equal" item of material or equipment may be furnished or used by the CONTRACTOR if acceptable to the ENGINEER and OWNER, application for such acceptance will not be considered by the ENGINEER and OWNER until after the effective date of the Agreement. The procedure for submission of any such application by the CONTRACTOR and consideration by the ENGINEER and OWNER is set forth in the General Conditions.

19. ALTERNATE BIDS

Bidders shall submit alternate bids/proposals only if and when such alternate bids/proposals have been specifically requested in an Invitation for Bids. If alternate bids/proposals are requested in an Invitation for Bids, the form of submission of such alternate bid and the conditions under which such alternate bids will be considered for award of a contract will be established in the Invitation.

Any Bidder who submits a bid incorporating an alternate proposal when alternate bids/proposals have not been requested in the Invitation for Bids shall have his/her bid rejected as non-responsive.

Any Bidder who submits a bid incorporating two (2) or more prices for an item or groups of items (unless such method of pricing is requested in the Invitation for Bids), or which imposes conditions for acceptance other than those established in the Invitation for Bids,

shall have their bid rejected as non-responsive.

20. SIGNING OF AGREEMENT

When OWNER gives a Notice of Award to the successful Bidder, it will be accompanied by the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. Within ten days thereafter, CONTRACTOR shall sign and deliver the required number of counterparts of the Agreement and attached documents to OWNER with the required Bonds, Certificate of Insurance, and Power of Attorney. The OWNER will deliver one fully signed counterpart to CONTRACTOR at such time as it has been signed by the Mayor.

21. ASSISTANCE TO BE OFFERED TO DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACTORS

I. Outreach

The Lexington-Fayette Urban County Government (LFUCG) maintains a data base of DBE companies. When a LFUCG construction project is advertised for bidding, notices are sent to the appropriate commodity code via email through the LFUCG Economic Engine Marketplace. The bid notices describe the project, indicate the deadline for submitting bids, and review the bonding assistance which is available. If you wish to be added to the LFUCG Economic Engine database please register your company at <https://lfucg.economicengine.com>. If you wish to be added to the LFUCG DBE contractor mailing list, please contact:

Sherita Miller
Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, Room 338
Lexington, Kentucky 40507

II. Eligibility for Bid Bond Assistance

In order to be eligible for any bid bonding assistance, a DBE construction company must be owned or controlled at the level of 51% or more, by a member or members of a minority group or females. Prior to receiving assistance, a statement providing evidence of ownership and control of the company by a member or members of a minority group or females must be signed by the OWNER or corporate officer and by an attorney or accountant and submitted to:

Sherita Miller
Division of Central Purchasing

Lexington-Fayette Urban County Government
200 East Main Street, Room 338
Lexington, Kentucky 40507

III. Subcontractors

The LFUCG will, upon request, assist prime contractors in the procurement of eligible DBE subcontractors in an effort to achieve the **ten percent (10%) minimum DBE goal**. The KYTC goal for the project is **five percent (5%)**.

For a list of eligible DBE subcontractors please contact:

Sherita Miller
Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, Room 338
Lexington, Kentucky 40507

IV. Questions

If you have questions or wish to have additional information, please contact:

Buyer for Project
Division of Central Purchasing
Lexington-Fayette Urban County Government
200 East Main Street, 3rd Floor
Lexington, Kentucky 40507
(859) 258-3320

22. DBE PARTICIPATION GOALS

A. GENERAL

- 1) The LFUCG request all potential contractors to make a concerted effort to include Disadvantaged Business Enterprises (DBE) as subcontractors or suppliers in their bids.
- 2) Toward that end, the LFUCG has established **10%** of total procurement costs as a Goal for participation of Disadvantaged Businesses Enterprise (DBE) on this contract.
- 3) DBE Subcontractors must be prequalified and certified with the Kentucky Transportation Cabinet at the time of bid if utilized as a DBE meeting the DBE Goal.
- 4) **It is therefore a request of each Bidder to include in its bid, the same goal**

of five percent (5%) for DBE participation and other requirements as outlined in this section.

B. PROCEDURES

- 1) The successful bidder will be required to report to the LFUCG, the dollar amounts of all purchase orders submitted to DBE subcontractors and suppliers for work done or materials purchased for this contract. (See Subcontractor Monthly Payment Report)
- 2) Replacement of a DBE subcontractor or supplier listed in the original submittal must be requested in writing and must be accompanied by documentation of Good Faith Efforts to replace the subcontractor / supplier with another DBE Firm; this is subject to approval by the LFUCG. (See KYTC DBE Substitution Form)
- 3) For assistance in identifying qualified, certified businesses to solicit for potential contracting opportunities, bidders may contact:
 - a) The Lexington-Fayette Urban County Government, Division of Central Purchasing (859-258-3320)
- 4) The LFUCG will make every effort to notify interested DBE subcontractors and suppliers of each Bid Package, including information on the scope of work, the pre-bid meeting time and location, the bid date, and all other pertinent information regarding the project.

C. DEFINITIONS

- 1) A Disadvantaged Business Enterprise (DBE) is defined as a business which is certified as being at least 51% owned and operated by persons of African American, Hispanic, Asian, Pacific Islander, American Indian or Alaskan Native Heritage or by one or more Females.

D. OBLIGATION OF BIDDER

- 1) **The bidder shall make a Good Faith Effort to achieve the Participation Goal for DBE subcontractors/suppliers. The failure to meet the goal shall not necessarily be cause for disqualification of the bidder; however, bidders not meeting the goal are required to furnish with their bids written documentation of their Good Faith Efforts to do so.**
- 2) Award of Contract shall be conditioned upon satisfaction of the requirements set forth herein.
- 3) Part III The Form of Proposal, includes a section entitled "KENTUCKY TRANSPORTATION CABINET-DISADVANTAGED BUSINESS

ENTERPRISE PROVISIONS". The applicable information must be completed and submitted as outlined in that document.

- 4) **Failure to submit this information as requested will be cause for rejection of bid.**

E. DOCUMENTATION REQUIRED

- 1) "KENTUCKY TRANSPORTATION CABINET-DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS", located in Part III provides instruction for contractors who do meet the DBE Goal and for contractors who do not meet the DBE Goal.

23. REQUIRED SUBMITTALS

The entire proposal must be completed and submitted or your bid may be considered non-responsive and rejected.

END OF SECTION

PART III
FORM OF PROPOSAL

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2. LEGAL STATUS OF BIDDER
3. BIDDERS AFFIDAVIT
4. BID SCHEDULE – SCHEDULE OF VALUES
5. STATEMENT OF BIDDER'S QUALIFICATIONS
6. LIST OF PROPOSED SUBCONTRACTORS
7. LIST OF MATERIALS /SUPPLIERS
8. DBE SUB-CONTRACTOR BIDDERS LIST
9. CERTIFICATION FOR FEDERAL-AID CONTRACTS
10. CERTIFICATION OF PERFORMANCE
11. CERTIFICATION OF ORGANIZATION(S)
12. CERTIFICATION OF BID PROPOSAL/DBE
13. KENTUCKY TRANSPORTATION CABINET–DISADVANTAGED BUSINESS
ENTERPRISE PROVISIONS
14. NON-COLLUSION CERTIFICATION
15. STATEMENT OF EXPERIENCE
16. EQUAL OPPORTUNITY AGREEMENT
17. EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE
ACTION POLICY
18. WORKFORCE ANALYSIS FORM
19. EVIDENCE OF INSURABILITY
20. DEBARRED FIRMS
21. DEBARMENT CERTIFICATION
22. PROVISIONS RELATIVE TO SENATE BILL 258 (1994)
23. EXECUTIVE BRANCH CODE OF ETHICS

PART III

Invitation to Bid No. 77-2019

**Fourth Street Corridor Enhancement and
Legacy Trail Phase 3 Projects**

1. FORM OF PROPOSAL

Place: Lexington, Kentucky

Date: _____

The following Form of Proposal shall be followed exactly in submitting a proposal for this Work.

This Proposal Submitted by _____

(Name and Address of Bidding Contractor)

(Hereinafter called "Bidder"), organized and existing under the laws of the State of _____, doing business as _____
"a corporation," "a partnership", or an "individual" as applicable.

To: Lexington-Fayette Urban County Government
(Hereinafter called "OWNER")
Office of the Director of Purchasing
200 East Main Street, 3rd Floor
Lexington, KY 40507

Gentlemen:

The Bidder, in compliance with your Invitation for Bids for the **Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects** having examined the Plans and Specifications with related documents, having examined the site for proposed Work, and being familiar with all of the conditions surrounding the construction of the proposed Project, including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the Project in accordance with the Contract Documents, within the time set forth therein, and at the lump sum and/or unit prices stated hereinafter. These prices are to cover all expenses incurred in performing the Work required under the Contract Documents, of which this proposal is a part.

BIDDER hereby agrees to commence work under this contract as to be specified in the Notice to Proceed and to fully complete the project within **two-hundred seventy (270) consecutive calendar days** thereafter. BIDDER further agrees to pay liquidated damages, the sum of \$2,400.00 for each consecutive calendar day thereafter.

The Bidder hereby acknowledges receipt of the following addenda:

Addendum No. _____ Date _____

Insert above the number and the date of any Addendum issued and received. If none has been issued and received, the word "NONE" should be inserted.

2. LEGAL STATUS OF BIDDER

Bidder _____

Date _____

* 1. A corporation duly organized and doing business under the laws of the State of _____, for whom _____, bearing the official title of _____, whose signature is affixed to this Bid/Proposal, is duly authorized to execute contracts.

* 2. A Partnership, all of the members of which, with addresses are: (Designate general partners as such)

* 3. An individual, whose signature is affixed to this Bid/Proposal (please print name)

*(The Bidder shall fill out the appropriate form and strike out the other two.)

3. BIDDERS AFFIDAVIT

ANNUAL AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

Affidavit Effective Date: _____

Affidavit Expiration Date: _____

Maximum Length One-Year _____

REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

FOR BIDS AND CONTRACTS IN GENERAL:

I. Each bidder or offeror swears and affirms under penalty of perjury, that:

a. In accordance with KRS 45A.110 and KRS 45A.115, neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky; and the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

b. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.

c. The bidder or offeror swears and affirms under penalty of perjury that, to the extent required by Kentucky law, the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139, and will remain registered for the duration of any contract awarded.

d. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

FOR "NON-BID" CONTRACTS (I.E. SOLE-SOURCE; NOT-PRACTICAL OR FEASIBLE TO BID; OR EMERGENCY CONTRACTS, ETC):

II. Each contractor further swears and affirms under penalty of perjury, that:

a. In accordance with KRS 121.056, and if this is a non-bid contract, neither the contractor, nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of any contract awarded, have contributed more than the amount specified in KRS 121.150 to the

campaign of the gubernatorial slate elected in the election last preceding the date of contract award.

b. In accordance with KRS 121.330(1) and (2), and if this is a non-bid contract, neither the contractor, nor officers or employees of the contractor or any entity affiliated with the contractor, nor the spouses of officers or employees of the contractor or any entity affiliated with the contractor, have knowingly contributed more than \$5,000 in aggregate to the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract award.

c. In accordance with KRS 121.330(3) and (4), and if this is a non-bid contract, to the best of his/her knowledge, neither the contractor, nor any member of his/her immediate family, his/her employer, or his/her employees, or any entity affiliated with any of these entities or individuals, have directly solicited contributions in excess of \$30,000 in the aggregate for the campaign of a candidate elected in the election last preceding the date of contract award that has jurisdiction over this contract.

As a duly authorized representative for the bidder, offeror, or contractor, I have fully informed myself regarding the accuracy of all statements made in this affidavit, and acknowledge that the Commonwealth is reasonably relying upon these statements, in making a decision for contract award and any failure to accurately disclose such information may result in contract termination, repayment of funds and other available remedies under law. If the bidder, offeror, or contractor becomes non-compliant with any statements during the affidavit effective period, I will notify the Finance and Administration Cabinet, Office of Procurement Services immediately. I understand that the Commonwealth retains the right to request an updated affidavit at any time.

Signature

Printed Name

Title

Date

Company Name _____

Address _____

Subscribed and sworn to before me by _____
(Affiant)

(Title)

of _____ this _____ day of _____, 20____.
(Company Name)

Notary Public
[seal of notary]

My commission expires: _____

BIDDERS AFFIDAVIT (LFUCG)

Comes the Affiant, _____, and after being first
duly sworn, states under penalty of perjury as follows:

1. His/her name is _____
and he/she is the individual submitting the bid or is the authorized representative of
_____, the
entity submitting the bid (hereinafter referred to as "Bidder").
2. Bidder will pay all taxes and fees, which are owed to the Lexington-Fayette
Urban County Government at the time the bid is submitted, prior to award of the
contract and will maintain a "current" status in regard to those taxes and fees during
the life of the contract.
3. Bidder will obtain a Lexington-Fayette Urban County Government business
license, if applicable, prior to award of the contract.
4. Bidder has authorized the Division of Central Purchasing to verify the
above-mentioned information with the Division of Revenue and to disclose to the
Urban County Council that taxes and/or fees are delinquent or that a business license
has not been obtained.
5. Bidder has not knowingly violated any provision of Chapter 25 of the
Lexington-Fayette Urban County Government Code of Ordinances, known as the
"Ethics Act."
6. Bidder acknowledges that "knowingly" for purposes of this Affidavit means,
with respect to conduct or to circumstances described by a statute or ordinance

defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Signature Printed Name

Title Date

Company Name _____

Address _____

Subscribed and sworn to before me by _____
(Affiant)

(Title)

of _____ this _____ day of _____, 20____.
(Company Name)

Notary Public
[seal of notary]

My commission expires: _____

4. **BID SCHEDULE – SCHEDULE OF VALUES**

The Bidder agrees to perform all the Work described in the Specifications and shown on the Plans for the following proposed lump sum and/or unit prices, if applicable, which shall include the furnishing of all labor, materials, supplies, equipment and/or vehicle usage, services, all items of cost, overhead, taxes (federal, state, local), and profit for the Contractor and any Subcontractor involved, within the time set forth herein. If unit prices are applicable, Bidder must make the extensions and additions showing the total amount of bid.

If a discrepancy between the unit price and the item total exists, the unit price prevails except:

If the unit price is illegible, omitted, or the same as the item total, item total prevails and the unit price is the quotient of the item total and the quantity.

If the unit price and the item total are illegible or are omitted, the bid may be determined nonresponsive. If a lump sum total price is illegible or is omitted, the bid may be determined nonresponsive.

For a unit price based bid, the sum of the item totals is the bid amount the Division uses for bid comparison.

The LFUCG's decision on the bid amount is final.

The contract, if awarded, will be on the basis of materials and equipment specified in the specifications without consideration of possible substitute or "or equal" items.

The estimated quantities of items of unit price work are not guaranteed and are solely for the purpose of comparison of bids and determining an initial Contract price. Determination of the actual quantities and classification of unit price work performed by the Contractor will be made by the Engineer in accordance with the General Conditions.

Payment:

Accepted quantities for Work shall be paid for at their respective Contract "Unit Price" as quoted (which shall be for all Work required under this Section) and paid per "Unit To Bid On" of specified "Description" satisfactorily placed. All labor, materials, equipment, and excavation shall be incidental to the Work.

Digital Bid Submittals:

Bidders will also be required to submit a digital version of the Unit Prices and Total Amount Bid. The excel spreadsheet is available through the LFUCG's Economic Engine website (<https://lfucg.economicengine.com>). If there is a discrepancy between the digital and written versions, then the written version shall prevail.

Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects
- Base Bid

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amoun Bid |
|-----------------|-----------------|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|------------------------|
| 1 | 2,844 | TN | DGA Base <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 2 | 1,768 | TN | Crushed Stone Base No. 2 <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 3 | 56 | TN | Leveling and Wedging PG64-22 <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 4 | 2,500 | TN | CL3 Asphalt Base 1.00D PG64-22 <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 5 | 7.7 | TN | Asphalt Material for Tack <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 6 | 2,182 | TON | CL3 Asphalt Surf 0.38B PG64-22 <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Lump Sum | \$ _____ | \$ _____ |
| 7 | 35 | LF | Storm Sewer Pipe -12 In <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Linear Foot | \$ _____ | \$ _____ |
| 8 | 241 | LF | Storm Sewer Pipe -15 In <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Linear Foot | \$ _____ | \$ _____ |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid | |
|----------|----------|----------------|--------------------------------------------------|------------|------------------|----------|
| 9 | 678 | LF | Storm Sewer Pipe -18 In | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Linear Foot | | | |
| 10 | 68 | LF | Storm Sewer Pipe -24 In | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Linear Foot | | | |
| 11 | 14 | EA | Curb Box Inlet Type A | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 12 | 2 | EA | Curb Box Inlet Type B | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 13 | 1 | EA | Curb Box Inlet Type F | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 14 | 2 | EA | Junction Box-15 In | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 15 | 2 | EA | Cored Hole Drainage Box Con-6 In | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 16 | 1 | EA | Cored Hole Drainage Box Con-8 In | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 17 | 12 | EA | Adjust Manhole Frame to Grade | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid |
|----------|----------|----------------|--------------------------------------------------------------------------------------------|------------|------------------|
| 18 | 351 | LF | Standard Curb and Gutter _____ Dollars _____ Cents Per linear Foot | \$ _____ | \$ _____ |
| 19 | 2,911 | LF | Standard Header Curb _____ Dollars _____ Cents Per Linear Foot | \$ _____ | \$ _____ |
| 20 | 4,306 | LF | Remove Curb _____ Dollars _____ Cents Per Linear Foot | \$ _____ | \$ _____ |
| 21 | 382 | SY | PCC Base-8 In _____ Dollars _____ Cents Per Square Yard | \$ _____ | \$ _____ |
| 22 | 438 | SY | JPC Pavement-8 In _____ Dollars _____ Cents Per Square Yard | \$ _____ | \$ _____ |
| 23 | 15,430 | SY | Remove Pavement _____ Dollars _____ Cents Per Square Yard | \$ _____ | \$ _____ |
| 24 | 1,114 | SY | Cement Concrete Ent Pavement-6 In _____ Dollars _____ Cents Per Square Yard | \$ _____ | \$ _____ |
| 25 | 60 | CY | Pipe Undercut _____ Dollars _____ Cents Per Cubic Yard | \$ _____ | \$ _____ |
| 25 | 220 | LF | Remove Fence _____ Dollars _____ Cents Per Linear Foot | \$ _____ | \$ _____ |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid |
|----------|----------|----------------|-------------------------------------------------------------------------|------------|------------------|
| 27 | 60 | LF | Reset Fence Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 28 | 1 | LS | Clearing and Grubbing Dollars Cents Per Lump Sum | \$ _____ | \$ _____ |
| 29 | 1 | LS | Mobilization (5% maximum) Dollars Cents Per Lump Sum | \$ _____ | \$ _____ |
| 30 | 1 | LS | Demobilization (minimum 1.5%) Dollars Cents Per Lump Sum | \$ _____ | \$ _____ |
| 31 | 400 | SY | Fabric Geotextile TY IV for Pipe Dollars Cents Per Square Yard | \$ _____ | \$ _____ |
| 32 | 1 | LS | Maintain and Control Traffic Dollars Cents Per Lump Sum | \$ _____ | \$ _____ |
| 33 | 1 | LS | Mobilization for Mill and Texturing Dollars Cents Per Lump Sum | \$ _____ | \$ _____ |
| 34 | 1,847 | TN | Asphalt Pave Milling and Texturing Dollars Cents Per Ton | \$ _____ | \$ _____ |
| 35 | 4,723 | SY | 4 1/2" Concrete Sidewalk Dollars Cents Per Square Yard | \$ _____ | \$ _____ |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid |
|----------|----------|----------------|--------------------------------------------------|------------|------------------|
| 36 | 1 | LS | Staking | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Lump Sum | | |
| 37 | 3,121 | SY | Seeding and Protection | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Square Yard | | |
| 38 | 2,488 | SY | Sodding | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Square Yard | | |
| 39 | 543 | SF | SBM Alum Sheet Signs .080 in | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Square Foot | | |
| 40 | 46 | LF | Steel Post Type 1 | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Linear Foot | | |
| 41 | 501 | LF | Steel Post Type 2 | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Linear Foot | | |
| 42 | 2 | CY | Class A Concrete for Signs | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Cubic Yard | | |
| 43 | 15,469 | LF | Pavement Striping-Thermo-4 In W | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Linear Foot | | |
| 44 | 12,426 | LF | Pavement Striping-Thermo-4 In Y | Dollars | \$ _____ |
| | | | | Cents | |
| | | | Per Linear Foot | | |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid |
|----------|----------|----------------|--------------------------------------------------------------------------------|------------|------------------|
| 45 | 135 | LF | Pavement Striping-Thermo-8 In W Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 46 | 60 | LF | Pavement Striping-Thermo-8 In Y Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 47 | 144 | LF | Pavement Striping-Thermo-12 In W Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 48 | 396 | LF | Pavement Striping-Dur TY 1-6 In W Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 49 | 448 | LF | Pavement Marking-Thermo-X Walk-12 In Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 50 | 318 | LF | Pavement Marking-Thermo-Stop Bar -12 In Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 51 | 585 | LF | Pavement Marking-Thermo-Stop Bar -24 In Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 52 | 5 | EA | Pavement Marking-Thermo-Curv Arrow Dollars Cents Per Each | \$ _____ | \$ _____ |
| 53 | 3 | EA | Pavement Marking-Thermo-Combo Arrow Dollars Cents Per Each | \$ _____ | \$ _____ |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid |
|----------|----------|----------------|----------------------------------------------------------------------|------------|------------------|
| 54 | 2 | EA | Pavement Marking-Thermo School Dollars Cents Per Each | \$ _____ | \$ _____ |
| 55 | 80 | EA | Pavement Marker Type V-BY Dollars Cents Per Each | \$ _____ | \$ _____ |
| 56 | 10,216 | DOLLAR | Fuel Adjustment Dollars Cents Per Dollar | \$ _____ | \$ _____ |
| 57 | 21,018 | DOLLAR | Asphalt Adjustment Dollars Cents Per Dollar | \$ _____ | \$ _____ |
| 58 | 49 | EA | Pavement Marking Thermo-Bike Dollars Cents Per Each | \$ _____ | \$ _____ |
| 59 | 13 | EA | Remove Small Drainage Structure Dollars Cents Per Each | \$ _____ | \$ _____ |
| 60 | 1 | LS | Erosion Control Dollars Cents Per Lump Sum | \$ _____ | \$ _____ |
| 61 | 60 | LF | Integral Walk and Header Curb Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 62 | 876 | LF | Monolithic Curb and Sidewalk Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid |
|----------|----------|----------------|------------------------------------------------------------------------------------|------------|------------------|
| 63 | 849 | LF | LFUCG Curb and Gutter Type 1 Dollars _____ Cents _____ Per Linear Foot | \$ _____ | \$ _____ |
| 64 | 1,346 | SF | Install Detectable Warnings Dollars _____ Cents _____ Per Square Foot | \$ _____ | \$ _____ |
| 65 | 152 | LF | Storm Lateral-6 In Dollars _____ Cents _____ Per Linear Foot | \$ _____ | \$ _____ |
| 66 | 113 | LF | Storm Lateral-8 In Dollars _____ Cents _____ Per Linear Foot | \$ _____ | \$ _____ |
| 67 | 12 | LF | Storm Lateral-10 In Dollars _____ Cents _____ Per Linear Foot | \$ _____ | \$ _____ |
| 68 | 3 | EA | LFUCG Type "A" Manhole (5 ft Diameter) Dollars _____ Cents _____ Per Each | \$ _____ | \$ _____ |
| 69 | 1 | EA | LFUCG Type "A" Manhole (6 ft Diameter) Dollars _____ Cents _____ Per Each | \$ _____ | \$ _____ |
| 70 | 5 | EA | LFUCG Type "B" Manhole (5 ft Square) Dollars _____ Cents _____ Per Each | \$ _____ | \$ _____ |
| 71 | 7 | EA | Modified LFUC CBI Type "B" Dollars _____ Cents _____ Per Each | \$ _____ | \$ _____ |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid |
|----------|----------|----------------|--------------------------------------------------|------------|------------------|
| 72 | 3 | EA | Reconstruct Inlet | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Each | | |
| 73 | 6 | EA | Pavement Marking-Thermo-Speed Hump Arrow | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Each | | |
| 74 | 38 | EA | Pavement Marking-Thermo-Bike Lane Arrow | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Each | | |
| 75 | 12 | EA | Pavement Marking-Thermo-Shared Lane Arrow | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Each | | |
| 76 | 1,723 | LF | Pavement Marking-Thermo-X Walk 24 In Arrow | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Linear Foot | | |
| 77 | 4,102 | SF | Pavement Marking-Thermo-Green Dashed Bike Lane | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Each | | |
| 78 | 26 | EA | Remove and Relocate Sign Assembly | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Each | | |
| 79 | 51 | EA | Remove Sign Assembly | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Each | | |
| 80 | 4 | EA | Remove and reset Bollard | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Each | | |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid |
|----------|----------|----------------|-------------------------------------------------------------------------------|------------|------------------|
| 81 | 1,129 | LF | Salvage Existing Limestone Header Curb Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 82 | 1,137 | LF | Install Limestone Curb Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 83 | 120 | LF | Deliver Limestone Header Curb Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |
| 84 | 56,334 | SF | Colorized Pavement Demarcation-Green Dollars Cents Per Square Foot | \$ _____ | \$ _____ |
| 85 | 149 | SF | Colorized JPC Pavement Dollars Cents Per Square Foot | \$ _____ | \$ _____ |
| 86 | 4 | EA | Install Flag Pole Assembly Dollars Cents Per Each | \$ _____ | \$ _____ |
| 87 | 8 | EA | Interpretive Sign Dollars Cents Per Each | \$ _____ | \$ _____ |
| 88 | 1,390 | SY | Decorative Concrete Sidewalk Dollars Cents Per Square Yard | \$ _____ | \$ _____ |
| 89 | 175 | LF | Decorative Concrete Band Dollars Cents Per Linear Foot | \$ _____ | \$ _____ |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid | |
|----------|----------|----------------|--------------------------------------------------|------------|------------------|----------|
| 90 | 24 | EA | Cast Stone Medallion | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 91 | 1 | EA | Gateway Column | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 92 | 3 | EA | Gateway Pedestal | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 93 | 1 | EA | Mile Marker | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 94 | 9 | EA | Seatwall | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 95 | 7 | EA | Bike Rack, Type B | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 96 | 13 | EA | Bike Rack, Type C | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 97 | 7 | EA | Bike Rack, Type D | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |
| 98 | 13 | EA | Bike Rack, Type E | | | |
| | | | | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Each | | | |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price Written in words | Unit Price | Total Amount Bid | |
|----------|----------|----------------|--------------------------------------------------|------------|------------------|-------------|
| 99 | 2,730 | EA | Ground Cover | | | |
| | | | Dollars | \$ _____ | \$ _____ | |
| | | | Cents | | | |
| | | | Per Each | | | |
| 100 | 511 | EA | Perennial | | | |
| | | | Dollars | \$ _____ | \$ _____ | |
| | | | Cents | | | |
| | | | Per Each | | | |
| 101 | 90 | EA | Shrub | | | |
| | | | Dollars | \$ _____ | \$ _____ | |
| | | | Cents | | | |
| | | | Per Each | | | |
| 102 | 12 | EA | Flowering Tree | | | |
| | | | Dollars | \$ _____ | \$ _____ | |
| | | | Cents | | | |
| | | | Per Each | | | |
| 103 | 2 | EA | Shade Tree | | | |
| | | | Dollars | \$ _____ | \$ _____ | |
| | | | Cents | | | |
| | | | Per Each | | | |
| 104 | 132 | LF | Limestone Curb Raised Planting Bed | | | |
| | | | Dollars | \$ _____ | \$ _____ | |
| | | | Cents | | | |
| | | | Per Linear Foot | | | |
| 105 | 1 | LS | Payment and Performance Bond | | | |
| | | | Dollars | \$ _____ | \$ _____ | |
| | | | Cents | | | |
| | | | Per Lump Sum | | | |
| 106 | 1 | LS | Allowance for Testing | | | |
| | | | Ten Thousand | Dollars | \$10,000.00 | \$10,000.00 |
| | | | Zero | Cents | | |
| | | | Per Lump Sum | | | |

TOTAL OF BASE BID PRICES FOR Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects – Base Bid (Items 1 through 106) in words and figures. In case of discrepancy, the amount shown in words will govern.

_____ (\$ _____)

Bid Alternate #1

Bid Alternate #1 is for Elm Tree Lane resurfacing.

Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects
-Bid Alternate #1

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price | Unit Price | Total Amount Bid |
|----------|----------|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------|------------|------------------|
| 1 | 75 | TN | DGA Base <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 2 | 223 | TN | Crushed Stone Base No. 2 <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 3 | 120 | TN | CL3 Asphalt Base 1.00D PG64-22 <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 4 | 244 | TN | CL3 Asphalt Surf 0.38B PG64-22 <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |
| 5 | 0.7 | TN | Asphalt Material for Tack <div style="text-align: right;">Dollars _____</div> <div style="text-align: right;">Cents _____</div> Per Ton | \$ _____ | \$ _____ |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price | Unit Price | Total Amount Bid |
|----------|----------|----------------|------------------------------------|------------|------------------|
| 6 | 323 | SY | Remove Pavement | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Square Yard | | |
| 7 | 244 | TN | Asphalt Pave Milling and Texturing | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Ton | | |

TOTAL OF BID PRICE FOR Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects -Bid Alternate #1 (Items 1 through 7) in words and figures. In case of discrepancy, the amount shown in words will govern.

_____ (\$ _____).

Bid Alternate #2

Bid Alternate #2 is for Jefferson Street resurfacing.

Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects
-Bid Alternate #2

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price | Unit Price | Total Amount Bid |
|----------|----------|----------------|------------------------------|------------|------------------|
| 1 | 58 | TN | DGA Base | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Ton | | |
| 2 | 172 | TN | Crushed Stone Base No. 2 | | |
| | | | Dollars | \$ _____ | \$ _____ |
| | | | Cents | | |
| | | | Per Ton | | |

| Item No. | Quantity | Unit To Bid On | Description w/Unit Bid Price | Unit Price | Total Amount Bid | |
|----------|----------|----------------|------------------------------------|------------|------------------|----------|
| 3 | 93 | TN | CL3 Asphalt Base 1.00D PG64-22 | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Ton | | | |
| 4 | 189 | TN | CL3 Asphalt Surf 0.38B PG64-22 | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Ton | | | |
| 5 | 0.6 | TN | Asphalt Material for Tack | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Ton | | | |
| 6 | 249 | SY | Remove Pavement | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Square Yard | | | |
| 7 | 189 | TN | Asphalt Pave Milling and Texturing | Dollars | \$ _____ | \$ _____ |
| | | | | Cents | | |
| | | | Per Ton | | | |

TOTAL OF BID PRICE FOR **Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects –Bid Alternate #2 (Items 1 through 7)** in words and figures. In case of discrepancy, the amount shown in words will govern.

_____ (\$ _____).

**Alternates shall only be considered and added to the Base Bid provided funding is available. LPA reserves the right to add the unselected alternates should additional funding for the project become available.*

Submitted by:

Firm

Address

City, State & Zip

***Bid must be signed:
(original signature)***

Signature of Authorized Company Representative – Title

Representative/s Name (Typed or Printed)

Area Code – Phone – Fax #

E-Mail Address

OFFICIAL ADDRESS:

_____ (Seal if Bid is by Corporation)

By signing this form you agree to ALL terms, conditions, and associated forms in this bid package

5. STATEMENT OF BIDDER'S QUALIFICATIONS

The following statement of the Bidder's qualifications is required to be filled in, executed, and submitted with the Proposal:

1. Name of Bidder: _____

2. Permanent Place of Business: _____

3. When Organized: _____

4. Where Incorporated: _____

5. Construction Plant and Equipment Available for this Project:

(Attach Separate Sheet If Necessary)

6. Financial Condition:

If specifically requested by the OWNER, the apparent low Bidder is required to submit its latest three (3) years audited financial statements to the OWNER'S Division of Central Purchasing within seven (7) calendar days following the bid opening.

7. In the event the Contract is awarded to the undersigned, surety bonds will be furnished by:

_____ (Surety)

Signed: _____ (Representative of Surety)

8. The following is a list of similar projects performed by the Bidder: (Attach separate sheet if necessary).

| <u>NAME</u> | <u>LOCATION</u> | <u>CONTRACT SUM</u> |
|-------------|-----------------|---------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

9. The Bidder has now under contract and bonded the following projects:

| <u>NAME</u> | <u>LOCATION</u> | <u>CONTRACT SUM</u> |
|-------------|-----------------|---------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

10. List Key Bidder Personnel who will work on this Project.

| <u>NAME</u> | <u>POSITION DESCRIPTION</u> | <u>NO. OF YEARS WITH BIDDER</u> |
|-------------|-----------------------------|---------------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

11. DBE Participation on current bonded projects under contract:

| <u>SUBCONTRACTORS</u> <u>(LIST)</u> | <u>PROJECT</u> <u>(SPECIFIC TYPE)</u> | <u>DBE</u> | <u>% of WORK</u> |
|----------------------------------------|------------------------------------------|------------|------------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

(USE ADDITIONAL SHEETS IF NECESSARY)

12. We acknowledge that, if we are the apparent low Bidder, we will submit to the OWNER within 7 calendar days following the Bid Opening, a sworn statement on the OWNER'S form regarding all current work on hand and under contract, and a statement on the OWNER'S form of the experience of our officers, office management and field management personnel. Additionally, if requested by the OWNER, we will within 7 days following the request submit audited financial statements and loss history for insurance claims for the 3 most recent years (or a lesser period stipulated by the OWNER)—all in accordance with the Bid Documents.

Respectfully submitted:

(Name of Contracting Firm)

BY: _____

TITLE: _____

DATE _____, 2014

6. LIST OF PROPOSED SUBCONTRACTORS

The following list of proposed subcontractors is required by the OWNER to be executed, completed and submitted with the BIDDER'S FORM OF PROPOSAL. All subcontractors are subject to approval of the Lexington-Fayette Urban County Government. Failure to submit this list completely filled out may be cause for rejection of bid.

| <u>BRANCH OF WORK-LIST EACH</u> <u>MAJOR ITEM</u> Such as: Concrete, bituminous paving, concrete, pavement markings, construction staking, etc. | <u>SUBCONTRACTOR</u> | <u>DBE</u> <u>Yes/No</u> | <u>% of</u> <u>Work</u> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------------|----------------------------|
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------------|----------------------------|

| | | | |
|----------|----------------|-------|-------|
| 1. _____ | Name: _____ | _____ | _____ |
| | Address: _____ | | |
| 2. _____ | Name: _____ | _____ | _____ |
| | Address: _____ | | |
| 3. _____ | Name: _____ | _____ | _____ |
| | Address: _____ | | |
| 4. _____ | Name: _____ | _____ | _____ |
| | Address: _____ | | |
| 5. _____ | Name: _____ | _____ | _____ |
| | Address: _____ | | |
| 6. _____ | Name: _____ | _____ | _____ |
| | Address: _____ | | |
| 7. _____ | Name: _____ | _____ | _____ |
| | Address: _____ | | |

(Attach additional sheet(s) if necessary.)

7. LIST OF MATERIALS/ SUPPLIERS

Bidders are hereby advised that this list must be complete and submitted with the Bid.

Listing "as per plans and specifications", will not be considered as sufficient identification. Where more than one "Make or Brand" is listed for any one item, the Owner has the right to select the one to be used.

| Item | Brand Name, Manufacturer and/or Supplier |
|------|------------------------------------------|
|------|------------------------------------------|

| | |
|----------------------|-------|
| 1. Concrete Supplier | <hr/> |
|----------------------|-------|

END LIST OF MATERIALS AND EQUIPMENT

8. DBE SUB-CONTRACTOR BIDDERS LIST

The Department of Transportation Federal Regulations requires that the Kentucky Transportation Cabinet provide a bidders list to be maintained in the Office of Personnel Management, Small Business Development Branch (49CFR 26:11) for each federally funded project awarded.

Project No.

List all quotes/bids received on this project.

DBE (Disadvantaged Business Enterprise) Contractors, Consultants, and Suppliers submitting quotes/bids for this project:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

DBE (Disadvantaged Business Enterprise) Contractors, Consultants, and Suppliers contacted who did NOT submit quotes/bids for this project.

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Non-DBE (Disadvantaged Business Enterprise) Contractors, Consultants, and Suppliers submitting quotes/bids for this project:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

If you need additional space, please attach a separate page. If you need assistance regarding this form, please contact Melvin Bynes or Anita Hall at (502)564-3601.

9. CERTIFICATION FOR FEDERAL-AID CONTRACT

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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 agent.
2. If any funds other than the Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

(Name of Individual, Co-Partnership, or Corporation submitting bid)

(Printed Name of officer signing certification)

(Title)

(Signature)

(Date)

10. CERTIFICATION OF PERFORMANCE

Certification with regard to the Performance of Previous Contracts or Subcontracts subject to the Equal Opportunity Clause and the filing of Required Reports.

The _____, hereby certifies that he/she _____, participated in previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he, filed with the Joint Reporting committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the Former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

(Name of Individual, Co-Partnership, or Corporation submitting bid)

(Name of Officer or Authorized Agent)

(Title)

(Signature)

(Date)

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

Currently, Standard Form 100 (EE0-1) is the only report required by the Executive Orders of their implementing regulation.

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

11. CERTIFICATION OF ORGANIZATION(S)

COMMONWEALTH OF KENTUCKY

COUNTY: FAYETTE

FED PROJECT NO:

I, _____, _____
(Name of officer or Authorized Agent) (Title)

under penalty of perjury under the laws of the United States, do hereby certify that, except as noted below,

(Name of Individual, Co-Partnership, or Corporation submitting bid)

any person associated therewith in the capacity of (owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the Administration of Federal Funds): is not currently under suspension, debarment, voluntarily exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past 3 years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against (it) by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

Please list below any exceptions to the foregoing, to whom it applies, initiating agency and dates of action.

Exceptions:

(Name of Individual, Co-Partnership, or Corporation submitting bid)

(Name of Officer or Authorized Agent) (Title)

(Signature) (Date)

12. CERTIFICATION OF BID PROPOSAL/DBE

We (I) proposed to furnish all labor, equipment and material necessary to construct and/or improve the subject project in accordance with the plans, the Transportation Cabinet's Standard Specifications for Road and Bridge Construction, current edition, special provisions, notes applicable to the project as indicated herein and all addenda issued on this project subsequent to purchase of proposal.

We (I) attach a bid guaranty as provided in the special provisions in an amount not less than 5% of the total bid. We agree to execute a contract in accordance with this proposal within 15 calendar days after the receipt of the notice of award for the project.

We (I) have examined the site of proposed work, project plans, specifications, special provisions, and notes applicable to the project referred to herein. We understand that the quantities shown herein are estimated quantities subject increase or decrease as provided in the specifications.

We (I) acknowledge receipt of all addendum(s) (if applicable) and have made necessary revisions to the bid proposal. We have considered all addendum(s) in calculation of the submitted bid and applied the updated bid items, which are included.

"The bidder certifies that it has secured participation by Disadvantaged Business Enterprises (DBE) in amount of _____ percent (____%) of the total value of this contract and that the DBE participation is in compliance with the requirements of 49 CFR 26 and the policies of the Kentucky Transportation Cabinet pertaining to the DBE Program."

(Name of Individual, Co-Partnership, or Corporation submitting bid)

(Name of Officer or Authorized Agent)

(Title)

(Signature)

(Date)

When two or more organizations bid as a joint venture, enter names of each organization and an authorized agent for each organization must sign above.

13. KENTUCKY TRANSPORTATION CABINET – DBE PROVISIONS

KENTUCKY TRANSPORTATION CABINET – DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS

SECOND TIER SUBCONTRACTS

Second Tier subcontracts on federally assisted projects shall be permitted. However, in the case of DBE's, second tier subcontracts will only be permitted where the other subcontractor is also a DBE. All second tier subcontracts shall have the consent of both the Contractor and the Engineer.

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

It is the policy of the Lexington-Fayette Urban County Government ("LFUCG") that Disadvantaged Business Enterprises ("DBE") shall have the opportunity to participate in the performance of highway construction projects financed in whole or in part by Federal Funds in order to create a level playing field for all businesses who wish to contract with the LFUCG. To that end, the LFUCG will comply with the regulations found in 49 CFR Part 26, and the definitions and requirements contained therein shall be adopted as if set out verbatim herein.

The LFUCG, contractors, subcontractors, and sub-recipients shall not discriminate on the basis of race, color, national origin, or sex in the performance of work performed pursuant to LFUCG contracts. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of federally assisted highway construction projects. The contractor will include this provision in all its subcontracts and supply agreements pertaining to contracts with the LFUCG.

Failure by the contractor to carry out these requirements is a material breach of its contract with the LFUCG, which may result in the termination of the contract or such other remedy as the LFUCG deems necessary.

DBE GOAL

The Disadvantaged Business Enterprise (DBE) goal established for this contract by the Kentucky Transportation Cabinet is a five percent (5%) goal of the total value of the contract.

The contractor shall exercise all necessary and reasonable steps to ensure that Disadvantaged Business Enterprises participate in a least the percent of the contract as set forth above as goals for this contract.

OBLIGATION OF CONTRACTORS

If a formal goal has not been designated for the contract, all contractors are expected to meet LFUCG 10% MWDBE goal, unless otherwise stated. Contractor shall also consider DBEs for subcontract work as well as for the supply of material and services needed to perform this work.

Contractors are encouraged to use the services of banks owned and controlled by minorities and women.

CERTIFICATION OF CONTRACT GOAL

Contractors shall include the following certification in bids for projects for which a DBE goal has been established. BIDS SUBMITTED WHICH DO NOT INCLUDE CERTIFICATION OF DBE PARTICIPATION WILL NOT BE ACCEPTED. These bids will not be considered for award by the LFUCG and they will be returned to the bidder.

"The bidder certifies that it has secured participation by Disadvantaged Business Enterprises ("DBE") in the amount of KYTC _____ percent (_____ %) of the total value of this contract and that the DBE participation is in compliance with the requirements of 49 CFR 26 and the policies of the Lexington-Fayette Urban County Government related to participation and **Kentucky Transportation Cabinet** pertaining to the DBE Program."

DBEs utilized in achieving the DBE goal must be certified and pre-qualified for the work items at the time the bid is submitted.

DBE PARTICIPATION PLAN

Lowest responsive bidders must submit the *DBE Plan/ Subcontractor Request*, form TC 14-35 DBE, within 5 days of the letting. This is necessary before the LFUCG Division of Central Purchasing will review and make a recommendation. The project will not be considered for award prior to submission and approval of the apparent low bidder's DBE Plan/Subcontractor Request.

The DBE Participation Plan shall include the following:

- 1 Name and address of DBE Subcontractor(s) and/or supplier(s) intended to be used in the proposed project;
- 2 Description of the work each is to perform including the work item, unit, quantity, unit price and total amount of the work to be performed by the individual DBE and the project bid number.
- 3 The dollar value of each proposed DBE subcontract and the percentage of total project contract value this represents. DBE participation may be counted as follows:
 - a) If DBE suppliers and manufactures assume actual and contractual responsibility, the dollar value of materials to be furnished will be counted toward the goal as follows:
 - The entire expenditure paid to a DBE manufacturer;
 - 60 percent of expenditures to DBE suppliers that are not manufacturers provided the supplier is a regular dealer in the product involved. A regular dealer must be engaged in, as its principal business and in its own name, the sale of products to the public, maintain an inventory and own and operate distribution equipment; and
 - The amount of fees or commissions charged by the DBE firms for a bona fide service, such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials, supplies, delivery of materials and supplies or for furnishing bonds, or insurance, providing such fees or commissions are determined to be reasonable and customary.
 - b) The dollar value of services provided by DBEs such as quality control testing, equipment repair and maintenance, engineering, staking, etc;
 - c) The dollar value of joint ventures. DBE credit for joint ventures will be limited to the dollar amount of the work actually performed by the DBE in the joint venture;
- 4 Written and signed documentation of the bidder's commitment to use a DBE contractor whose participation is being utilized to meet the DBE goal; and
- 5 Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment.

UPON AWARD AND BEFORE A WORK ORDER WILL BE ISSUED

Contractors must submit the signed subcontract between the contractor and the DBE contractor, the DBE's certificate of insurance, and the Required Affidavit of Bidders, Offerors, and Contractors from the DBE to the LFUCG Division of Central Purchasing. The Required Affidavit of Bidders, Offerors and Contractors is included with these bid documents and should be returned with your bid. If the DBE is a supplier of materials for the project, a signed purchase order and a Required Affidavit for Bidders, Offerors, and Contractors must be submitted to the LFUCG Division of Central Purchasing.

Changes to DBE Participation Plans or DBE substitutions must be approved by the LFUCG Division of Central Purchasing. The LFUCG may consider extenuating circumstances including, but not limited to, changes in the nature or scope of the project, the inability or unwillingness of a DBE to perform the work in accordance with the bid, and/or other circumstances beyond the control of the prime contractor.

CONSIDERATION OF GOOD FAITH EFFORTS REQUESTS

If the DBE participation submitted in the bid by the apparent lowest responsive bidder does not meet or exceed the DBE contract goal, the apparent lowest responsive bidder must submit a Good Faith Effort documentation to satisfy the LFUCG that sufficient good faith efforts were made to meet the contract goals prior to submission of the bid. Efforts to increase the goal after bid submission will not be considered in justifying the good faith effort, unless the contractor can show that the proposed DBE was solicited prior to the bid date. DBEs utilized in achieving the DBE goal must be certified and pre-qualified for the work items at the time the bid is submitted. One complete set of this information must be received in the office of the LFUCG Division of Central Purchasing no later than 12:00 noon of the tenth calendar day after receipt of notification that they are the apparent low bidder.

Where the information submitted includes repetitious solicitation letters it will be acceptable to submit a sample representative letter along with a distribution list of the firms solicited. Documentation of DBE quotations shall be a part of the good faith effort submittal as necessary to demonstrate compliance with the factors listed below which the LFUCG considers in judging good faith efforts. This documentation may include written subcontractors' quotations, telephone log notations of verbal quotations, or other types of quotation documentation.

The Good Faith Efforts documentation shall include, but may not be limited to information showing evidence of the following:

- 1 Whether the bidder attended any pre-bid meetings that were scheduled by LFUCG to inform DBEs of subcontracting opportunities;
- 2 Whether the bidder provided solicitations through all reasonable and available means;
- 3 Whether the bidder provided written notice to all DBEs listed in the DBE directory at the time of the letting that are pre-qualified in the areas of work that the bidder will be subcontracting;
- 4 Whether the bidder followed up initial solicitations of interest by contacting DBEs to determine with certainty whether they were interested. If a reasonable amount of DBEs within the targeted districts do not provide an intent to quote or no DBEs are pre-qualified in the subcontracted areas, the bidder must notify the Minority Business Enterprise Liaison in the Division of Central Purchasing to give notification of the bidder's inability to get DBE quotes;
- 5 Whether the bidder selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise perform these work items with its own forces;
- 6 Whether the bidder provided interested DBEs with adequate and timely information about the plans, specifications, and requirements of the contract;
- 7 Whether the bidder negotiated in good faith with interested DBEs not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached;
- 8 Whether quotations were received from interested DBE firms but were rejected as unacceptable without sound reasons why the quotations were considered unacceptable. The fact that the DBE firm's quotation for the work is not the lowest quotation received will not in itself be considered as a sound reason for rejecting the quotation as unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered a sound reason for rejecting a DBE quote. Nothing in this provision shall be construed to require the bidder to accept unreasonable quotes in order to satisfy DBE goals;
- 9 Whether the bidder specifically negotiated with subcontractors to assume part of the responsibility to meet the contract DBE goal when the work to be subcontracted includes potential DBE participation;
- 10 Whether the bidder made any efforts and/or offered assistance to interested DBEs in obtaining the necessary equipment, supplies, materials, insurance and/or bonding to satisfy the work requirements of the bid proposal; and
- 11 Any other evidence that the bidder submits which may show that the bidder has made reasonable good faith efforts to include DBE participation.

FAILURE TO MEET GOOD FAITH REQUIREMENT

Where the apparent lowest responsive bidder fails to submit sufficient participation by DBE firms to meet the contract goal and upon a determination by the LFUCG Division of Central Purchasing based upon the information submitted that the apparent lowest responsive bidder failed to make sufficient reasonable efforts to meet the contract goal, the bidder will be offered the opportunity to meet in person with representatives from the Division of Central Purchasing. The bidder will be notified of the Division of Central Purchasing's decision within 24 hours of its decision. The bidder will have 24 hours to request reconsideration of Central Purchasing's decision. The reconsideration meeting will be held within two days of the receipt of a request by the bidder for reconsideration.

The request for reconsideration will be heard by Central Purchasing. The bidder will have the opportunity to present written documentation or argument concerning the issue of whether it met the goal or made an adequate good faith effort. The bidder will receive a written decision on the reconsideration explaining the basis for the finding that the bidder did or did not meet the goal or made adequate Good Faith efforts to do so.

The result of the reconsideration process is not administratively appealable to the LFUCG Division of Central Purchasing.

The LFUCG Division of Central Purchasing reserves the right to award the contract to the next lowest responsive bidder or to rebid the contract in the event that the contract is not awarded to the low bidder as the result of a failure to meet the good faith requirement.

SANCTIONS FOR FAILURE TO MEET DBE REQUIREMENTS OF THE PROJECT

Failure by the prime contractor to fulfill the DBE requirements of a project under contract or to demonstrate good faith efforts to meet the goal constitutes a breach of contract. When this occurs, the Cabinet will hold the prime contractor accountable, as would be the case with all other contract provisions. Therefore, the contractor's failure to carry out the DBE contract requirements shall constitute a breach of contract and as such the Cabinet reserves the right to exercise all administrative remedies at its disposal including, but not limited to the following:

- Disallow credit toward the DBE goal;
- Withholding progress payments;
- Withholding payment to the prime in an amount equal to the unmet portion of the contract goal; and/or
- Termination of the contract.

PROMPT PAYMENT

- The prime contractor will be required to pay the DBE within seven (7) working days after he or she has received payment from the LFUCG Division of Central Purchasing for work performed or materials furnished

CONTRACTOR REPORTING All Contractors must report on their progress in meeting the DBE requirement on any construction contracts. These records may include, but shall not be limited to payroll, lease agreements, cancelled payroll checks, executed subcontracting agreements, etc. Prime contractors will be required to submit certified reports on monies paid to each DBE subcontractor or supplier utilized to meet a DBE goal.

Payment information that needs to be reported includes date the payment is sent to the DBE, check number, Contract ID, amount of payment and the check date. Before Final Payment is made on this contract, the Prime Contractor will certify that all payments were made to the DBE subcontractor and/or DBE suppliers and show the documented proof.

The Prime Contractor should supply the payment information at the time the DBE is compensated for their work. Form to use is located at:

<http://transportation.ky.gov/Construction/Pages/Subcontracts.aspx>

Photocopied payments and completed form to be submitted to:

**Office of Civil Rights and Small
Business Development 6th Floor
West 200 Mero Street Frankfort, KY 40622**

DEFAULT OR DECERTIFICATION OF THE DBE

If the DBE subcontractor or supplier is decertified or defaults in the performance of its work, and the overall goal cannot be credited for the uncompleted work, the prime contractor may utilize a substitute DBE or elect to fulfill the DBE goal with another DBE on a different work item. If after exerting good faith effort in accordance with the LFUCG Division of Central Purchasing policies and procedures, the prime contractor is unable to replace the DBE, then the unmet portion of the goal may be waived at the discretion of the LFUCG Division of Central Purchasing.

END OF SECTION.

14. NON-COLLUSION CERTIFICATION

COMMONWEALTH OF KENTUCKY

COUNTY: FAYETTE

FED PROJECT NO:

I, _____, _____
(Name of officer or Authorized Agent) (Title)

under penalty of perjury under the laws of the United States, do hereby certify that

(Name of Individual, Co-Partnership, or Corporation submitting bid)

Its agent, officers or employees have not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken action in restraint of free competitive bidding in connection with this proposal.

(Name of Officer or Authorized Agent) (Title)

(Signature) (Date)

15. STATEMENT OF EXPERIENCE

NAME OF INDIVIDUAL: _____

POSITION/TITLE: _____

STATEMENT OF EXPERIENCE: _____

NAME OF INDIVIDUAL: _____

POSITION/TITLE: _____

STATEMENT OF EXPERIENCE: _____

NAME OF INDIVIDUAL: _____

POSITION/TITLE: _____

STATEMENT OF EXPERIENCE: _____

NAME OF INDIVIDUAL: _____

POSITION/TITLE: _____

STATEMENT OF EXPERIENCE: _____

NAME OF INDIVIDUAL: _____

POSITION/TITLE: _____

STATEMENT OF EXPERIENCE: _____

NAME OF INDIVIDUAL: _____

POSITION/TITLE: _____

STATEMENT OF EXPERIENCE: _____

* Include all officers, office management's, Affirmative Action officials, and field management personnel. (Attach separate sheets if necessary.)

16. EQUAL OPPORTUNITY AGREEMENT

The Law

- * Title VII of the Civil Rights Act of 1964 (amended 1972) states that it is unlawful for an employer to discriminate in employment because of race, color, religion, sex, age (40-70 years) or national origin.
- * Executive Order No. 11246 on Nondiscrimination under Federal contract prohibits employment discrimination by contractor and subcontractor doing business with the Federal Government or recipients of Federal funds. This order was later amended by Executive Order No. 11375 to prohibit discrimination on the basis of sex.
- * Section 503 of the Rehabilitation Act of 1973 States:
The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap.
- * Section 2012 of the Vietnam Era Veterans Readjustment Act of 1973 requires Affirmative Action on behalf of disabled veterans and veterans of the Vietnam Era by contractors having Federal Contracts.
- * Section 206 (A) of Executive Order 12086, Consolidation of Contract Compliance Functions for Equal Employment Opportunity, states:

The Secretary of Labor may investigate the employment practices of any Government contractor or sub-contractor to determine whether or not the contractual provisions specified in Section 202 of this order have been violated.

The Lexington-Fayette Urban County Government practices Equal Opportunity in recruiting, hiring and promoting. It is the Government's intent to affirmatively provide employment opportunities for those individuals who have previously not been allowed to enter into the mainstream of society. Because of its importance to the local Government, this policy carries the full endorsement of the Mayor, Commissioners, Directors, and all supervisory personnel. In following this commitment to Equal Employment Opportunity and because the Government is the benefactor of the Federal funds, it is both against the Urban County Government policy and illegal for the Government to let contracts to companies which knowingly or unknowingly practice discrimination in their employment practices. Violation of the above mentioned ordinances may cause a contract to be canceled and the contractor may be declared ineligible for future consideration.

Please sign this statement in the appropriate space acknowledging that you have read and understand the provisions contained herein. Return this document as part of your application packet.

Bidders

I/We agree to comply with the Civil Rights Laws listed above that govern employment rights of minorities, women, Vietnam veterans, handicapped, and aged persons.

Signature

Name of Business

The Entity (regardless of whether construction contractor, non-construction contractor or supplier) agrees to provide equal opportunity in employment for all qualified persons, to prohibit discrimination in employment because of race, color, creed, national origin, sex or age, and to promote equal employment through a positive, continuing program from itself and each of its sub-contracting agents. This program of equal employment opportunity shall apply to every aspect of its employment policies and practices.

The Kentucky equal Employment Opportunity Act of 1978 (KRS 45.560-45.640) requires that any count, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in directly or indirectly publicly funded contracts for supplies, materials, services, or equipment hereinafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

- (1) *The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age or national origin;*
- (2) *The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractors that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age or national origin;*
- (3) *The contract will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the non-discrimination clauses required by this section; and*
- (4) *The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.*

The Act further provides:

KRS 45.610. Hiring minorities – Information required

- (1) *For the length of the contract, each contractor shall hire minorities from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities to satisfy the agreed upon goals and timetable.*
- (2) *Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to KRS 45.640 and by such rules, regulations and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the department for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations and orders issued pursuant thereto.*

KRS 45.620. Action against contractor – Hiring of minority contractor or subcontractor

- (1) *If any contractor is found by the department to have engaged in an unlawful practice under this chapter during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the department shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.*
- (2) *If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 – 45.640.*
- (3) *The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.*

KRS 45.630 Termination of existing employee not required, when

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee upon proof that that employee was employed prior to the date of the contract.

KRS 45.640 Minimum skills

Nothing in KRS 45.560 to 45.640 shall require a contractor to hire anyone who fails to demonstrate the minimum skills required to perform a particular job.

It is recommended that all of the provisions quoted above to be included as special conditions in each contract. In the case of a contract exceeding \$250,000, the contractor is required to furnish evidence that his work-force in Kentucky is representative of the available work-force in the area from which he draws employees, or to supply an Affirmative Action plan which will achieve such representation during the life of the contract.

17. **EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE ACTION POLICY**

It is the policy of _____

to assure that all applicants for employment and all employees are treated on a fair and equitable basis without regard to their race, religion, sex, color, handicap, natural origin or age.

Such action shall include employment, promotion, demotion, recruitment or recruitment advertising, layoff or termination, rates of pay and other forms of compensation, and selection for training, whether apprenticeship and/or on-the-job-training.

Furthermore, this company agrees to make special recruitment efforts to hire the protected class whenever feasible. This company also agrees to adhere to all applicable federal, state, and local laws relating to Equal Employment Opportunity for all individuals.

_____ has been appointed Equal Employment Compliance (EEOC) Officer and shall be available for counseling, answering of questions in regards to this company policy, and to hear any complaints of discrimination. The EEOC Officer may be reached by calling _____.

Signature: _____
(Bidding Contractor)

Title: _____

Date: _____

18. WORKFORCE ANALYSIS FORM

Name of Organization: _____

Date: ____ / ____ / ____

| Categories | Total | White | | Black | | Other | | Total | |
|---------------------|-------|-------|---|-------|---|-------|---|-------|---|
| | | M | F | M | F | M | F | M | F |
| Administrators | | | | | | | | | |
| Professionals | | | | | | | | | |
| Superintendents | | | | | | | | | |
| Supervisors | | | | | | | | | |
| Foremen | | | | | | | | | |
| Technicians | | | | | | | | | |
| Protective Service | | | | | | | | | |
| Para-Professionals | | | | | | | | | |
| Office/Clerical | | | | | | | | | |
| Skilled Craft | | | | | | | | | |
| Service/Maintenance | | | | | | | | | |
| Total: | | | | | | | | | |

Prepared By: _____

19. EVIDENCE OF INSURABILITY

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT CONSTRUCTION PROJECT
 (Use separate form for each Agency or Brokerage agreeing to provide coverage)

Names Insured: _____

Employee ID: _____

Address: _____

Phone: _____

Project to be insured: _____

In lieu of obtaining certificates of insurance at this time, the undersigned agrees to provide the above Named Insured with the minimum coverage listed below. These are outlined in the Insurance and Risk Management of Part V (Special Conditions), including all requirements, and conditions:

| Section Items | Coverage | Minimum Limits and Policy Requirements | Limits Provided To Insured | Name of Insurer | A.M. Best's | |
|--------------------------------------------|----------|------------------------------------------------|----------------------------|-----------------|-------------|--------|
| | | | | | Code | Rating |
| SC-3, Section 2, Part 4.1 – see provisions | CGL | \$1,000,000 per occ. And \$2,000,000 aggregate | \$ | | | |
| SC-3, Section 2, Part 4.1 – see provisions | AUTO | \$2,000,000/per occ. | \$ | | | |
| SC-3, Section 2, Part 4.1 – see provisions | WC | Statutory w /endorsement as noted | \$ | | | |

Section 2 includes required provisions, statements regarding insurance requirements, and the undersigned agrees to abide by all provisions for the coverage's checked above unless stated otherwise when submitting.

Agency or Brokerage _____

Name of Authorized Representative _____

Street Address _____

Title _____

City _____ State _____ Zip _____

Authorized Signature _____

Telephone Number _____

Date _____

NOTE: Authorized signatures may be the agent's if agent has placed insurance through an agency agreement with the insurer. If insurance is brokered, authorized signature must be that of authorized representative of insurer.

20. DEBARRED FIRMS

PROJECT NAME: _____

BID NUMBER: _____

**LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
LEXINGTON, KY**

All prime Contractors shall certify that Subcontractors have not and will not be awarded to any firms that has been debarred for noncompliance with the Federal Labor Standards, Title VI of the **Civil Rights Act of 1964 As Amended, Executive Order 11246 As Amended** or any other Federal Law.

All bidders shall complete the attached certification in duplicate and submit both copies to the Owner with the bid proposal. The Owner (grantee) shall transmit one copy to the Lexington-Fayette Urban County Government, Division of Community Development, within fourteen (14) days after bid opening.

The undersigned hereby certifies that the firm of _____ has not and will not award a subcontract, in connection with any contract award to it as the result of this bid, to any firm that has been debarred for noncompliance with the Federal labor Standards, Title VI of the Civil Rights Act of 1964, Executive Order 11246 as amended or any Federal Law.

Name of Firm Submitting Bid

Signature of Authorized Official

Title

Date

21. DEBARMENT CERTIFICATION

All contractors/subcontractors shall complete the following certification and submit it with the bid proposal.

The contractor/subcontractor certifies in accordance with Executive Order 12549 (Debarment and Suspension 2/18/86) that to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared negligible, or voluntarily excluded from covered transactions or contract by any Federal department or agency for noncompliance with the Federal Labor Standards, Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended or any other Federal law;
 - a) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - b) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(a) of this certification; and
 - c) Have not within a three year period preceding this bid has one or more public (Federal, State or local) transactions or contracts terminated for cause or default.
- 2) Where the contractor is unable to certify to any of the statements in this certification, such prospective contractors shall attach an explanation to this certification form.

Firm Name: _____

Project: _____

Printed Name and Title of Authorized Representative: _____

Signature: _____

Date: _____

22. PROVISIONS RELATIVE TO SENATE BILL 45A-485

During the performance of the contract, the contractor agrees to comply with the applicable provisions of:

1. KRS 136 Corporation and Utility Tax
2. KRS 139 Sales and Use Taxes
3. KRS 141 Income Taxes
4. KRS 337 Wages and Hours
5. KRS 338 Occupational Safety and Health of Employees
6. KRS 341 Unemployment Compensation
7. KRS 342 Workers Compensation

Any final determinations of a violation by the contractor within the previous (5) years pursuant to the applicable statutes above are revealed as follows:

23. EXECUTIVE BRANCH CODE OF ETHICS

In the 1992 regular legislative session, the General Assembly passed and Governor Brereton Jones signed Senate Bill 63 (codified as KRS 11A), the Executive Branch Code of Ethics, which states, in part:

KRS 11A.040 (7) provides:

No present or former public servant shall, within six (6) months of following termination of his office or employment, accept employment, compensation or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions, including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

KRS 11A.040 (9) states:

A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:

- a) The date of leaving office or termination of employment; or
- b) The date the term of office expires to which the public servant was elected.

This law is intended to promote public confidence in the integrity of state government and to declare as public policy the idea that state employees should view their work as a public trust and not as a way to obtain private benefits.

If you have worked for the executive branch of state government within the past six months, you may be subject to the law's prohibitions. The law's applicability may be different if you hold elected office or are contemplating representation of another before a state agency.

Also, if you are affiliated with a firm which does business with the state and which employs former state executive-branch employees, you should be aware that the law may apply to them.

In case of doubt, the law permits you to request an advisory opinion from the Executive Branch Ethics Commission, 3 Fountain Place, Frankfort, Kentucky 40601; telephone (502) 564-7954.

Signature of Authorized Official

Title

Date

PART IV

GENERAL CONDITIONS

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PART IV

GENERAL CONDITIONS

1. DEFINITIONS

Wherever used in these General Conditions or the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof.

1.1 Addenda

Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bid Documents or the Contract Documents.

1.2 Agreement

The written agreement between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.

1.3 Application for Payment

The form accepted by ENGINEER which is to be used by CONTRACTOR in requesting progress or final payments and which is to include such supporting documentation as is required by the Contract Documents.

1.4 Bid

The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

1.5 Bidder

An individual, partnership, or corporation, who submit a Bid for a prime contract with the OWNER, for the Work described in the proposed Contract Documents.

1.6 Bonds

Bid, performance and payment bonds and other instruments of security.

1.7 Calendar Day

A calendar day of twenty-four hours measured from midnight to the next midnight shall constitute a day.

1.8 Change Order

A document recommended by ENGINEER, which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Agreement.

1.9 Contract Documents

The Advertisement for Bidders, Information for Bidders, Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR'S Bid (including documentation accompanying the Bid and any post-bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Bonds, these General Conditions, the Special Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all amendments, modifications and supplements.

1.10 Contract Unit Price

The monies payable by OWNER to CONTRACTOR under the Contract Documents as stated in the Agreement. Unit Prices are to be firm for the term of this Contract.

1.11 Contract Time

The number of consecutive calendar days between the date of issuance of the Notice to Proceed and the contract completion date.

1.12 CONTRACTOR

The person, firm or corporation with whom OWNER has entered into the Agreement.

1.13 Defective

An adjective which when modifying the word Work refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER'S recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER).

1.13 Drawings

The drawings which show the character and scope of the Work to be performed and which have been prepared or approved by ENGINEER and are referred to in the Contract Documents.

1.15 Effective Date of the Agreement

The date indicated in the Agreement on which it becomes effective.

1.16 ENGINEER

The authorized representative of the responsible division within the Lexington-Fayette Urban County Government.

1.17 Field Order

A documented order issued by ENGINEER which orders minor changes in the Work, but which does not involve a change in the Contract Price or the Contract Time.

1.18 Giving Notice

Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

1.19 Laws and Regulations

Laws, rules, regulations, ordinances, codes and/or orders.

1.20 Notice of Award

The written notice by OWNER to the apparent successful bidder stating that upon compliance by the apparent successful bidder with the conditions enumerated therein, within the time specified, OWNER will sign and deliver the Agreement.

1.21 Notice to Proceed

A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR'S obligations under the Contract Documents.

1.22 OWNER

The Lexington-Fayette Urban County Government.

1.23 Partial Utilization

Placing a portion of the Work in service for the purpose for which it is intended (or related purpose) before reaching Completion for all the Work.

1.24 Project

The total construction of which the Work to be provided under the Contract Documents may be the whole, or a part as indicated elsewhere in the Contract Documents.

1.25 Inspector

The authorized representative of the ENGINEER who is assigned to the site or any part thereof.

1.26 Shop Drawings

All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for CONTRACTOR to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted by CONTRACTOR to illustrate material or equipment for some portion of the Work.

1.27 Specifications

Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

1.28 Standard Specifications

The "Standard Specifications for Road and Bridge Construction", Transportation Cabinet, Department of Highways, Commonwealth of Kentucky, current edition. MUTCD shall refer to the "Manual of Uniform Traffic Control Devices".

1.29 Subcontractor

An individual, firm or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

1.30 Special Conditions

The part of the Contract Documents which amends or supplements these General Conditions.

1.31 Supplier

A manufacturer, fabricator, supplier, distributor, materialman or vendor.

1.32 Underground Facilities

All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

1.33 Unit Price Work

Work to be paid for on the basis of unit prices.

1.34 Work

The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

1.35 Time Period

When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by

the law of the applicable jurisdiction, such day will be omitted from the computation.

2. PRELIMINARY MATTERS

2.1 Delivery of Bonds

When the CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER, such Bonds, Insurance Certificate, and Power of Attorney as CONTRACTOR may be required to furnish.

2.2 Copies of Documents

Owner shall furnish to CONTRACTOR up to three copies (unless otherwise specified in the Special Conditions) of the Contract Documents as are reasonably necessary for the execution of the Work. Additional copies will be furnished, upon request, at the cost of reproduction.

2.3 Commencement of Contract Time; Notice to Proceed

The Contract Time will commence to run on the day specified in the Notice to Proceed.

2.4 Starting the Project

CONTRACTOR shall start to perform the Work on the date when the Contract Time commences to run, but no Work shall be done at the site prior to the date on which the Contract Time commences to run.

2.5 Before Starting Construction

Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error or discrepancy in the Contract Documents, unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

2.6 Submittal of Schedules

Within ten days after the effective date of the Agreement (unless otherwise specified) CONTRACTOR shall submit to ENGINEER for review:

2.6.1 an estimated progress schedule indicating the starting and completion dates of the various stages of the Work;

2.6.2 a preliminary schedule of Shop Drawing submissions; and

2.6.3 a preliminary schedule of values for all of the Work which will include quantities and prices of items aggregating the Contract Price and will subdivide the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work which will be confirmed in writing by CONTRACTOR at the time of submission.

2.7 Preconstruction Conference

Before CONTRACTOR starts the Work at the proposed site, a conference attended by CONTRACTOR, ENGINEER, and other appropriate parties will be held to discuss the following issues: (1) The scheduling of the Work to be completed; (2) The procedures for handling shop drawings and other submittals; (3) The processing of applications for payment; (4) The establishment of an understanding among the involved parties in regard to the proposed project; and (5) The establishment of procedures for effectively implementing the DBE participation.

2.8 Finalizing Schedules

At least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER and others as appropriate will be held to finalize the schedules submitted in accordance with paragraph 2.6. The finalized progress schedule will be acceptable to ENGINEER as providing orderly progression of the Work to completion within the Contract Time, but such acceptance will neither impose on ENGINEER responsibility for the progress or scheduling of the Work nor relieve CONTRACTOR from full responsibility thereof. The finalized schedule of Shop Drawing submissions will be acceptable to ENGINEER as providing a workable arrangement for processing the submissions. The finalized schedule of values will be acceptable to ENGINEER as to form and substance.

3. CONTRACT DOCUMENTS: INTENT, CONFLICTS, AMENDING AND REUSE

3.1 General

The Contract Documents comprise the entire agreement between OWNER and CONTRACTOR concerning the Work. The Contract Documents are complementary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the place of the Project.

3.2 Intent

It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract

Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of OWNER, CONTRACTOR or ENGINEER, or any of their consultants, agents or employees from those set forth in the Contract Documents, nor shall it be effective to assign to ENGINEER, or any of ENGINEER'S consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 8.12.3 or 8.12.4. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in paragraph 8.4.

3.3 Conflicts

If, during the performance of the Work, CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, CONTRACTOR shall so report to ENGINEER in writing at once and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from ENGINEER; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error or discrepancy in the Contract Documents unless CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

In resolving such conflicts, errors and discrepancies, the documents shall be given precedence in the following order:

1. Agreement
2. Field and Change Orders
3. Addenda
4. Special Conditions
5. Instruction to Bidders
6. General Conditions
7. Specifications and Drawings

Figure dimension on drawings shall govern over scale dimensions and detailed Drawings shall govern over general Drawings.

3.4 Amending and Supplementing Contract Documents

The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions thereof by means of a Change Order or a Field Order. Contract Price and Contract Time may only be changed by a Change Order.

3.5 Reuse of Documents

Neither CONTRACTOR nor any Subcontractor or Supplier or other person or organization performing or furnishing any of the Work under a direct or indirect contract with OWNER shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER; and they shall not reuse any of them on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaptation by ENGINEER.

4. AVAILABILITY OF LANDS; PHYSICAL CONDITIONS, REFERENCE POINTS

4.1 Availability of Lands

OWNER shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by OWNER, unless otherwise provided in the Contract Documents. If CONTRACTOR believes that any delay in OWNER'S furnishing these lands, rights-of-way or easements entitles CONTRACTOR to an extension of the Contract Time, CONTRACTOR may make a claim therefor as provided in Article 11. ENGINEER shall determine if the claim is legitimate or not. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.2 Physical Conditions

4.2.1 Explorations and Reports

Reference is made to the Special Conditions for identification of those reports of explorations and tests of subsurface conditions at the site that have been utilized by ENGINEER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such reports, but not upon non-technical data, interpretations or opinions contained therein or for the completeness thereof for CONTRACTOR'S purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to subsurface conditions at the site.

4.2.2 Existing Structures

Reference is made to the Special Conditions for identification of those drawings of physical conditions in or relating to existing surface and subsurface structures (except Underground Facilities referred to in paragraph 4.3 which are at or contiguous to the site that have been utilized by ENGINEER in preparation of the Contract Documents. CONTRACTOR may rely upon the accuracy of the technical data contained in such drawings, but not for the completeness thereof for CONTRACTOR'S purposes. Except as indicated in the immediately preceding sentence and in paragraph 4.2.6, CONTRACTOR shall have full responsibility with respect to physical conditions in or relating to such structures.

4.2.3 Report of Differing Conditions

If CONTRACTOR believes that:

4.2.3.1 any technical data on which CONTRACTOR is entitled to rely as provided in paragraphs 4.2.1 and 4.2.2 is inaccurate, or

4.2.3.2 any physical conditions uncovered or revealed at the site differ materially from that indicated, reflected or referred to in the Contract Documents,

CONTRACTOR shall, promptly after becoming aware thereof and before performing and WORK in connection therewith (except in an emergency) notify OWNER and ENGINEER in writing about the inaccuracy or difference.

4.2.4 ENGINEER'S Review

Engineer will promptly review the pertinent conditions, determine the necessity of obtaining additional explorations or tests with respect thereto and advise CONTRACTOR of ENGINEER'S findings and conclusions.

4.2.5 Possible Document Change

If ENGINEER concludes that there is a material error in the Contract Documents or that because of newly discovered conditions a change in the Contract Documents is required, a Change Order will be issued as provided in Article 10 to reflect and document the consequences of the inaccuracy or difference.

4.2.6 Possible Price and Time Adjustments

In each such case, an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, or any combination thereof, will be allowable to the extent that they are attributable to any such inaccuracy or difference.

4.3 Physical Conditions-Underground Facilities

4.3.1 Shown or Indicated

The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the site is based on information and data furnished to OWNER or ENGINEER by the owners of such underground facilities or by others. Unless it is otherwise expressly provided in the Special Conditions:

4.3.1.1 OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and,

4.2.1.2 CONTRACTOR shall have full responsibility for reviewing and checking all such information and data; for locating all underground facilities shown or indicated in the Contract Documents; for coordination of the Work with the owners of such underground facilities during construction; and for the safety and protection thereof and repairing any damage thereto resulting from the Work, the cost of all of which will be considered as having been included in the Contract Price.

4.3.2 Not Shown or Indicated

If an underground facility is uncovered or revealed at or contiguous to the site which was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of, CONTRACTOR shall, promptly after becoming aware thereof and before performing any Work affected thereby (except in an emergency), identify the owner of such Underground Facility and give written notice thereof to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the underground facility to determine the extent to which the Contract Documents should be modified to reflect and document the consequences of the existence of the Underground Facility, and the Contract Documents will be amended or supplemented to the extent necessary. During such time, CONTRACTOR shall be responsible for the safety and protection of such underground facility. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, to the extent that they are attributable to the existence of any underground facility that was not shown or indicated in the Contract Documents and which CONTRACTOR could not reasonably have been expected to be aware of.

4.4 Reference Points

OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER'S judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work (unless otherwise specified), shall protect and preserve the established reference points and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER

whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points by a Registered Land Surveyor.

5. CONTRACTOR'S RESPONSIBILITIES

5.1 Supervision

CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall assure that all CONTRACTOR personnel (including subcontractors, etc.) conduct themselves in a courteous and respectful manner toward the ENGINEER and the general public. Failure to comply with this condition of the Contract will result in immediate suspension of the Work. Following a review by the Commissioner of Public Works, the Contract may be terminated (see GC section 14). CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of others in the design or selection of a specific means, method, technique, sequence or procedure of construction which is indicated in and required by the Contract Documents. CONTRACTOR shall be responsible to see that the finished Work complies accurately with the Contract Documents.

5.2 Superintendence

CONTRACTOR shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR'S representative at the site and shall have authority to act on behalf of CONTRACTOR. All communications given to the superintendent shall be as binding as if given to CONTRACTOR.

5.3 Labor

CONTRACTOR shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the site. Except in connection with the safety or protection of persons or the Work or property at the site or adjacent thereto, and except as otherwise indicated in the Contract Documents, all Work at the site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday or any legal holiday without OWNER'S written consent given after prior written notice to ENGINEER.

5.4 Start-Up and Completion of Work

Unless otherwise specified, CONTRACTOR shall furnish and assume full responsibility for all materials, equipment, labor, transportation, construction

equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and completion of the Work.

5.5 Materials and Equipment

All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the kind and quality of materials and equipment. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable supplier except as otherwise provided in the Contract Documents; but no provision of any such instructions will be effective to assign to ENGINEER, or any of ENGINEER'S consultants, agents or employees, any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 8.12.3 or 8.12.4.

5.5.1 Not Clearly Specified or Indicated

In all instances where materials specified are obtainable in different sizes, weights, trade grades, qualities or finishes, etc., whose weights, trade grades, qualities or finishes, etc., are not clearly specified or indicated on the Drawings, the CONTRACTOR shall notify the ENGINEER of all such instances at least five (5) days in advance of receiving the proposals. The Engineer will then determine which size, weight, trade grade, quality, finish, etc., is required.

5.5.2 Coordination of Work

The CONTRACTOR shall see that for his own Work and for the work of each subcontractor, proper templates and patterns necessary for the coordination of the various parts of the Work are prepared. The CONTRACTOR shall furnish or require the Subcontractor to furnish such duplicates as will enable the Subcontractors to fit together and execute fully their respective portions of the Work.

5.6 Adjusting Progress Schedule

CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.8) adjustments in the progress schedule to reflect the impact thereon of new developments; these will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the Contract Documents applicable thereto.

5.7 Substitutes or "Or-Equal" Items

5.7.1 General

Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function, and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other Suppliers may be accepted by OWNER/ENGINEER if sufficient information is submitted by CONTRACTOR to allow OWNER/ENGINEER to determine that the material or equipment proposed is equivalent or equal to that named. The procedure for review by OWNER/ENGINEER will include the following. Requests for review of substitute items of material and equipment will not be accepted by OWNER/ENGINEER from anyone, other than CONTRACTOR. If CONTRACTOR wishes to furnish or use a substitute item of material or equipment, CONTRACTOR shall make written application to OWNER/ENGINEER for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice CONTRACTOR'S achievement of completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting change, all of which shall be considered by OWNER/ENGINEER in evaluating the proposed substitute. OWNER/ENGINEER may require CONTRACTOR to furnish at CONTRACTOR'S expense additional data about the proposed substitute.

5.7.2 Substitutes

If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to OWNER/ENGINEER, if CONTRACTOR submits sufficient information to allow OWNER/ENGINEER to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedure for review by OWNER/ENGINEER will be similar to that provided in paragraph 5.7.1 as applied by OWNER/ENGINEER.

5.7.3 OWNER/ENGINEER'S Approval

OWNER/ENGINEER will be allowed a reasonable time within which to evaluate each proposed substitute. OWNER/ENGINEER will be the sole judge of acceptability, and no substitute will be ordered, installed or utilized without OWNER/ENGINEER'S prior written acceptance which will be evidenced by either a Change Order or an approved Shop Drawing. OWNER may require CONTRACTOR to furnish at CONTRACTOR'S expense a special performance guarantee or other surety with respect to any substitute. OWNER/ENGINEER will record time required by OWNER/ENGINEER and OWNER/ENGINEER'S consultants in evaluating substitutions proposed by CONTRACTOR and in making changes in the Contract Documents occasioned thereby. Whether or not OWNER/ENGINEER accepts a proposed substitute, CONTRACTOR shall reimburse OWNER for the charges of OWNER/ENGINEER and OWNER/ENGINEER'S consultants for evaluating each proposed substitute.

5.8 Subcontractors, Suppliers, and Others

5.8.1 Acceptable to ENGINEER

CONTRACTOR shall not employ any Subcontractor, Supplier or other person or organization (including those acceptable to OWNER and ENGINEER as indicated in paragraph 5.8.2), whether initially or as a substitute, against whom OWNER or ENGINEER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

5.8.2 Objection After Due Investigation

If the Contract Documents require the identity of certain Subcontractors, Suppliers or other persons or organizations (including those who are to furnish the principal items of materials and equipment) to be submitted to OWNER in advance of the specified date prior to the Effective Date of the Agreement for acceptance by OWNER and ENGINEER and if CONTRACTOR has submitted a list thereof, OWNER'S or ENGINEER'S acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the bidding documents or the Contract Documents) of any such Subcontractor, Supplier or other person or organization so identified may be revoked on the basis of reasonable objection after due investigation, in which case CONTRACTOR shall submit an acceptable substitute. No acceptance by OWNER or ENGINEER of any such Subcontractor, Supplier or other person or organization shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

5.8.3 Contractor Responsible for Acts of Subcontractors

The CONTRACTOR shall perform on the site, and with its own organization, work equivalent to at least fifty (50) percent of the total amount of Work to be performed under the Contract. This percentage may be reduced by a supplemental agreement to this Contract if, during performing the Work, the CONTRACTOR requests a reduction and the Urban County Engineer determines that the reduction would be to the advantage of the Urban County Government.

The CONTRACTOR shall, at the time he submits his proposal for the Contract, notify the OWNER in writing of the names of Subcontractors proposed for the Work. He shall not employ any Subcontractor without the prior written approval of the OWNER.

CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR'S own acts and omissions. Nothing in the Contract Documents shall create any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other person or organization, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier or other person or organization except as may otherwise be required by Laws and Regulations.

5.8.4 Division of Specifications

The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

5.8.5 Agreement Between Contractor and Subcontractors

All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER.

5.8.6 Statements and Comments by CONTRACTOR

Neither the CONTRACTOR, his employees, nor his subcontractors shall at any time make any statement or comment as to the project scope, nature, intention, design, or construction

method to any third party or parties without the explicit written consent of the OWNER.

Any third party requesting such information shall be referred to the OWNER or his representative.

Should there be any change from the original intent of the project as a result of any statement or comment by the contractor, his employees or subcontractors, contractor shall be held liable for any change in the scope, nature, design, or construction method and shall bear the full cost for the previously mentioned changes.

5.9 Patent Fees and Royalties

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others.

5.10 Permits

Unless otherwise provided in the Special conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work, which are applicable at the time of opening of Bids, or if there are no Bids on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto such as plant investment fees.

5.11 Laws and Regulations

5.11.1 CONTRACTOR to Comply

CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to furnishing and performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR'S compliance with any Laws and Regulations.

5.11.2 Specifications and Drawings at Variance

If CONTRACTOR observes that the Specifications or Drawings are at variance with any Laws or Regulations, CONTRACTOR shall give ENGINEER prompt written notice thereof, and any necessary changes will be authorized by one of the methods indicated in paragraph 3.4. If

CONTRACTOR performs any Work knowing or having reason to know that it is contrary to such Laws, or Regulations, and without such notice to ENGINEER, CONTRACTOR shall bear all costs arising therefrom; however, it shall not be CONTRACTOR'S primary responsibility to make certain that the Specifications and Drawings are in accordance with such Laws and Regulations.

Any party, firm or individual submitting a proposal pursuant to invitation must have paid all taxes owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, and must maintain a "current" status in regard to those taxes throughout the Contract. If applicable, business must be licensed in Fayette County.

5.12 Taxes

CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work. Any party, firm or individual submitting a proposal pursuant to invitation must have paid all taxes owed to the Lexington-Fayette Urban County Government at the time the proposal is submitted, and must maintain a "current" status in regard to those taxes throughout the Contract. If applicable, business must be licensed in Fayette County.

5.13 Use of Premises

5.13.1 Project Site

CONTRACTOR shall confine construction equipment, the storage of materials and equipment and the operations of workers to the staging areas or work site areas identified in and permitted by the Contract Documents and other land and areas permitted by Laws and Regulations, rights-of-way, permits and easements, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against OWNER or ENGINEER by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim by arbitration or at law. CONTRACTOR shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold OWNER and ENGINEER harmless from and against all claims, damages, losses and expenses (including, but not limited to, fees of engineers, architects, attorneys and other professionals and court and arbitration costs) arising directly, indirectly or consequentially out of any action, legal or equitable, brought by any such other party against OWNER or ENGINEER

to the extent based on a claim arising out of CONTRACTOR'S performance of the Work.

5.13.2 Clean UP

During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work, CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by OWNER. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.

5.13.1 Loading of Structures

CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

5.14 Record Drawings

CONTRACTOR shall maintain in a safe place at the site one record copy of all Drawings, Specifications, Addenda, Change Orders, Field Orders and written interpretations and clarifications (issued pursuant to paragraph 9.4) in good order and annotated to show all changes made during construction. These record documents together with all approved samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, samples and Shop Drawings will be delivered to ENGINEER for OWNER.

5.15 Shop Drawings and Samples

5.15.1 Shop Drawing Submittals

After checking and verifying all field measurements and after complying with applicable procedures specified, CONTRACTOR shall submit to ENGINEER for review and approval in accordance with the accepted schedule of Shop Drawing submissions (see paragraph 2.8), or for other appropriate action if so indicated in the Special Conditions, five copies (unless otherwise specified) of all Shop Drawings, which will bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission. All submissions will be identified as ENGINEER may require. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials and similar data to enable ENGINEER to review the information as required.

5.15.2 Sample Submittals

CONTRACTOR shall also submit to ENGINEER for review and approval with such promptness as to cause no delay in Work, all samples required by the Contract Documents. All samples will have been checked by and accompanied by a specific written indication that CONTRACTOR has satisfied CONTRACTOR'S responsibilities under the Contract Documents with respect to the review of the submission and will be identified clearly as to material, Supplier, pertinent data such as catalog numbers and the use for which intended.

5.15.3 Review by CONTRACTOR

Before submission of each Shop Drawing or sample CONTRACTOR shall have determined and verified all quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers and similar data with respect thereto and reviewed or coordinated each Shop Drawing or sample with other Shop Drawings and samples and with the requirements of the Work and the Contract Documents.

5.15.4 Notice of Variation

At the time of each submission, CONTRACTOR shall give ENGINEER specific written notice of each variation that the Shop Drawings or samples may have from the requirements of the Contract Documents, and, in addition, shall cause a specific notation to be made on each Shop Drawing submitted to ENGINEER for review and approval of each such variation.

5.15.5 ENGINEER'S Approval

ENGINEER will review and approve with reasonable promptness Shop Drawings and samples, but ENGINEER'S review and approval will be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents and shall not extend to means, methods, techniques, sequences or procedures of construction (except where a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions. CONTRACTOR shall make corrections required by ENGINEER, and shall return the required number of corrected copies of Shop Drawings and submit, as required, new samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

5.15.6 Responsibility for Errors and Omissions

ENGINEER'S review and approval of Shop Drawings or samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER'S attention to each such variation at the time of submission as required by paragraph 5.15.4 and ENGINEER has given written approval of each such variation by a specific written notation thereof incorporated in or accompanying the Shop Drawing or sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for errors or omissions in the Shop Drawings or from responsibility for having complied with the provisions of paragraph 5.15.3.

5.15.7 Cost of Related Work

Where a Shop or sample is required by the Specifications, any related Work performed prior to ENGINEER'S review and approval of the pertinent submission will be the sole expense and responsibility of CONTRACTOR.

5.16 Continuing the Work

CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolutions of any disputes or disagreements, except as permitted by paragraph 14.5 or as CONTRACTOR and OWNER may otherwise agree in writing.

5.17 Erosion and Sediment Control

5.17.1 General Environmental Requirements

The CONTRACTOR and Subcontractors performing work on projects on behalf of the OWNER shall comply with all applicable federal, state, and local environmental regulations and all requirements and conditions set forth in "special" permits including but not limited to Corp of Engineers 404 permits, 401 Water Quality Certifications, Stream Crossing and Floodplain Encroachment Permits.

Any fines or penalties resulting from the failure to comply with the terms of the federal, state or local permits or perform necessary corrective action are solely the obligation of the CONTRACTOR.

5.17.2 Stormwater Pollution Prevention

A. The CONTRACTOR shall exercise due care to prevent or minimize any damage to any stream or wetland from pollution by debris, sediment or other material. The operation of equipment and/or materials in a jurisdictional wetland is expressly prohibited. Water that has been used for washing or processing, or that contains oils, sediments or other pollutants shall not be discharged from the job site. Such waters shall be

collected and properly disposed of by the CONTRACTOR in accordance with applicable local, state and federal law.

B. The CONTRACTOR is solely responsible for securing all required state and local permits associated with stormwater discharges from the project including, but not necessarily limited to the KY Notice of Intent to Disturb (NOI) for Coverage of Storm Water Discharges Associated with Construction Activities under the KPDES Storm Water General Permit KYR100000 and the LFUCG, Land Disturbance Permit. Permit application preparation and all required documentation are the responsibility of the CONTRACTOR. The CONTRACTOR is solely responsible for maintaining compliance with the stormwater pollution prevention plan or erosion and sediment control plan and ensuring the following:

- a. That the Stormwater Pollution Prevention Plan (SWPPP) or erosion control plan is current and available for review on site;
- b. That any and all stormwater inspection reports required by the permit are conducted by qualified personnel and are available for review onsite; and
- c. That all best management practices (BMPs) are adequately maintained and effective at controlling erosion and preventing sediment from leaving the site.

C. The CONTRACTOR shall provide the necessary equipment and personnel to perform any and all emergency measures that may be required to contain any spillage or leakage and to remove materials, soils or liquids that become contaminated. The collected spill material shall be properly disposed at the CONTRACTOR's expense.

D. Upon completion of the work and with the concurrence of the OWNER, the CONTRACTOR must file a Notice of Termination (NOT) of Coverage Under the KPDES General Permit for Storm Water Discharges Associated with Construction Activity with the appropriate local and state authorities.

E. Any fines or penalties resulting from the failure to comply with the terms of the state or local stormwater permits or perform necessary corrective action are solely the obligation of the CONTRACTOR.

6. OTHER WORK

6.1 Related Work at Site

OWNER may perform other work related to the Project at the site by OWNER'S own forces, have other work performed by utility owners or let other direct contracts

therefor which shall contain General Conditions similar to these. If the fact that such other work is to be performed was not noted in the Contract Documents, written notice thereof will be given to CONTRACTOR prior to starting any such other work; and, if such performance will involve additional expense to CONTRACTOR or requires additional time, a Change Order to the Contract will be negotiated.

6.2 Other Contractors or Utility Owners

CONTRACTOR shall afford each utility owner and other contractor who is a party to such a direct contract (or OWNER, if OWNER is performing the additional work with OWNER'S employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work, and shall properly connect and coordinate the Work with theirs. CONTRACTOR shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.

6.3 Delays Caused by Others

If any part of CONTRACTOR'S Work depends for proper execution or results upon the work of any such other contractor or utility owner (or OWNER), CONTRACTOR shall inspect and promptly report to ENGINEER in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. CONTRACTOR'S failure so to report will constitute an acceptance of the other work as fit and proper for integration with CONTRACTOR'S Work except for latent or non-apparent defects and deficiencies in the other work.

6.4 Coordination

If OWNER contracts with others for the performance of other work on the Project at the site, the person or organization who will have authority and responsibility for coordination of the activities among the various prime contractors will be identified in the Special Conditions, and the specific matters to be covered by such authority and responsibility will be itemized, and the extent of such authority and responsibilities will be provided, in the Special Conditions.

7. OWNER'S RESPONSIBILITIES

7.1 Communications

OWNER shall issue all communications to CONTRACTOR through ENGINEER.

7.2 Data and Payments

OWNER shall furnish the data required of OWNER under the Contract Documents promptly after they are due.

7.3 Lands, Easements, and Surveys

OWNER'S duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.1 and 4.4. Paragraph 4.2 refers to OWNER'S identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions at the site and in existing structures which have been utilized by ENGINEER in preparing the Drawings and Specifications.

7.4 Change Orders

OWNER is obligated to execute Change Orders as indicated in paragraph 9.4.

7.5 Inspections, Tests and Approvals

OWNER'S responsibility in respect to certain inspections, tests and approvals is set forth in paragraph 13.3.

7.6 Stop or Suspend Work

In connection with OWNER'S right to stop Work or suspend Work, see paragraph 12.4 and 14.1 Paragraph 14.2 deals with OWNER'S rights to terminate services of CONTRACTOR under certain circumstances.

8. ENGINEER'S STATUS DURING CONSTRUCTION

8.1 OWNER'S Representative

ENGINEER will be OWNER'S representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER'S representative during construction are set forth in the Contract Documents and shall not be extended without written consent of OWNER and ENGINEER.

8.2 Visits to Site

ENGINEER will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER'S efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform to the Contract Documents. On the basis of such visits and on-site observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defects and deficiencies in the Work.

8.3 Project Representation

ENGINEER will provide an Inspector to assist ENGINEER in observing the performance of the Work. If OWNER designates another agent to represent OWNER at the site who is not ENGINEER'S agent or employee, the duties, responsibilities and limitations of authority of such other person will be as provided in the Special Conditions.

8.4 Clarifications and Interpretations

ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents (in the form of Drawings or otherwise) as ENGINEER may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.

8.5 Authorized Variations in Work

ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time and are consistent with the overall intent of the Contract Documents. These may be accomplished by a Field Order.

8.6 Rejecting Defective Work

ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, and will also have authority to require special inspection or testing of the Work as provided in paragraph 12.3, whether or not the Work is fabricated, installed or completed.

8.7 Shop Drawings

In connection with ENGINEER'S responsibility for Shop Drawings and samples, see paragraphs 5.15.1 through 5.16 inclusive.

8.8 Change Orders

In connection with ENGINEER'S responsibilities as to Change Orders, see Articles 10, 11 and 12.

8.9 Payments

In connection with ENGINEER'S responsibilities with respect to Applications for Payment, etc., see Article 13.

8.10 Determinations for Unit Prices

ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR.

ENGINEER will review with CONTRACTOR ENGINEER'S preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise).

8.11 Decision on Disputes

ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents pertaining to the performance and furnishing of the Work and claims under Articles 10 and 11 in respect of changes in the Contract Price or Contract Time will be referred initially to ENGINEER in writing with a request for a formal decision in accordance with this paragraph, which ENGINEER will render in writing within a reasonable time. Written notice of each such claim, dispute and other matter will be delivered to ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise thereto, and written supporting data will be submitted to ENGINEER within sixty days after such occurrence unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim.

8.12 Limitations on Engineer's Responsibilities

8.12.1 CONTRACTOR, Supplier, or Surety.

Neither ENGINEER'S authority to act under this Article 8 or elsewhere in the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization performing any of the Work, or to any surety for any of them.

8.12.2 To Evaluate the Work

Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable", "acceptable", "proper", or "satisfactory" or adjectives or like "effect" or "import" are used to describe a requirement, direction, review or judgment of ENGINEER as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign ENGINEER any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 8.12.3 or 8.12.4.

8.12.3 CONTRACTOR'S Means, Methods, Etc.

ENGINEER will not be responsible for CONTRACTOR'S means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and ENGINEER will not be responsible for CONTRACTOR'S failure to perform or furnish the Work in accordance with the Contract Documents.

8.12.4 Acts of Omissions of CONTRACTOR

ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.

9. CHANGES IN THE WORK

9.1 OWNER May Order Change

Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by a Change Order. Upon receipt of such notice, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

9.2 Claims

Claims for an increase or decrease in the Contract Price or an extension or shortening of the Contract Time that should be allowed as a result of a Change Order will be settled as provided for in Article 10 or Article 11.

9.3 Work Not in Contract Documents

CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified and supplemented as provided in paragraph 3.4, except in the case of an emergency and except in the case of uncovering Work as provided in paragraph 12.3.4.

9.4 Change Orders

OWNER and CONTRACTOR shall execute appropriate Change Orders covering:

9.4.1 changes in the Work which are ordered by OWNER pursuant to paragraph 9.1, are required because of acceptance of defective Work under paragraph 12.7 or corrective defective Work under paragraph 12.8, or are agreed to by the parties;

9.4.2 changes in the Contract Price or Contract Time which are agreed to by the parties; and

9.4.3 changes in the Contract Price or Contract Time which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 8.11; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and REGULATIONS, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 5.16.

9.5 Notice of Change

If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Time) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR'S responsibility, and the amount of each applicable Bond will be adjusted accordingly.

10. CHANGE OF CONTRACT PRICE

10.1 Total Compensation

The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at his expense without change in the Contract Price.

10.2 Claim for Increase or Decrease in Price

The Contract Price may only be changed by a Change Order. Any claim for an increase or decrease in the Contract Price shall be based on written notice delivered by the CONTRACTOR to the ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty days after such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by CONTRACTOR'S written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which the CONTRACTOR is entitled as a result of the occurrence of said event.

10.3 Value of Work

The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

10.3.1 Unit Prices

Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved (subject to the provisions of paragraphs 10.9.1. through 10.9.3, inclusive).

10.3.2 Lump Sum

By mutual acceptance of a lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 10.6.2.1).

10.3.3 Cost Plus Fee

On the basis of the Cost of the Work (determined as provided in paragraphs 10.4 and 10.5) plus a CONTRACTOR'S fee for overhead and profit (determined as provided in paragraphs 10.6 and 10.7).

10.4 Cost of the Work

The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project; shall include only the following items; and shall not include any of the costs itemized in paragraph 10.5:

10.4.1 Payroll Costs

Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' or workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing Work after regular working hours, on Saturday, Sunday or legal holidays, shall be included in the above to the extent authorized by OWNER.

10.4.2 Materials and Equipment Costs

Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

10.4.3 Subcontractor Costs

Payments made by CONTRACTOR to the Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from Subcontractors acceptable to CONTRACTOR and shall deliver such bids to OWNER who will then determine, with the advice of ENGINEER, which bids will be accepted. If a subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work Plus a Fee, the Subcontractor's Cost of the Work shall be determined in the same manner as CONTRACTOR'S Cost of the Work. All subcontracts shall be subject to the other provisions of the Contract Documents insofar as applicable.

10.4.4 Special Consultant Costs

Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys and accountants) employed for services specifically related to the Work.

10.4.5 Supplemental Costs

10.4.5.1 The proportion of necessary transportation, travel and subsistence expenses of CONTRACTOR'S employees incurred in discharge of duties connected with the Work.

10.4.5.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost less market value of such items used but not consumed which remain the property of CONTRACTOR.

10.4.5.3 Rentals of all construction equipment and machinery and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, installation, dismantling and removal shall be in accordance with terms of said rental agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

10.4.5.4 Sales, consumer, use or similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

10.4.5.5 Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

10.4.5.6 Losses and damages (and related expenses), not compensated by insurance or otherwise, to the Work or otherwise sustained by CONTRACTOR in connection with the performance and furnishing of the Work (except losses and damages within the deductible amounts of property insurance established by OWNER), provided they have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR'S fee. If, however, any such loss or damage requires reconstruction and CONTRACTOR is placed in charge thereof, CONTRACTOR shall be paid a fee proportionate to that stated in paragraph 10.6.2 for services.

10.4.5.7 The cost of utilities, fuel and sanitary facilities at the site.

10.4.5.8 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

10.4.5.9 Cost of premiums for additional Bonds and insurance required because of changes in the Work and premiums for property insurance coverage within the limits of the deductible amounts established by OWNER.

10.5 Not to Be Included in Cost of the Work

The term Cost of the Work shall not include any of the following:

10.5.1 Costs of Officers and Executives

Payroll costs and other compensation of CONTRACTOR'S officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR'S principal or a branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 10.4.1 or specifically covered by paragraph 10.4.4 - all of which are to be considered administrative costs covered by the CONTRACTOR'S fee.

10.5.2 Principal Office

Expenses of CONTRACTOR'S principal and branch offices other than CONTRACTOR'S office at the site.

10.5.3 Capital Expense

Any part of CONTRACTOR'S capital expenses, including interest on CONTRACTOR'S capital employed for the Work and charges against CONTRACTOR for delinquent payments.

10.5.4 Bonds and Insurance

Cost of premiums for all Bonds and for all insurance whether or not CONTRACTOR is required by the Contract Documents to purchase and maintain the same (except for the cost of premiums covered by subparagraph 10.4.5.9 above).

10.5.5 Costs Due to Negligence

Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

10.5.6 Other Costs

Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraph 10.4.

10.6 Contractor's Fee

The CONTRACTOR'S Fee allowed to CONTRACTOR for overhead and profit shall be determined as follows:

10.6.1 a mutually acceptable fixed fee; or if none can be agreed upon,

10.6.2 a fee based on the following percentages of the various portions of the Cost of the Work:

10.6.2.1 for costs incurred under paragraphs 10.4.1 and 10.4.2, the CONTRACTOR'S fee shall be fifteen percent;

10.6.2.2 for costs incurred under paragraph 10.4.3, the CONTRACTOR'S fee shall be five percent; and if a subcontract is on the basis of Cost of the Work Plus a fee, the maximum allowable to CONTRACTOR on account of overhead and profit of all Subcontractors shall be fifteen percent;

10.6.2.3 no fee shall be payable on the basis of costs itemized under paragraphs 10.4.4, 10.4.5 and 10.5;

10.6.2.4 the amount of credit to be allowed by CONTRACTOR to OWNER for any such change which results in a net decrease in cost will be the amount of the actual net decrease plus a deduction in CONTRACTOR'S Fee by an amount equal to ten percent of the net decrease; and

10.6.2.5 when both additions and credits are involved in any one change, the adjustment in CONTRACTOR'S fee shall be computed on the basis of the net change in accordance with paragraphs 10.6.2.1 through 10.6.2.4, inclusive.

10.7 Itemized Cost Breakdown

Whenever the cost of any Work is to be determined pursuant to paragraph 10.4 or 10.5, CONTRACTOR will submit in form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

10.8 Cash Allowances

It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be done by such Subcontractors or Suppliers and for such sums within the limit of the allowances as may be acceptable to ENGINEER, CONTRACTOR agrees that:

10.8.1 Materials and Equipment

The allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the site, and all applicable taxes; and

10.8.2 Other Costs

CONTRACTOR'S costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances. No demand for additional payment on account of any thereof will be valid.

10.8.3 Change Order

Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

10.9 Unit Price Work

10.9.1 General

Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the established unit prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER in accordance with Paragraph 8.10.

10.9.2 Overhead and Profit

Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR'S overhead and profit for each separately identified item.

10.9.3 Claim for Increase in Unit Price

Where the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement and there is no corresponding adjustment with respect to any other item of Work and if CONTRACTOR believes that CONTRACTOR has incurred additional expense as a result thereof, CONTRACTOR may make a claim for an increase in the Contract Price in accordance with Article 10.

11. CHANGE OF CONTRACT TIME

11.1 Change Order

The Contract Time may only be changed by a Change Order. Any claim for an extension or shortening of the Contract Time shall be based on written notice

delivered to ENGINEER promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within sixty days after such occurrence (unless ENGINEER allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time shall be determined by ENGINEER in accordance with paragraph 8.11. No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this paragraph 11.1.

11.2 Justification for Time Extensions

The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR if a claim is made therefore as provided in paragraph 11.1. Such delays shall include, but not be limited to, acts or neglect by OWNER or others performing additional work as contemplated by Article 6, or to fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

11.3 Time Limits

All time limits stated in the Contract Documents are of the essence of the Agreement. The provisions of this Article 11 shall not exclude recovery for damages (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court costs) for delay by either party.

12. WARRANTY AND GUARANTEE; TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

12.1 Warranty and Guarantee

CONTRACTOR warrants and guarantees to OWNER and ENGINEER that all Work will be in accordance with the Contract Documents and will not be defective. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this Article 12.

12.2 Access to Work

ENGINEER and ENGINEER'S representatives, other representatives of OWNER, testing agencies and governmental agencies with jurisdictional interests will have access to the Work at reasonable times for their observation, inspecting and testing. CONTRACTOR shall provide proper and safe conditions for such access.

12.3 Tests and Inspections

12.3.1 Timely Notice

CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests or approvals.

12.3.2 Requirements and Responsibilities

The ENGINEER may require such inspection and testing during the course of the Work as he/she deems necessary to ascertain and assure the integrity and acceptable quality of the materials incorporated and the work performed. Inspection presence may be either full-time or intermittent, and neither the presence nor absence at any time of the ENGINEER or the INSPECTOR shall relieve the CONTRACTOR of sole responsibility for the acceptability and integrity of the Work or any part thereof.

The costs of sampling, testing, and inspection on-site to ascertain acceptability of the Work and materials will be borne by the OWNER except as otherwise provided. The OWNER will select a testing laboratory to perform such sampling and testing. Sampling and/or testing required by the CONTRACTOR or necessitated by failure of Work or materials to meet the above acceptability test shall be at the expense of the CONTRACTOR.

Inspection services may be performed by the employees of the OWNER or by others selected or designated by the OWNER or the ENGINEER.

Sampling and/or testing required for manufacturing quality and/or process control, for certification that raw mineral materials or manufactured products are the quality specified in the contract, or to assure the acceptability for incorporation into the Work shall be borne by the CONTRACTOR or the material supplier.

Cost for inspection, sampling, testing, and approvals required by the laws or regulations of any public body having competent jurisdiction shall be borne by the CONTRACTOR or the material supplier.

Sampling and testing will be in accord with pertinent codes and regulations and with appropriate standards of the American Society of Testing Materials or other specified standards.

12.3.3 On-Site Construction Test and Other Testing

All inspections, tests or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to OWNER and CONTRACTOR (or by ENGINEER if so specified).

12.3.4 Covered Work

If any Work (including the work of others) that is to be inspected, tested or approved is covered without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation. Such uncovering shall be at CONTRACTOR'S expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR'S intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

12.3.5 CONTRACTOR'S Obligation

Neither observations by ENGINEER nor inspections, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR'S obligations to perform the Work in accordance with the Contract Documents.

12.4 OWNER May Stop the Work

If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR or any other party.

12.5 Correction or Removal of Defective Work

If required by ENGINEER, CONTRACTOR shall promptly, as directed, either correct all defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by ENGINEER, remove it from the site and replace it with non-defective Work. CONTRACTOR shall bear all direct, indirect and consequential costs of such correction or removal (including but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby.

12.6 One Year Correction Period

If within one year after the date of Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER'S written instructions, either correct such defective Work, or, if it has been rejected by OWNER, remove it from the site and replace it with non-defective Work. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or the rejected Work removed and replaced, and all direct, indirect and consequential costs of such removal and replacement (including but not limited to fees and charges of engineers, architects, attorneys and

other professionals) will be paid by CONTRACTOR. In special circumstances where a particular item of equipment is placed in continuous service before Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Change Order.

12.7 Acceptance of Defective Work

If, instead of requiring correction or removal and replacement of defective Work, OWNER prefers to accept it, OWNER may do so. CONTRACTOR shall bear all direct, indirect and consequential costs attributable to OWNER'S evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness and to include but not be limited to fees and charges of engineers, architects, attorneys and other professionals).

12.8 OWNER May Correct Defective Work

If CONTRACTOR fails within a reasonable time after written notice of ENGINEER to proceed to correct and to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 12.5, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days' written notice to CONTRACTOR, correct and remedy any such deficiency. In exercising the rights and remedies under this paragraph OWNER shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the site, take possession of all or part of the Work, and suspend CONTRACTOR'S services related thereto, take possession of CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER'S representatives, agents and employees such access to the site as may be necessary to enable OWNER to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of OWNER in exercising such rights and remedies will be charged against CONTRACTOR in an amount approved as to reasonableness by ENGINEER, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. Such direct, indirect and consequential costs will include but not be limited to fees and charges of engineers, architects, attorneys and other professionals, all court costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of CONTRACTOR'S defective Work. CONTRACTOR shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by OWNER of OWNER'S rights and remedies hereunder.

13. PAYMENTS TO CONTRACTOR AND COMPLETION

13.1 Schedule of Values

The schedule of values established as provided in paragraph 2.8 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

13.2 Application for Progress Payment

At least ten days before each progress payment is scheduled (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that OWNER has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances (which are hereinafter in these General Conditions referred to as "Liens") and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect OWNER'S interest therein, all of which will be satisfactory to OWNER. OWNER shall, within thirty (30) calendar days of presentation to him of an approved Application for Payment, pay CONTRACTOR the amount approved by ENGINEER.

13.3 CONTRACTOR'S Warranty of Title

CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

13.4 Review of Applications for Progress Payment

13.4.1 Submission of Application for Payment

ENGINEER will, after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER, or return the Application to CONTRACTOR indicating in writing ENGINEER'S reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

13.4.2 ENGINEER'S Recommendation

ENGINEER may refuse to recommend the whole or any part of any payment, if, in ENGINEER'S opinion, it would be incorrect to make such

representations to OWNER. ENGINEER may also refuse to recommend any such payment, or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended, to such extent as may be necessary in ENGINEER'S opinion to protect OWNER from loss because:

13.4.2.1 the Work is defective, or completed Work has been damaged requiring correction or replacement;

13.4.2.2 the Contract Price has been reduced by Written Amendment or Change Order;

13.4.2.3 OWNER has been required to correct defective Work or complete Work in accordance with paragraph 12.8; or

13.4.2.4 of ENGINEER'S actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.2.1 through 14.2.9 inclusive.

13.5 Partial Utilization

OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and has been completed. If CONTRACTOR agrees, CONTRACTOR will certify to OWNER that said part of the Work is complete and request that a Certificate of Completion be issued for that part of the Work.

13.6 Final Inspection

Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will make a final inspection with CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to remedy such deficiencies.

13.7 Final Application for Payment

After CONTRACTOR has completed all such corrections to the satisfaction of ENGINEER and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents (as provided in paragraph 5.14) and other documents - all as required by the Contract Documents, and after ENGINEER has indicated that the Work is acceptable (subject to the provisions of paragraph 13.10), CONTRACTOR may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents, together with complete and legally effective releases or waivers (satisfactory to OWNER) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by OWNER, CONTRACTOR may furnish

receipts or releases in full; an affidavit of CONTRACTOR that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER'S property might in any way be responsible, have been paid or otherwise satisfied; and consent of the surety, if any, to final payment. If any Subcontractor or Supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

13.8 Final Payment and Acceptance

13.8.1 ENGINEER'S Approval

If, on the basis of ENGINEER'S observation of the Work during construction and final inspection, and ENGINEER'S review of the final Application for Payment and accompanying documentation - all as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR'S other obligations under the Contract Documents have been fulfilled, ENGINEER will, after receipt of the final Application for Payment, indicate in writing ENGINEER'S recommendation of payment and present the Application to OWNER for payment. Thereupon ENGINEER will give written notice to OWNER and CONTRACTOR that the Work is acceptable, subject to the provisions of paragraph 13.10. Otherwise, ENGINEER will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application.

13.8.2 Delay in Completion of Work

If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, OWNER shall, upon receipt of CONTRACTOR'S final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 10 of Part II, Information for Bidders, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

13.8.3 Retainage

Retainage is not applicable to this project.

13.9 CONTRACTOR'S Continuing Obligation

CONTRACTOR'S obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by ENGINEER, nor the issuance of a certificate of Completion, nor any payment by OWNER to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by OWNER, nor any act of acceptance by OWNER nor any failure to do so, nor any review and approval of a Shop Drawing or sample submission, nor any correction of defective Work by OWNER will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR'S obligation to perform the Work in accordance with the Contract Documents (except as provided in paragraph 13.10).

13.10 Waiver of Claims

The making and acceptance of final payment will constitute:

13.10.1 a waiver of all claims by OWNER against CONTRACTOR, except claims arising from unsettled Liens, from defective Work appearing after final inspection or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein; however, it will not constitute a waiver by OWNER of any rights in respect of CONTRACTOR'S continuing obligations under the Contract Documents; and

13.10.2 a waiver of all claims by CONTRACTOR against OWNER other than those previously made in writing and still unsettled.

14. SUSPENSION OF WORK AND TERMINATION

14.1 OWNER May Suspend Work

OWNER may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension if CONTRACTOR makes an approved claim therefor as provided in Articles 10 and 11.

14.2 OWNER May Terminate

The OWNER may terminate the Work upon the occurrence of any one or more of the following events:

14.2.1 if CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code (Title 11, United States Code), as now or hereafter in effect, or if CONTRACTOR takes any equivalent or similar action by

filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;

14.2.2 if a petition is filed against CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against CONTRACTOR under any other federal or state law in effect at the time relating to bankruptcy or insolvency;

14.2.3 if CONTRACTOR makes a general assignment for the benefit of creditors;

14.2.4 if a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under contract, whose appointment or authority to take charge of property of CONTRACTOR is for the purpose of enforcing a Lien against such property or for the purpose of general administration of such property for the benefit of CONTRACTOR'S creditors;

14.2.5 if CONTRACTOR admits in writing an inability to pay its debts generally as they become due;

14.2.6 if CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.8 as revised from time to time);

14.2.7 if CONTRACTOR disregards Laws or Regulations of any public body having jurisdiction;

14.2.8 if CONTRACTOR disregards the authority of ENGINEER, or

14.2.9 if CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents;

OWNER may, after giving CONTRACTOR (and the surety) seven days' written notice and to the extent permitted by Laws and Regulations, terminate the services of CONTRACTOR, exclude CONTRACTOR from the site and take possession of the Work and of all CONTRACTOR'S tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the

Work as OWNER may deem expedient. In such case CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct, indirect and consequential costs of completing the Work (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs) such excess will be paid to CONTRACTOR. If such costs exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such costs incurred by OWNER will be approved as to reasonableness by ENGINEER and incorporated in a Change Order, but when exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

14.2.10 If safety violations are observed and brought to the Contractors attention and Contractor fails to take immediate corrective measures or for any repeat of similar safety violations, Owner will order an immediate termination of contract. Note: it is the Contractor's responsibility to know proper safety measures as they pertain to construction and OSHA.

14.2.11 This contract may be canceled by either party thirty (30) days after delivery by canceling party of written notice of intent to cancel to the other contracting party.

14.2.12 This contract may be canceled by the Lexington-Fayette Urban County Government if it is determined that the Bidder has failed to perform under the terms of this agreement, such cancellation to be effective upon receipt of written notice of cancellation by the Bidder.

14.3 CONTRACTOR'S Services Terminated

Where CONTRACTOR'S services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

14.4 Payment After Termination

Upon seven days' written notice to CONTRACTOR, OWNER may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Agreement. In such case, CONTRACTOR shall be paid for all Work executed and any expense sustained plus reasonable termination expenses, which will include, but not be limited to, direct, indirect and consequential costs (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals and court and arbitration costs).

14.5 CONTRACTOR May Stop Work or Terminate

If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than ninety days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within sixty days after it is submitted, or OWNER fails for sixty days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days' written notice to OWNER and ENGINEER, terminate the Agreement and recover from OWNER payment for all Work executed and any expense sustained plus reasonable termination expenses. In addition and in lieu of terminating the Agreement, if ENGINEER has failed to act on an Application for Payment or OWNER has failed to make any payment as aforesaid, CONTRACTOR may upon seven days' written notice to OWNER and ENGINEER stop the Work until payment of all amounts then due. The provisions of this paragraph shall not relieve CONTRACTOR of the obligations under paragraph 5.16 to carry on the Work in accordance with the progress schedule and without delay during disputes and disagreements with OWNER.

15. MISCELLANEOUS

15.1 Claims for Injury or Damage

Should OWNER or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph 15.1 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.

15.2 Non-Discrimination in Employment

The CONTRACTOR shall comply with the following requirements prohibiting discrimination:

15.2.1 That no person (as defined in KRS 344.010) shall bid on Lexington-Fayette Urban County Government construction projects, or bid to furnish materials or supplies to the Lexington-Fayette Urban County Government, if, within six months prior to the time of opening of bids, said person shall have been found, by declaratory judgment action in Fayette Circuit Court, to be presently engaging in an unlawful practice, as hereinafter defined. Such declaratory judgment action may be brought by an aggrieved individual or upon an allegation that an effort at conciliation pursuant to KRS 344.200 has been attempted and failed, by the Lexington-Fayette County Human Rights Commission.

15.2.2 That it is an unlawful practice for an employer:

15.2.2.1 to fail or refuse to hire, or to discharge any individual or otherwise to discriminate against an individual, with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, age, or national origin; or

15.2.2.2 to limit, segregate or classify his employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his status as an employee because of such individual's sex, race, color, religion, age, or national origin.

15.2.3 That it is an unlawful practice for an employer, labor organization, or joint-labor management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of his race, color, religion, sex, age, or national origin in admission to, or employment in, any program established to provide apprenticeship or other training.

15.2.4 That a copy of this Ordinance shall be furnished all suppliers and made a part of all bid specifications.

15.2.5 This Ordinance shall take effect after it is signed, published and recorded, as required by law.

15.3 Temporary Street Closing or Blockage

The CONTRACTOR will notify the ENGINEER at least 72 hours prior to making any temporary street closing or blockage. This will permit orderly notification to all concerned public agencies. Specific details and restrictions on street closure or blockage are contained in the Special Conditions.

15.4 Percentage of Work Performed by prime CONTRACTOR

The CONTRACTOR shall perform on site, and with its own organization, Work equivalent to at least fifty (50%) percent of the total amount of Work to be performed under the Contract. This percentage may be reduced by a supplemental agreement to this Contract if, during performing the Work, the CONTRACTOR requests a reduction and the ENGINEER determines that the reduction would be to the advantage of the OWNER.

15.5 Clean-up

Cleanup shall progress, to the greatest degree practicable, throughout the course of the Work. The Work will not be considered as completed, and final payment will not be made, until the right-of-way and all ground occupied or affected by the

Contractor in connection with the Work has been cleared of all rubbish, equipment, excess materials, temporary structures, and weeds. Rubbish and all waste materials of whatever nature shall be disposed of, off of the project site, in an acceptable manner. All property, both public and private, which has been damaged in the prosecution of the Work, shall be restored in an acceptable manner. All areas shall be draining, and all drainage ways shall be left unobstructed, and in such a condition that drift will not collect or scour be induced.

15.6 General

The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon CONTRACTOR by paragraphs 12.1, 12.3.5, 13.3, and 15.2 and all of the rights and remedies available to OWNER and ENGINEER thereunder, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties and guarantees made in the Contract Documents will survive final payment and termination or completion of the Agreement.

15.7 Debris Disposal

For all LFUCG projects any trash, construction demolition debris, yard waste, dirt or debris of any kind that is removed from the project site must be disposed of in accordance with local, state, and federal regulations. The disposal site or facility must be approved in advance by the LFUCG and disposal documentation is required. The Contractor will be responsible for payment of any fines associated with improper disposal of material removed from the project site.

END OF SECTION

PART V

SPECIAL CONDITIONS

INDEX

1. REQUIRED RISK MANAGEMENT PROVISIONS
2. BLASTING
3. LABOR/EQUAL EMPLOYMENT OPPORTUNITY
4. FAILURE TO COMPLETE WORK ON TIME
5. KYTC PRE-QUALIFICATION REQUIRED AT TIME OF BID OPENING
6. KY DIVISION OF WATER/EPA PERMITS
7. PAYMENT FOR COST OF PERFORMANCE AND PAYMENT BONDS
8. SPECIAL UTILITY NOTES
9. STANDARD SPECIAL PROVISION (Payment of Predetermined Minimum Wage,
Statements and Payrolls)
10. WEATHER RELATED DELAYS

1.

**RISK MANAGEMENT PROVISIONS
INSURANCE AND INDEMNIFICATION**

1.1 INDEMNIFICATION AND HOLD HARMLESS PROVISION

- (1) It is understood and agreed by the parties that Contractor hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Contractor or its employees, agents, servants, owners, principals, licensees, assigns or subcontractors of any tier (hereinafter "CONTRACTOR") under or in connection with this agreement and/or the provision of goods or services and the performance or failure to perform any work required thereby.
- (2) CONTRACTOR shall indemnify, save, hold harmless and defend the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, volunteers, and successors in interest (hereinafter "LFUCG") from and against all liability, damages, and losses, including but not limited to, demands, claims, obligations, causes of action, judgments, penalties, fines, liens, costs, expenses, interest, defense costs and reasonable attorney's fees that are in any way incidental to or connected with, or that arise or are alleged to have arisen, directly or indirectly, from or by CONTRACTOR's performance or breach of the agreement and/or the provision of goods or services provided that: (a) it is attributable to personal injury, bodily injury, sickness, or death, or to injury to or destruction of property (including the loss of use resulting therefrom), or to or from the negligent acts, errors or omissions or willful misconduct of the CONTRACTOR; and (b) not caused solely by the active negligence or willful misconduct of LFUCG.
- (3) In the event LFUCG is alleged to be liable based upon the above, CONTRACTOR shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all reasonable attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by LFUCG, which approval shall not be unreasonably withheld.
- (4) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (5) LFUCG is a political subdivision of the Commonwealth of Kentucky. CONTRACTOR acknowledges and agrees that LFUCG is unable to provide indemnity or otherwise save, hold harmless, or defend the CONTRACTOR in any manner.
- (6) Strand Associates, Inc. provided design services for the Project, which included preparation of Contract Documents. Strand Associates, Inc. shall be provided with the same indemnification by CONTRACTOR as is provided for the OWNER in the

Contract Documents. Excepting those noted above, no other duties or responsibilities shall be construed from the Contract Documents as being the obligation of Strand Associates, Inc.

1.2 FINANCIAL RESPONSIBILITY

BIDDER/CONTRACTOR understands and agrees that it shall, prior to final acceptance of its bid and the commencement of any work, demonstrate the ability to assure compliance with the above Indemnity provisions and these other risk management provisions.

1.3 INSURANCE REQUIREMENTS

YOUR ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AND YOU MAY NEED TO CONFER WITH YOUR INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF SUBMISSION OF A RESPONSE THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF YOU FAIL TO COMPLY WITH THE INSURANCE REQUIREMENTS BELOW, YOU MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

Required Insurance Coverage

BIDDER/CONTRACTOR shall procure and maintain for the duration of this contract the following or equivalent insurance policies at no less than the limits shown below and cause its subcontractors to maintain similar insurance with limits acceptable to LFUCG in order to protect LFUCG 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 CONTRACTOR. The cost of such insurance shall be included in any bid:

| <u>Coverage</u> | <u>Limits</u> |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| General Liability (Insurance Services Office Form CG 00 01) | \$1 million per occurrence, \$2 million aggregate or \$2 million combined single limit |
| Commercial Automobile Liability (Insurance Services Office Form CA 0001) | combined single, \$1 million per occurrence |
| Worker's Compensation | Statutory Limits |
| Employer's Liability | \$100,000.00 |
| Excess/Umbrella Liability | \$10 million per occurrence |

Pollution Liability

\$1,000,000

The policies above shall contain the following conditions:

- a. All Certificates of Insurance forms used by the insurance carrier shall be properly filed and approved by the Department of Insurance for the Commonwealth of Kentucky (DOI). LFUCG shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy using the Kentucky DOI approved forms.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by LFUCG.
- c. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement unless deemed not to apply by LFUCG.
- d. The General Liability Policy shall include an Explosion-Collapse Underground (XCU) endorsement
- e. LFUCG shall be provided at least 30 days advance written notice via certified mail, return receipt requested, in the event any of the required policies are canceled or non-renewed.
- f. Said coverage shall be written by insurers acceptable to LFUCG and shall be in a form acceptable to LFUCG. Insurance placed with insurers with a rating classification of no less than Excellent (A or A-) and a financial size category of no less than VIII, as defined by the most current Best's Key Rating Guide shall be deemed automatically acceptable.

Renewals

After insurance has been approved by LFUCG, evidence of renewal of an expiring policy must be submitted to LFUCG, and may be submitted on a manually signed renewal endorsement form. If the policy or carrier has changed, however, new evidence of coverage must be submitted in accordance with these Insurance Requirements.

Deductibles and Self-Insured Programs

IF YOU INTEND TO SUBMIT A SELF-INSURANCE PLAN IT MUST BE FORWARDED TO LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, DIVISION OF RISK MANAGEMENT, 200 EAST MAIN STREET, LEXINGTON, KENTUCKY 40507 NO LATER THAN A MINIMUM OF FIVE (5) WORKING DAYS PRIOR TO THE RESPONSE DATE. Self-insurance programs, deductibles, and self-insured retentions in insurance policies are subject to separate approval by Lexington-Fayette Urban County Government's Division of Risk Management, upon review of evidence of BIDDER/CONTRACTOR's financial capacity to respond to claims. Any such programs

or retentions must provide LFUCG with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage. If BIDDER/CONTRACTOR satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, BIDDER/CONTRACTOR agrees to provide Lexington-Fayette Urban County Government, Division of Risk Management, the following data prior to the final acceptance of bid and the commencement of any work:

- a. Latest audited financial statement, including auditor's notes.
- b. Any records of any self-insured trust fund plan or policy and related accounting statements.
- c. Actuarial funding reports or retained losses.
- d. Risk Management Manual or a description of the self-insurance and risk management program.
- e. A claim loss run summary for the previous five (5) years.
- f. Self-Insured Associations will be considered.

Safety and Loss Control

CONTRACTOR shall comply with all applicable federal, state, and local safety standards related to the performance of its works or services under this Agreement and take necessary action to protect the life, health and safety and property of all of its personnel on the job site, the public, and LFUCG.

Verification of Coverage

BIDDER/CONTRACTOR agrees to furnish LFUCG with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf prior to final award, and if requested, shall provide LFUCG copies of all insurance policies, including all endorsements.

Right to Review, Audit and Inspect

CONTRACTOR understands and agrees that LFUCG may review, audit and inspect any and all of its records and operations to insure compliance with these Insurance Requirements.

Additional Insured Endorsement

CONTRACTOR shall purchase and maintain liability insurance, as described above, specially naming as additional insureds OWNER, ENGINEER, and Strand Associates, Inc. as well as other individuals or entities identified, using Additional Insurance Endorsement

Form CG 20 26 07 04, CG 81 11 05 06, CG 20 10 07 04, or equivalent form. General liability policies shall also be endorsed with Form CG 20 37 07 04 to include the "products-completed operations hazard." Endorsements or General Liability policy shall not exclude supervisory or inspection services. CONTRACTOR shall also provide an Additional Insured Endorsement for the automobile policy.

CONTRACTOR shall, prior to the start of any work on the project by a subcontractor receive: (1) certificate of insurance from each subcontractor naming OWNER, ENGINEER, and Strand Associates, Inc. as well as other individuals or entities so identified as an additional insured, under each subcontractor's general liability for policy; and (2) the Additional Insured Endorsement language as required by paragraph 1 for subcontractor's operations. Certificate shall be Acord 25-S or equivalent.

That failure of CONTRACTOR or subcontractor to comply with the above requirements with respect to the Additional Insured Endorsement and/or Certificate of Insurance, shall not be construed as waiver of those provisions by OWNER, ENGINEER, and Strand Associates, Inc. as well as other individuals and entities so identified.

1.4 DEFAULT

BIDDER/CONTRACTOR understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default and that LFUCG may elect at its option any single remedy or penalty or any combination of remedies and penalties, as available, including but not limited to purchasing insurance and charging BIDDER/CONTRACTOR for any such insurance premiums purchased, or suspending or terminating the work.

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2. BLASTING

Blasting is NOT allowed on this project.

3.

LABOR/EQUAL EMPLOYMENT OPPORTUNITY

SPECIAL CONDITIONS

LABOR/EQUAL EMPLOYMENT OPPORTUNITY

INFORMATION PACKAGE

FOR

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

LINDA GORTON, MAYOR

LABOR/EEO CONDITIONS INDEX

PROJECT NAME: _____

BID NO. _____

ITEM DESCRIPTION

REQUIRED CONTRACT PROVISIONS FORM FHWA-1273
COMPLIANCE WITH EXECUTIVE ORDER 11246
NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL
OPPORTUNITY (EXECUTIVE ORDER 11246)
REPORTING REQUIREMENTS
PATENT RIGHT REQUIREMENTS
COPYRIGHT REQUIREMENTS
ACCESS TO RECORDS REQUIREMENTS AND RECORD RETENTION
REQUIREMENTS
CONTRACT AWARD RESTRICTIONS TO FOREIGN COUNTRIES
KENTUCKY EQUAL EMPLOYMENT OPPORTUNITY ACT
OTHER FEDERAL REQUIREMENTS
PUBLIC LAW 88-352: TITLE VI OF THE CIVIL RIGHTS ACT OF 1964
COMPLIANCE WITH CLEAN AIR AND WATER ACTS
ENERGY EFFICIENCY REQUIREMENTS
LEAD-BASED PAINT CONSIDERATIONS
POTENTIAL DBE CONTRACTOR'S LIST CONTACT
EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE ACTION
DEBARMENT CERTIFICATION (TO BE COMPLETED AND/OR SIGNED)
FEDERAL WAGE SCALE

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

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

ATTACHMENTS

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

I. GENERAL

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

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

Form FHWA-1273 must be included in all Federal-aid design- build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-

builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

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

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

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

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

II. NONDISCRIMINATION

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

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

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

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the

responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

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

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

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

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

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

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

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

a. Periodic meetings of supervisory and personnel office employees will be conducted before

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

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

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

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

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

contractor's association acting as agent, will include the procedures set forth below:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III. NONSEGREGATED FACILITIES

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

\$10,000 or more.

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

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

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

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

1. Minimum wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to

paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

2. Withholding

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

3. Payrolls and basic records

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

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

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

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

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

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

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

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

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

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

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

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

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

b. Trainees (programs of the USDOL).

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

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

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

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

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen

under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30. Apprentices and Trainees (programs of the U.S. DOT).

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

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

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

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

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

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and

7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

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

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

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

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

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

VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

performance of the contract.

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

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

VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

18 U.S.C. 1020 reads as follows "Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

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

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

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

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

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

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

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

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

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

1. Instructions for Certification – First Tier Participants:

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

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

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

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

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

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier

covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

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

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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

* * * * *

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

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

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

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or

local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

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

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

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

2. Instructions for Certification - Lower Tier Participants:

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

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

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

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

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

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

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

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

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

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

* * * * *

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

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

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

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

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

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

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

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

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

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

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

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

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

situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

- a. To the extent that qualified persons regularly residing in the area are not available.
- b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.
- c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

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

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

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

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

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

COMPLIANCE WITH EXECUTIVE ORDER 11246

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated, during employment without regard to their race, creed, color, 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 place, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
 2. The contractor will, in all solicitations or advertisements for employees placed on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.
 3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract of understanding, a notice to be provided advising the said labor union or worker's representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous place available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
- In case the work to be performed is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any Federal Program involving such grant, contract, loan, insurance or guarantee, during the performance of this contract, the Contractor, in addition, agrees to comply with:
4. All provisions of the latest current Executive Order and executive amendments, of the rules, regulations and relevant orders of the President's Committee on Equal Employment Opportunity created thereby.
 5. The contractor will furnish all information and reports required by the Executive, and by the rules, regulations and orders of the said committee, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Committee for purposes of investigation to ascertain compliance with such rules, regulations and orders.
 6. In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government

contracts or Federally assigned construction contracts in accordance with procedures authorized in the Executive Order, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation or order of the President's Committee on Equal Employment Opportunity or as otherwise provided by law.

7. The contractor will include the provisions of Paragraphs (1) through (7) in every sub-contract or purchase order unless exempted by rules, regulations or orders of the President's Committee on Equal Employment Opportunity, so that provisions will be binding upon each sub-contractor or vendor. The contractor will take such action with respect to any sub-contractor purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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

| <u>Timetables</u> | Goals for minority | Goals for female |
|-------------------|---------------------------------------|-------------------------------------|
| Current | participation for each trade 10.8% | participation in each trade 6.9% |

These goals are applicable to all the Contractor's construction work performed in the covered area, whether or not it is federally assisted.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60.4.3(a), and its efforts to meet the goals established 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 a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the State of Kentucky, County of Fayette, City of Lexington.

REPORTING REQUIREMENTS

Notice of awarding agency requirements and regulations pertaining to reporting.

A. Preconstruction Conference

Before Contractor starts the work at the proposed site, a conference attended by the Contractor, Engineer/Architect, Contract Compliance Officer, and other appropriate parties will be held to discuss the following issues: (1) The scheduling of the work to be completed; (2) The procedures for handling shop drawings and other submittals; (3) The processing of applications for payment; (4) The establishment of an understanding among the involved parties in regard to the proposed project; and (5) The establishment of procedures for effectively implementing the 10% minimum DBE goals.

B. Documents Required of Contractor

Documentation showing the percentage of the DBE employment levels on each project of the Bidder's current work force, and DBE participation levels for Subcontractors.

C. Optional Owner Requirements

The Owner, at its discretion, may require the Contractor to provide: (1) financial security in amounts and kind deemed necessary by the Owner or require other financial security to meet the financial responsibility requirements of the Contractor to indemnify the Owner; (2) Additional information and/or DBE work data, as well as DBE participation data.

PATENT RIGHT REQUIREMENTS

Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

§401.14 STANDARD PATENT RIGHTS CLAUSES

The following is the standard patent rights clause to be used as specified in §401.3(a).

Patent Rights (Small Business Firms and Nonprofit Organizations)

A. Definitions

1. "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).
2. "Subject invention" means any invention of the **contractor** conceived or first actually reduced to practice in the performance of work under this **contract**, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d) must also occur during the period of **contract** performance.
3. "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.
4. "Made" when used in relation to any invention means the conception or first actual reduction to practice such invention.
5. "Small Business Firm" means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.
6. "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the

Internal Revenue Code (25 U.S.C 501 (a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

B. Allocation of Principal Rights

1. The **Contractor** may retain the entire right, title, and interest throughout the world to each subject invention, subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the **Contractor** retains title, the Federal Government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

C. Invention Disclosure, Election of Title and Filing of Patent Application by **Contractor**.

1. The **Contractor** will disclose each subject invention to the Federal Agency within two months after the inventor discloses it in writing to **contractor** personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the contractor.
2. The Contractor will elect in writing whether or not to retain title to any such invention by notifying the Federal agency within two years of disclosure to the Federal agency. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.
3. The Contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

4. Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the agency, be granted.

D. Conditions When the Government May Obtain Title

The Contractor will convey to the Federal agency, upon written request, title to any subject invention--

1. If the contractor fails to disclose or elect title to the subject invention within the times specified in (C), above, or elects not to retain title; provided that the agency may only request title within 60 days after learning of the failure of the contractor to disclose or elect within the specified times.
2. In those countries in which the contractor fails to file patent applications within the times specified in (C) above; provided, however, that if the contractor has filed a patent application in a country after the times specified in (C) above, but prior to its receipt of the written request of the Federal agency, the contractor shall continue to retain title in that country.
3. In any country in which the contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

E. Minimum Rights to Contractor and Protection of the Contractor Right to File

1. The contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the contractor fails to disclose the invention within the times specified in (C), above. The contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the contractor is a party and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of the Federal agency except when transferred to the successor of that party of the contractor's business to which the invention pertains.
2. The contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the contractor, its licensees, or the domestic

subsidiaries or affiliates have failed to achieve practical application in that foreign country.

3. Before revocation or modification of the license, the funding Federal agency will furnish the contractor a written notice of its intention to revoke or modify the license, and the contractor will be allowed thirty days (or such other time as may be authorized by the funding Federal agency for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 and agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

F. Contractor Action to Protect the Government's Interest

1. The contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the contractor elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph (D) above and to enable the government to obtain patent protection throughout the world in that subject invention.
2. The contractor agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the contractor each subject invention made under contract in order that the contractor can comply with the disclosure provisions of paragraph (C), above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (C)(1), above. The contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.
3. The contractor will notify the Federal agency of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.
4. The contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the contract) awarded by (identify the Federal agency). The government has certain rights in the invention."

G. Subcontracts

1. The contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the contractor in this clause, and the contractor will not, as part of the consideration for awarding the subcontractor, obtain rights in the subcontractor's subject inventions.
2. The contractor will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (cite section of agency implementing regulations or FAR).
3. In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the agency, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (J) of this clause.

H. Reporting Utilization of Subject Inventions

1. The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the agency may reasonably specify. The contractor also agrees to provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph (J) of this clause. As required by 35 U.S.C. 202 (C)(5), the agency agrees it will not disclose such information to persons outside the government without permission of the contractor.

I. Preference for United States Industry

Notwithstanding any other provision of this clause, the contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

J. March-in Rights

The contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that:

1. Such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
2. Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee or their licensees:
3. Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee or licensees; or
4. Such action is necessary because the agreement required by paragraph (I) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

K. Special Provisions for Contracts with Nonprofit Organizations

If the Contractor is a nonprofit organization, it agrees that:

1. Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the contractor.
2. The contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;
3. The balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

4. It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the contractor agrees that the Secretary may review the contractor's licensing program and decisions regarding small business applicants, and the contractor will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the contractor could take reasonable steps to implement more effectively the requires of this paragraph (K)(4).

1. Communication

(Complete According to Instruction at 401.5(b))

(b) When the Department of Energy (DOE) determines to use alternative provisions under § 401.3(a)(4), the standard clause at § 401.14(a), above, shall be used with the following modifications unless a substitute clause is drafted by DOE:

- (1) The title of the clause shall be changed to read as follows: Patent Rights to Nonprofit DOE Facility Operators

- (2) Add an "(A)" after "(1)" in paragraph (c)(1) and add subparagraphs (B) and (C) to paragraph (c)(1) as follows:

- (B) If the subject invention occurred under activities funded by the naval nuclear propulsion or weapons related programs of DOE, then the provisions of this subparagraph (c)(1)(B) will apply in lieu of paragraphs (c)(2) and (3). In such cases the contractor agrees to assign the government the entire right, title, and interest thereto throughout the world in and to the subject invention except to the extent that rights are retained by the contractor through a greater rights determination or under paragraph (e), below. The contractor, or an employee-inventor, with authorization of the contractor, may submit a request for greater rights at the time the invention is disclosed or within a reasonable time thereafter. DOE will process such a request in accordance with procedures at 37 CFR 401.15. Each determination of greater rights will be subject to paragraphs (h)-(k) of this clause and such additional conditions, if any, deemed to be appropriate by the Department of Energy.

- (C) At the time an invention is disclosed in accordance with (c)(1)(A) above, or within 90 days thereafter, the contractor will submit a written statement as to whether or not the invention occurred under a naval nuclear propulsion or weapons-related program of the Department of Energy. If this statement is not filed within this time, subparagraph (c)(1)(B) will apply in lieu of paragraphs (c)(2) and (3). The contractor statement will be deemed conclusive unless, within 60 days thereafter, the Contracting Officer disagrees in writing, in which case the determination of the Contracting Officer will be deemed conclusive unless the contractor files a claim under the Contract Disputes Act within 60 days after the Contracting Officer's determination. Pending resolution of the matter, the invention will be subject to subparagraph (c)(1)(B).
- 3. Paragraph (k)(3) of the clause will be modified as prescribed at § 401.5(g).

§ 401.15 Deferred Determinations

- (a) This section applies to requests for greater rights in subject inventions made by contractors when deferred determination provisions were included in the funding agreement because one of the exceptions at § 401.3(a) was applied, except that the Department of Energy is authorized to process deferred determinations either in accordance with its waiver regulations or this section. A contractor requesting greater rights should include with its request information on its plans and intentions to bring the invention to practical application. Within 90 days after receiving a request and supporting information, or sooner if a statutory bar to patenting is imminent, the agency should seek to make a determination. In any event, if a bar to patenting is imminent, unless the agency plans to file on its own, it shall authorize the contractor to file a patent application pending a determination by the agency. Such a filing shall normally be at the contractor's own risk and expense. However, if the agency subsequently refuses to allow the contractor to retain title and elects to proceed with the patent application under government ownership, it shall reimburse the contractor for the cost of preparing and filing the patent application.
- (b) If the circumstances of concerns which originally led the agency to invoke an exception under § 401.3(a) are not applicable to the actual subject invention or are no longer valid because of subsequent events, the agency should allow the contractor to retain title to the invention on the same conditions as would have applied if the standard clause at § 401.14(a) had been used originally, unless it has been licensed.

- (c) If paragraph (b) is not applicable, the agency shall make its determination based on an assessment whether its own plans regarding the invention will better promote the policies and objectives of 35 U.S.C. 200 than will contractor ownership of the invention. Moreover, if the agency is concerned only about specific uses or applications of the invention, it shall consider leaving title in the contractor with additional conditions imposed upon the contractor's use of the invention for such applications or with expanded government license rights in such applications.
- (d) A determination not to allow the contractor to retain title to a subject invention or to restrict or condition its title with conditions differing from those in the clause at § 401.14(a), unless made by the head of the agency, shall be appealable by the contractor to an agency official at a level above the person who made the determination. This appeal shall be subject to the procedures applicable to appeals under § 401.11 of this part.

§ 401.16 Submissions and Inquiries

All submissions or inquiries should be directed to Federal Technology Management Policy Division, telephone number 202-377-0659, Room H4837, U.S. Department of Commerce, Washington, DC 20230
(FR Doc. 87-5618 Filed 3-17-87: 8:45 am)

COPYRIGHT REQUIREMENTS

Awarding agency requirements and regulations pertaining to copyrights and rights in data.

COPYRIGHTS

Federally supported grant research projects frequently result in the production of books, brochures, manuals, articles, films, or other written materials. In most instances they are technical reports which serve to disseminate the results of a project to the public and to the scientific community or other researchers. Often, however, these documents are publishable and occasionally they have significant commercial value. Who controls the rights to these materials? What rights does the Government retain? What are the grantee's responsibilities in handling the materials?

There is a widely held notion that written materials produced with the support of public money are automatically in the public domain. That view is erroneous, and in fact no member of the public has an inherent right to use grant-produced materials merely because they were prepared under Government assistance. Because of the confusion, however, it is important for grantees to note a few features of the copyright law which relate to the subject of the grants.

In general, researchers have exclusive rights in any original works of their authorship. Under the most recent amendment to the copyright law, statutory copyright protection extends to both published and unpublished works of the author. Researchers are cautioned to observe the publication policies of their institutions or organizations in this regard, and unless there is an express agreement to the contrary, their employing institution may be considered the author of any materials prepared in the course of their employment, under the "works for hire" doctrine.

Under the most recent amendments to the copyright law, it is clear that grant reports are not considered works of the Government which are in the public domain. The legislative history of the law shows that Congress expressly left it to the discretion of the individual grant-making agencies to determine whether written materials produced by their grantees should be placed in the public domain, and it expected the questions to be resolved by the terms and conditions of grants. The House Report No. 94-1476, September 3, 1976, stated on page 59:

A more difficult and far-reaching problem is whether the definition should be broadened to prohibit copyright in works prepared under U.S. Government contract or grant. As the bill is written, the Government agency concerned could determine in each case whether to allow an independent contractor or grantee to secure copyright in works prepared in whole or in part with the use of Government funds. The argument that has been made against allowing copyright in this situation is that the public should not be required to pay a "double subsidy," and that it is inconsistent to prohibit copyright in works by Government employees while permitting private copyrights in a growing body of works created by persons who are paid with Government funds. Those arguing in favor of potential copyright protection have stressed the importance of copyright as an incentive to creation and dissemination in this situation, and

the basically different policy considerations, applicable to works written by Government employees and those applicable to works prepared by private organizations with the use of Federal funds.

The bill deliberately avoids making any sort of outright, unqualified prohibition against copyright in works prepared under Government contract or grant. There may be cases where it would be in the public interest to deny copyright in the writings generated by Government research contracts and the like; it can be assumed that, where a Government agency commissions a work for its own use merely as an alternative to having one of its own employees prepare the work, the right to secure a private copyright would be withheld. However, there are almost certainly many other cases where the denial of copyright protection would be unfair or would hamper the production and publication of important works. Where, under the particular circumstances, Congress or the agency involved finds the need to have a work freely available outweighs the need of the private author to secure copyright, the problem can be dealt with by specific legislation, agency regulations, or contractual restrictions.

Agency Policy

Government-wide policies contained in Office of Management and Budget Circulars A-102 and A-110 speak to the issue of copyrightable materials through their respective Attachments N. Circular A-110 states:

8b. Copyrights. - Except as otherwise provided in the terms and conditions of the agreement, the author or the recipient organization is free to copyright any books, publications, or other copyrightable materials developed in the course of or under a Federal agreement, but the Federal sponsoring agency shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for Government purposes.

Except for minor, nonsubstantive differences, the provisions of A-102 are identical. Each permits the grantee to copyright published materials, subject to a license for the U.S. Government to use the materials for Government purposes. Each also gives the grantor agency discretion in altering that condition, by establishing different terms and conditions in its grants.

Suggested steps for grantees

A grantee whose grant-financed activity may involve the need for potential need for copyrighting of materials should:

- Check the terms and conditions of the grant to determine whether a copyright can be asserted in unpublished as well as published materials. This may vary from grantor agency to grantor agency and from grant to grant.

- It is the grantee's obligation to take the necessary steps to preserve the Government's license when conveying rights to publishers. If the publisher provides a release form that does not contain a reference to Government use of the materials, appropriate language should be inserted that preserves the Government's rights. If necessary, the granting agency should be consulted to assure compliance with the terms of the grant.
- Under most Federal grants, proper acknowledgment of the source of funds used to write a published work will be required. For example, the National Science Foundation **Grant General Conditions** require the following acknowledgment of support and disclaimer statement in any publication of material, whether copyrighted or not: "This material is based upon work supported by the National Science Foundation under Grant No.____." Except for scientific articles and papers appearing in scientific journals, all materials must also contain the following disclaimer:

Any opinions, findings and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the National Science Foundation.

- When negotiating a publication agreement, the grantee must include in the publishing contract the reservation of Government license and the acknowledgment and disclaimer statements.
- Grants often are made with the stipulation that any substantive technical reports will be made available to the public through the U.S. Department of Commerce, National Technical Information Service (NTIS). Again, the grantee is well advised to check the terms and conditions of its grant agreement to see if such requirements exist and, if so, to account for them in dealing with potential publishers.
- Provide copies of copyrighted work to the granting agency.
- Some agencies may require prior approval of any proposed commercial publication, including approval of the selection process by which a publisher is obtained. The National Science Foundation, for example, requires documentation showing that a reasonable number of qualified publishers were given an opportunity to compete for the materials. Also, the selection criteria are subject to examination, as well as the final publishing contract.

With respect to any discovery or invention which arises or is developed in the course of or under this contract, Lexington-Fayette Urban County Government and/or Owner shall have the right to require the contractor, an assignee or exclusive licensee of a subject invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to Lexington-Fayette Urban County Government and/or Owner.

With respect to any copyrights and rights in data, Lexington-Fayette Urban County Government and/or Owner shall have the right to retain all copyrights and rights in data.

ACCESS TO RECORDS REQUIREMENTS

Access by the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

ACCESS TO RECORDS

The Contractor agrees that the Lexington-Fayette Urban County Government, the Owner, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any and all books, documents, papers, and records of the Contractor which are directly pertinent to this specific project for the purposes of making an audit, examination, excerpts, and transcriptions.

RECORDS RETENTION REQUIREMENTS

Retention of all required records for three years after contractors or subcontractors make final payments and all other pending matters are closed.

CONTRACT AWARD RESTRICTION TO FOREIGN COUNTRIES

Contractor agrees to fully comply with applicable terms and conditions in Section 109 of Pub. L. 100-102 as set forth below:

RESTRICTIONS ON PUBLIC BUILDINGS AND PUBLIC WORKS PROJECTS

(A) Definitions. "Component" as used in this clause means those articles, materials, and supplies incorporated directly into the product.

"Contractor or subcontractor of a foreign country," as used in this clause, means any Contractor or Subcontractor that is a citizen or national of a foreign country or is controlled directly or indirectly by citizens or nationals of a foreign country. A contractor or subcontractor shall be considered to be a citizen or national of a foreign country or controlled directly or indirectly by citizens or nationals of a foreign country.

- (1) If 50 percent or more of the Contractor or Subcontractor is owned by a citizen or a national of the foreign country;
- (2) If the title of to 50 percent or more of the stock of the Contractor or Subcontractor is held subject to trust or fiduciary obligation in favor of citizens or nationals of the foreign country;
- (3) If 50 percent or more of the voting power in the Contractor-Subcontractor is vested in or exercisable on behalf of a citizen or national of the foreign country;
- (4) In the case of a partnership, if any general partner is a citizen of the foreign country;
- (5) In the case of a corporation, if its president or other chief executive officer or the chairman of its board of directors is a citizen of the foreign country or the majority of any number of its directors necessary to constitute a quorum are citizens of the foreign country or the corporation is organized under the laws of the foreign country or any subdivision, territory, or possession thereof; or
- (6) In the case of a Contractor or Subcontractor who is a joint venture, if any participant firm is a citizen or national of a foreign country or meets any of the criteria in subparagraphs (a)(1) through (5) of this clause.

"Product", as used in this clause, means construction materials-i.e., articles, materials, and supplies brought to the construction site for incorporation into the public works project, including permanently affixed equipment, instruments, utilities, electronic or other devices, but not including vehicles or construction equipment. In determining the origin of a product Lexington-Fayette Urban County Government and/or Owner will consider a product as produced in a foreign country if it has been assembled or manufactured in the foreign country, or if the cost of the components mined, produced, or manufactured in the foreign country exceed 50 percent of the cost of all its components.

- (b) **Restrictions.** The Contractor shall not (1) knowingly enter into any subcontract under this contract with a Subcontractor of a foreign country on the list of countries that discriminate against U.S. firms published by the United States Trade Representative (see paragraph (c) of this clause, or (2) supply any product under this contract of a country included on the list of foreign countries that discriminate against U.S. firms published by the USTR.
- (c) **USTR list.** The USTR published an initial list in the Federal Register on December 30, 1987 (53 FR 49244), which identified one country - Japan. The USTR can add other countries to the list or remove countries from it in accordance with Section 109 (c) of Pub. L 100-202.
- (d) **Certification.** The Contractor may rely upon the certification of a prospective Subcontractor that it is not a Subcontractor of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR and that products supplied by such Subcontractor for use on the Federal public works project under this contract are not products of a foreign country included on the list of foreign countries that discriminate against U.S. firms published by the USTR, unless such Contractor has knowledge that the certification is erroneous.
- (e) **Subcontracts.** The Contractor shall incorporate this clause, modified only for the purpose of properly identifying the parties in all subcontracts. This paragraph (e) shall also be incorporated in all subcontracts.

(End of Contract Clause)

Bids/proposals from such firms/suppliers shall be deemed nonresponsible and rejected.

Questions related to this issue should be directed to Division of Grants and Special Programs, Lexington-Fayette Urban County Government, 200 E. Main Street 6th Floor, Lexington, Kentucky 40507.

KENTUCKY EQUAL EMPLOYMENT OPPORTUNITY ACT

The Kentucky Equal Employment Opportunity Act of 1978 (KRS 45.570-45.640) requires that any county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in directly or indirectly publicly funded contracts for supplies, materials, services or equipment hereinafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin;
2. The contractor will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin;
3. The contractor will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section; and
4. The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or worker's representative of the contractor's commitments under the non discrimination clauses.

The Act further provides:

KRS 45.610. Hiring Minorities - Information Required

1. For the length of the contract, each contractor shall hire minorities from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities to satisfy the agreed upon goals and timetables.
2. Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to KRS 45.640 and by such rules, regulations and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the department for purposes of investigation to ascertain compliance with KRS 45.560 to KRS 45.640 and such rules, regulations and orders issued pursuant thereto.

KRS 45.620. Action Against Contractor -- Hiring of Minority Contractor or Subcontractor

1. If any contractor is found by the department to have engaged in an unlawful practice under this chapter during the course of performing under a contract or subcontract

covered under KRS 45.560 to 45.640, the department shall so certify to the contracting agency and such certifications shall be binding upon the contracting agency unless it is reversed in the course of judicial review.

2. If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.
3. The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority subcontractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.

KRS 45.630. Termination of existing employee not required, when:

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee, upon proof that the employee was employed prior to the date of the contract.

KRS 45.640. Minimum Skills

Nothing in KRS 45.560 to 45.640 shall require a contractor to hire anyone who fails to demonstrate the minimum skills required to perform a particular job.

OTHER FEDERAL REQUIREMENTS

INTEREST OF CERTAIN FEDERAL OFFICIALS

No member of or Delegate to the Congress of the United States and no Resident Commission, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES OF PUBLIC BODY, MEMBER OF LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS

No member, officer, or employee of the Public Body, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or sub-contract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement.

PROHIBITION AGAINST PAYMENTS OF BONUS OR COMMISSION

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of obtaining Federal approval of the application for such assistance, or approval of applications for additional assistance, or any other approval of concurrence required under this Agreement with respect thereto; provided, however, that reasonable fees or bonafide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

PUBLIC LAW 88-352: TITLE VI OF THE CIVIL RIGHTS
ACT OF 1964

The Developer agrees to insure that no person shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program in the multi-family rental housing facility developed through this contract.

PUBLIC LAW 90-284: TITLE VIII OF THE CIVIL RIGHTS ACT
OF 1968 AND EXECUTIVE ORDER 11063

The Developer warrants and assures that they and their agents will not discriminate in the rental or leasing of housing units constructed under this contract and will in no way make unavailable or deny a dwelling to any person, because of race, color, religion, sex or national origin.

SECTION 109

The Developer will not on the ground of race, color, national origin, sex, age, or handicap:

1. Deny an facilities, services, financial aid or other benefits provided under the program or activity.
2. Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form from that provided to others under the program or activity.
3. Subject to segregated or separate treatment in any facility in, or in any matter of process related to receipt of any service or benefit under the program or activity.
4. Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.
5. Treat any individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.
6. Deny an opportunity to participate in a program or activity as an employee.

COMPLIANCE WITH THE CLEAN AIR AND WATER ACTS

Compliance with all applicable standards, orders, or requirements issued under section 206 of the Clean Air Act (42 U.S.C. 1857)(h), Section 506 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15). (Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

COMPLIANCE WITH AIR AND WATER ACTS

This Agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et. seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

The Contractor and any of its subcontractors for work funded under this Agreement, in excess of \$100,000 agree to the following requirements:

1. A stipulation by the Contractor or subcontractors that any facility to be utilized in the performance of any non-exempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20.
2. Agreement by the Contractor to comply with all requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued there under.
3. A stipulation that as a condition for the award of the Contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA indicating that a facility utilized or to be utilized for the Contract is under consideration to be listed on the EPA list of Violating Facilities.
4. Agreement by the Contractor that he/she will include or cause to be included the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the Government may direct as a means of enforcing such provision.

In no event shall any amount of assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

ENERGY EFFICIENCY REQUIREMENTS

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L.94-163).

LEAD BASED PAINT

- A. All paint to be lead free.
- B. Existing lead paint to be removed or concealed with an acceptable covering (paint, siding, etc.)
- C. Warning:
 - 1. Use of lead-base paint materials on any surface, interior or exterior, is prohibited.
 - 2. Lead-base paint removal is a dangerous task and safety precautions should be strictly enforced when workers are engaged in hazard abatement.

POTENTIAL DBE CONTRACTOR'S LIST CONTACT

For a listing of DBE (Disadvantaged Business Enterprise) contractors/subcontractors, please contact:

Sherita Miller/Todd Slatin
Division of Central Purchasing
200 E. Main Street, 3rd Floor
Lexington, KY 40507
(859) 258-3326
TDD [hearing impaired only] (859) 258-3606

EQUAL EMPLOYMENT OPPORTUNITY AFFIRMATIVE ACTION POLICY

It is the policy of _____
to assure that all applicants for employment and all employees are treated on a fair and equitable basis
without regard to their race, religion, sex, color, handicap, natural origin or age.

Such action shall include employment, promotion, demotion, recruitment or recruitment
advertising, layoff or termination, rates of pay and other forms of compensation, and selection for
training, whether apprenticeship and/or on-the-job-training.

Furthermore, this company agrees to make special recruitment efforts to hire the protected
class whenever feasible. This company also agrees to adhere to all applicable federal, state, and local
laws relating to Equal Employment Opportunity for all individuals.

_____ has been appointed Equal Employment Compliance
(EEOC) Officer and shall be available for counseling, answering of questions in regards to this
company policy, and to hear any complaints of discrimination. The EEOC Office may be reached by
calling _____.

Signature: _____
(Bidding Contractor)

Title: _____

Date: _____

DEBARMENT CERTIFICATION

All contractors/subcontractors shall complete the following certification and submit it with the bid proposal.

The contractor/subcontractor certifies in accordance with Executive Order 12549 (Debarment and Suspension 2/18/86) that to the best of its knowledge and belief, that it and its principals:

- 1) Are not presently debarred, suspended, proposed for debarment, declared negligible, or voluntarily excluded from covered transactions or contract by any Federal department or agency for noncompliance with the Federal Labor Standards, Title VI of the Civil Rights Act of 1964 as amended, Executive Order 11246 as amended or any other Federal law;
 - a) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - b) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(a) of this certification; and
 - c) Have not within a three year period preceding this bid has one or more public (Federal, State or local) transactions or contracts terminated for cause or default.
- 2) Where the contractor is unable to certify to any of the statements in this certification, such prospective contractors shall attach an explanation to this certification form.

Firm Name: _____

Project: _____

Printed Name and Title of Authorized Representative: _____

Signature: _____

Date: _____

4. FAILURE TO COMPLETE WORK ON TIME

Should the Contractor fail or refuse to complete the work within the time specified in his Proposal and/or Contract (or extension of time granted by the OWNER), the Contractor shall pay liquidated damages in an amount set out in said Proposal and/or Contract. The amount of liquidated damages shall in no event be considered as a penalty, nor other than an amount agreed upon by the Contractor and the OWNER for damages, losses, additional engineering, additional resident representation and other costs that will be sustained by the OWNER, if the Contractor fails to complete the work within the specified time. Liquidated damages will be applied on a rate per day for each and every calendar day (Sundays and holidays included) beyond the Contract expiration date stipulated in the Contract Documents, considering all time extensions granted.

5. KYTC PRE-QUALIFICATION REQUIRED AT TIME OF BID OPENING

Bidders and DBE subcontractors must be prequalified with the Kentucky Transportation Cabinet and possess a Certificate of Eligibility at the time of the bid opening. All other subcontractors must be prequalified when accepting subcontracts.

6. KY DIVISION OF WATER / EPA PERMITS

Contractor shall prepare and maintain the BMP (Best Management Practices) and SWPP (Storm Water Pollution Prevention) Plans.

7. PAYMENT FOR COST OF PERFORMANCE AND PAYMENT BONDS

Contrary to Article 10.5.4 of the General Conditions, direct payment for the Contractor's cost of Performance and Payment Bonds will be permitted.

Direct cost of required Performance and Payment Bonds has been included as a line item in the Form of Proposal, to allow payment for this cost prior to completion of the project if the contractor so chooses. If no figure is supplied for this line item, no specific payment for bonding costs will be made. The total amount of bid is to include the cost of bonding, whether this cost is specifically shown by the bidder on the line item in the Form of Proposal, or whether it is indirectly included elsewhere within the bidder's unit prices.

When the applicable amount is listed in the Form of Proposal, payment for the costs of Performance and Payment Bonds may generally be requested after the work is 20% complete. The contractor will furnish from his bonding agent a receipt verifying the cost of the bonds and a letter stating that the bonds are in effect and in good standing. Payment will be made for the actual cost of the bonds or the amount stated in the Form of Proposal, whichever is less.

For projects with less than 90 day contract time or a total bid price less than \$100,000, no early or separate repayment of bonding costs will be considered. In those cases, if bonding costs are listed as a bid item, bond payment will be combined with final release of all retainage. **(NO RETAINAGE ON THIS CONTRACT).**

8. SPECIAL UTILITY NOTES

IMPACT ON CONSTRUCTION

GENERAL PROJECT NOTE ON UTILITY PROTECTION

Utility coordination efforts determined that minor utility relocation work is required to complete the project. Any work pertaining to these utility facilities is defined in the bid package and is to be carried out as instructed by the LFUCG. The contractor will be responsible for any coordination or adjustments that are discussed or quantified in the proposal.

The contractor is instructed to call 1-800-752-6007 to reach KY 811, the one-call system for information on the location of existing underground utilities. The call is to be placed a minimum of two (2) and no more than ten (10) business days prior to excavation. The contractor should be aware that owners of underground facilities are not required to be members of the KY 811 one-call Before-U-Dig (BUD) service. The contractor must coordinate excavation with the utility owners, including those whom do not subscribe to KY 811. It may be necessary for the contractor to contact the County Court Clerk to determine what utility companies have facilities in the area.

Please Note: The information presented in this Utility Note is informational in nature and the information contained herein is not guaranteed.

Utility Notes continued on following pages

**UTILITY NOTES TO BE INCLUDED IN THE PROPOSAL
IMPACT ON CONSTRUCTION**

FAYETTE COUNTY

**Fourth Street Corridor Enhancement and
Legacy Trail Phase 3 Projects**

Utility coordination efforts determined that minor utility relocation will be necessary for this project. Any information pertaining to utility facilities are defined in the bid package and are to be carried out as instructed by the LFUCG. The contractor will be responsible for any coordination or adjustments that are discussed or quantified in the proposal.

Utility Information Note

Kentucky Utilities has facilities in the area including overhead and underground infrastructure. Kentucky Utilities will relocate overhead utilities and guy wires as required. Relocation will be completed by October 2019.

Spectrum Cable has facilities in the area including overhead and underground infrastructure. Spectrum Cable will relocate overhead utilities and guy wires as required. Contractor shall adjust junction boxes to grade as required. Relocation will be completed by October 2019.

Windstream Communications has facilities in the area including overhead and underground infrastructure. Windstream Communications will relocate overhead utilities and guy wires as required. Contractor shall adjust junction boxes to grade as required. Relocation will be completed by October 2019.

Kentucky American Water has facilities in the area. Kentucky American Water has completed their necessary relocations to the water main, water services, water meters, and fire hydrants.

Columbia Gas of Kentucky, Inc. has facilities in the area. Columbia Gas of Kentucky, Inc. will complete necessary relocations to the gas main. Contractor shall adjust gas valves to grade as required. Relocation is complete.

Lexington-Fayette Urban County Government has sanitary sewer, storm sewer, and traffic signal infrastructure in the area. Contractor is responsible for adjusting sanitary sewer manholes to grade and all work necessary to the storm sewer system. Contractor is responsible for adjustments to the traffic signalization system required to maintain and control traffic as well as adjusting junction boxes to grade. LFUCG Traffic Engineering will complete permanent modifications to the traffic signals. Relocation will be completed by September 2019.

SPECIAL CAUTION NOTE – PROTECTION OF UTILITIES

The contractor will be responsible for contacting all utility facility owners on the subject project to coordinate his activities. The contractor will coordinate his activities to minimize and, where possible, avoid conflicts with utility facilities. Due to the nature of the work proposed, minor utility relocations are anticipated. Where conflicts with utility facilities are unavoidable, the contractor will coordinate any necessary relocation work with the facility owner and Engineer. The Lexington-Fayette Urban County Government maintains the right to remove or alter portions of this contract if a utility conflict occurs.

The Lexington-Fayette Urban County Government makes no guarantees regarding: the existence of utilities, the location of utilities, the utility companies in the project scope, or the potential for conflicts encountered during construction. Any location of utilities provided herein has been furnished by the facility owners, field inspection, and/or reviewing record drawings. The accuracy of the information provided is undetermined. It will be the contractor's responsibility to locate utilities before excavating. If necessary, the roadway contractor shall determine the exact location and elevation of utilities by hand digging to expose utilities before excavating in the area of a utility.

The contractor is advised to contact KY 811 one-call system; however, the contractor should be aware that owners of underground facilities are not required to be members of the KY 811 one-call system. It may be necessary for the contractor to contact the County Court Clerk to determine what utility companies have facilities in the project area. Note: See attached sheet for Project Area Utility Contacts.

UTILITY CONTACT LIST FOR PROJECT AREA

It has not been confirmed what specific utility is located within the project bounds beyond field inspection. Therefore, we have provided a contact list as a precautionary measure to aid the awarded contractor in contacting any utility necessary.

Kentucky Utilities Company
500 Stone Road
Lexington, KY 40503

Contact: Kevin Long
859-367-4219
Kevin.Long@lge-ku.com

Spectrum
2544 Palumbo Drive
Lexington, KY 40509

Contact: John Kelly Oram
859-519-3434
John.Oram@charter.com

Windstream Communications
130 West New Circle Road, Suite 170
Lexington, KY 40505

Contact: Steve Johnson
859-357-6216
steve.johnson@windstream.com

Kentucky American Water
2300 Richmond Road
Lexington, KY 40502

Contact: Cole Mitcham
859-335-3415
Cole.mitcham@amwater.com

Columbia Gas of Kentucky, Inc.
2001 Mercer Road
P.O. Box 14241
Lexington, KY 40512

Contact: David Lemons
859-288-0249
dnlemons@misource.com

Lexington-Fayette Urban County Government
Division of Water Quality
301 Lisle Industrial Avenue
Lexington, KY 40511

Contact: Rodney Chervus, P.E.
859-425-2400
rchervus@lexingtonky.gov

Lexington-Fayette Urban County Government
Traffic Engineering
101 E. Vine Street, Suite 300
Lexington, KY 40507

Contact: Jeffery Neal
859-258-3830
jneal@lexingtonky.gov

AIRPORT CONTACTS

No Airport facilities or property associated with or involved with this project.

RAILROAD COMPANIES

No Railroad facilities or property associated with or involved with this project.

9. **STANDARD SPECIAL PROVISION**

**REQUIRED CONTRACT PROVISIONS FEDERAL - AID CONSTRUCTION
CONTRACTS**

- IV. Payment of Predetermined Minimum Wage
- V. Statements and Payrolls

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; and
 - 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 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 a 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:**

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 helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 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.

10. WEATHER RELATED DELAYS

A. The Project Completion date shall be established with the understanding that no extension of time will be granted for weather related delays that are within the average temperature or number of rain or snow days within a particular month. The average weather conditions shall be established by referencing the records of the National Oceanic and Atmospheric Administration (NOAA) and as defined herein.

B. Extensions of inclement weather shall be granted only when the work affected must be on schedule at the time of delay. No time will be granted for work which is behind schedule in excess of the actual delay caused by the weather, assuming the work had been on schedule.

C. Time granted for weather delays shall be requested on a monthly basis.

D. The weather experienced at the project site during the contract period must be found to be unusually severe, that is more severe than the adverse weather anticipated for the project location during any given month. The unusually severe weather must actually cause a delay to the completion of the project. The delay must be beyond the control and without the fault or negligence of the contractor.

E. The anticipated adverse weather delays shall be based on the National Oceanic and Atmospheric Administration (NOAA) climatology ten year average for the Lexington Bluegrass Airport KY US location. The Mean Number of Days of daily precipitation using ≥ 0.10 will determine the base line for monthly anticipated adverse weather evaluations. The contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities. Upon acknowledgement of the Notice to Proceed (NTP) and continuing throughout the contract, the contractor will record the occurrence of actual adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical path activities for 50 percent or more of the contractor's scheduled work date. The number of actual adverse weather delay days shall be calculated chronologically from the first to the last day of each month, and be recorded as full days. The number of actual adverse weather days greater than the number of anticipated adverse weather days, listed above, shall be the number of unusually severe weather days for the purposes of any contract extensions (actual adverse weather days - anticipated adverse weather days = unusually severe weather days.)

F. Definitions:

1. "Unusually severe weather" - weather that is more severe than the adverse weather anticipated for the season or location involved.
2. "Adverse weather" - atmospheric conditions at a definite time and place that are unfavorable to construction activities.

END OF SECTION

General Decision Number: KY190038 02/15/2019 KY38

Superseded General Decision Number: KY20180100

State: Kentucky

Construction Type: Highway

Counties: Anderson, Bath, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Carroll, Carter, Clark, Elliott, Fayette, Fleming, Franklin, Gallatin, Grant, Grayson, Greenup, Hardin, Harrison, Henry, Jefferson, Jessamine, Larue, Lewis, Madison, Marion, Mason, Meade, Mercer, Montgomery, Nelson, Nicholas, Oldham, Owen, Robertson, Rowan, Scott, Shelby, Spencer, Trimble, Washington and Woodford Counties in Kentucky.

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

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

| Modification Number | Publication Date |
|---------------------|------------------|
| 0 | 01/04/2019 |
| 1 | 02/15/2019 |

BRIN0004-003 06/01/2017

BRECKENRIDGE COUNTY

Rates Fringes

BRICKLAYER.....\$ 26.80 12.38

BRKY0001-005 06/01/2017

BULLITT, CARROLL, GRAYSON, HARDIN, HENRY, JEFFERSON, LARUE,
MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, & TRIMBLE
COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 26.80 | 12.38 |

BRKY0002-006 06/01/2017

BRACKEN, GALLATIN, GRANT, MASON & ROBERTSON COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 27.81 | 13.01 |

BRKY0007-004 06/01/2017

BOYD, CARTER, ELLIOT, FLEMING, GREENUP, LEWIS & ROWAN COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 32.98 | 19.02 |

BRKY0017-004 06/01/2017

ANDERSON, BATH, BOURBON, BOYLE, CLARK, FAYETTE, FRANKLIN,
HARRISON, JESSAMINE, MADISON, MERCER, MONTGOMERY, NICHOLAS,
OWEN, SCOTT, WASHINGTON & WOODFORD COUNTIES:

| | Rates | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 26.47 | 12.76 |

CARP0064-001 05/01/2015

| | Rates | Fringes |
|--------------------|----------|---------|
| CARPENTER..... | \$ 27.50 | 16.06 |
| Diver..... | \$ 41.63 | 16.06 |
| PILEDRIVERMAN..... | \$ 27.75 | 16.06 |

ELEC0212-008 06/04/2018

BRACKEN, GALLATIN and GRANT COUNTIES

| | Rates | Fringes |
|------------------|----------|---------|
| ELECTRICIAN..... | \$ 28.39 | 18.98 |

* ELEC0212-014 11/26/2018

BRACKEN, GALLATIN & GRANT COUNTIES:

| | Rates | Fringes |
|---------------------------------------|----------|---------|
| Sound & Communication Technician..... | \$ 24.35 | 10.99 |
| <hr/> | | |
| ELEC0317-012 06/01/2018 | | |

BOYD, CARTER, ELLIOT & ROWAN COUNTIES:

| | Rates | Fringes |
|-------------------------|----------|---------|
| ELECTRICIAN (Wiremen) | | |
| Cable Splicer..... | \$ 32.68 | 18.13 |
| Electrician..... | \$ 33.75 | 20.03 |
| <hr/> | | |
| ELEC0369-007 05/30/2018 | | |

ANDERSON, BATH, BOURBON, BOYLE, BRECKINRIDGE, BULLITT, CARROLL, CLARK, FAYETTE, FRAONKLIN, GRAYSON, HARDIN, HARRISON, HENRY, JEFFERSON, JESSAMINE, LARUE, MADISON, MARION, MEADE, MERCER, MONTGOMERY, NELSON, NICHOLAS, OLDHAM, OWEN, ROBERTSON, SCOTT, SHELBY, SPENCER, TRIMBLE, WASHINGTON, & WOODFORD COUNTIES:

| | Rates | Fringes |
|---------------------------|----------|---------|
| ELECTRICIAN..... | \$ 31.66 | 17.01 |
| <hr/> | | |
| * ELEC0575-002 12/31/2018 | | |

FLEMING, GREENUP, LEWIS & MASON COUNTIES:

| | Rates | Fringes |
|-------------------------|----------|---------|
| ELECTRICIAN..... | \$ 32.75 | 16.69 |
| <hr/> | | |
| ENGI0181-018 07/01/2017 | | |

| | Rates | Fringes |
|--------------------------|----------|---------|
| POWER EQUIPMENT OPERATOR | | |
| GROUP 1..... | \$ 31.95 | 15.15 |
| GROUP 2..... | \$ 29.09 | 15.15 |
| GROUP 3..... | \$ 29.54 | 15.15 |
| GROUP 4..... | \$ 28.77 | 15.15 |

OPERATING ENGINEER CLASSIFICATIONS

GROUP 1 - A-Frame Winch Truck; Auto Patrol; Backfiller; Batcher Plant; Bituminous Paver; Bituminous Transfer Machine; Boom Cat; Bulldozer; Mechanic; Cableway; Carry-All Scoop; Carry Deck Crane; Central Compressor Plant; Cherry Picker; Clamshell; Concrete Mixer (21 cu. ft. or Over); Concrete Paver; Truck-Mounted Concrete Pump; Core Drill; Crane; Crusher Plant; Derrick; Derrick Boat; Ditching & Trenching Machine; Dragline; Dredge Operator; Dredge Engineer; Elevating Grader & Loaders; Grade-All; Gurrries; Heavy Equipment Robotics Operator/Mechanic; High Lift; Hoe-Type Machine; Hoist (Two or More Drums); Hoisting Engine (Two or More Drums); Horizontal Directional Drill

Operator; Hydrocrane; Hyster; KeCal Loader; LeTourneau; Locomotive; Mechanic; Mechanically Operated Laser Screed; Mechanic Welder; Mucking Machine; Motor Scraper; Orangepeel Bucket; Overhead Crane; Piledriver; Power Blade; Pumpcrete; Push Dozer; Rock Spreader, attached to equipment; Rotary Drill; Roller (Bituminous); Rough Terrain Crane; Scarifier; Scoopmobile; Shovel; Side Boom; Subgrader; Tailboom; Telescoping Type Forklift; Tow or Push Boat; Tower Crane (French, German & other types); Tractor Shovel; Truck Crane; Tunnel Mining Machines, including Moles, Shields or similar types of Tunnel Mining Equipment

GROUP 2 - Air Compressor (Over 900 cu. ft. per min.); Bituminous Mixer; Boom Type Tamping Machine; Bull Float; Concrete Mixer (Under 21 cu. ft.); Dredge Engineer; Electric Vibrator; Compactor/Self-Propelled Compactor; Elevator (One Drum or Buck Hoist); Elevator (When used to Hoist Building Material); Finish Machine; Firemen & Hoist (One Drum); Flexplane; Forklift (Regardless of Lift Height); Form Grader; Joint Sealing Machine; Outboard Motor Boat; Power Sweeper (Riding Type); Roller (Rock); Ross Carrier; Skid Mounted or Trailer Mounted Concrete Pump; Skid Steer Machine with all Attachments; Switchman or Brakeman; Throttle Valve Person; Tractair & Road Widening Trencher; Tractor (50 H.P. or Over); Truck Crane Oiler; Tugger; Welding Machine; Well Points; & Whirley Oiler

GROUP 3 - All Off Road Material Handling Equipment, including Articulating Dump Trucks; Greaser on Grease Facilities servicing Heavy Equipment

GROUP 4 - Bituminous Distributor; Burlap & Curing Machine; Cement Gun; Concrete Saw; Conveyor; Deckhand Oiler; Grout Pump; Hydraulic Post Driver; Hydro Seeder; Mud Jack; Oiler; Paving Joint Machine; Power Form Handling Equipment; Pump; Roller (Earth); Steerman; Tamping Machine; Tractor (Under 50 H.P.); & Vibrator

CRANES - with booms 150 ft. & Over (Including JIB), and where the length of the boom in combination with the length of the piling leads equals or exceeds 150 ft. - \$1.00 over Group 1 rate

EMPLOYEES ASSIGNED TO WORK BELOW GROUND LEVEL ARE TO BE PAID 10% ABOVE BASIC WAGE RATE. THIS DOES NOT APPLY TO OPEN CUT WORK.

IRON0044-009 06/01/2018

BRACKEN, GALLATIN, GRANT, HARRISON, ROBERTSON,
BOURBON (Northern third, including Townships of Jackson, Millersburg, Ruddel Mills & Shawhan);
CARROLL (Eastern third, including the Township of Ghent);
FLEMING (Western part, excluding Townships of Beechburg, Colfax, Elizaville, Flemingsburg, Flemingsburg Junction, Foxport, Grange City, Hillsboro, Hilltop, Mount Carmel, Muses Mills, Nepton, Pecksridge, Plummers Landing, Plummers Mill, Poplar Plains, Ringos Mills, Tilton & Wallingford);
MASON (Western two-thirds, including Townships of Dover,

Lewisburg, Mays Lick, Maysville, Minerva, Moranburg, Murphysville, Ripley, Sardis, Shannon, South Ripley & Washington);

NICHOLAS (Townships of Barefoot, Barterville, Carlisle, Ellisville, Headquarters, Henryville, Morningglory, Myers & Oakland Mills);

OWEN (Townships of Beechwood, Bromley, Fairbanks, Holbrook, Jonesville, Long Ridge, Lusby's Mill, New, New Columbus, New Liberty, Owenton, Poplar Grove, Rockdale, Sanders, Teresita & Wheatley);

SCOTT (Northern two-thirds, including Townships of Biddle, Davis, Delaplain, Elmville, Longlick, Muddy Ford, Oxford, Rogers Gap, Sadieville, Skinnersburg & Stonewall)

| | Rates | Fringes |
|--------------------|----------|---------|
| IRONWORKER | | |
| Fence Erector..... | \$ 26.76 | 21.20 |
| Structural..... | \$ 28.17 | 21.20 |

 IRON0070-006 06/01/2018

ANDERSON, BOYLE, BRECKINRIDGE, BULLITT, FAYETTE, FRANKLIN, GRAYSON, HARDIN, HENRY, JEFFERSON, JESSAMINE, LARUE, MADISON, MARION, MEADE, MERCER, NELSON, OLDHAM, SHELBY, SPENCER, TRIMBLE, WASHINGTON & WOODFORD

BOURBON (Southern two-thirds, including Townships of Austerlity, Centerville, Clintonville, Elizabeth, Hutchison, Littlerock, North Middletown & Paris);

CARROLL (Western two-thirds, including Townships of Carrollton, Easterday, English, Locust, Louis, Prestonville & Worthville);

CLARK (Western two-thirds, including Townships of Becknerville, Flanagan, Ford, Pine Grove, Winchester & Wyandotte);

OWEN (Eastern eighth, including Townships of Glenmary, Gratz, Monterey, Perry Park & Tacketts Mill);

SCOTT (Southern third, including Townships of Georgetown, Great Crossing, Newtown, Stampling Ground & Woodlake);

| | Rates | Fringes |
|-----------------|----------|---------|
| IRONWORKER..... | \$ 28.79 | 22.50 |

 IRON0769-007 06/01/2018

BATH, BOYD, CARTER, ELLIOTT, GREENUP, LEWIS, MONTGOMERY & ROWAN CLARK (Eastern third, including townships of Bloomingdale, Hunt, Indian Fields, Kiddville, Loglick, Rightangele & Thomson);

FLEMING (Townships of Beechburg, Colfax, Elizaville, Flemingsburg, Flemingsburg Junction, Foxport, Grange City, Hillsboro, Hilltop, Mount Carmel, Muses Mills, Nepton, Pecksville, Plummers Landing, Plummers Mill, Poplar Plains, Ringos Mills, Tilton & Wallingford);

MASON (Eastern third, including Townships of Helena, Marshall, Orangeburg, Plumville & Springdale);

NICHOLAS (Eastern eighth, including the Township of Moorefield Sprout)

| | Rates | Fringes |
|-------------|----------|---------|
| IRONWORKER | | |
| ZONE 1..... | \$ 31.67 | 25.27 |
| ZONE 2..... | \$ 31.67 | 25.27 |
| ZONE 3..... | \$ 31.67 | 25.27 |

ZONE 1 - (no base rate increase) Up to 10 mile radius of Union Hall, 1643 Greenup Ave, Ashland, KY.

ZONE 2 - (add \$0.40 per hour to base rate) 10 to 50 mile radius of Union Hall, 1643 Greenup Ave, Ashland, KY.

ZONE 3 - (add \$2.00 per hour to base rate) 50 mile radius & over of Union Hall, 1643 Greenup Ave, Ashland, KY.

LABO0189-003 07/01/2018

BATH, BOURBON, BOYD, BOYLE, BRACKEN, CARTER, CLARK, ELLIOTT, FAYETTE, FLEMING, FRANKLIN, GALLATIN, GRANT, GREENUP, HARRISON, JESSAMINE, LEWIS, MADISON, MASON, MERCER, MONTGOMERY, NICHOLAS, OWEN, ROBERTSON, ROWAN, SCOTT, & WOOLFORD COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| Laborers: | | |
| GROUP 1..... | \$ 23.07 | 14.21 |
| GROUP 2..... | \$ 23.32 | 14.21 |
| GROUP 3..... | \$ 23.37 | 14.21 |
| GROUP 4..... | \$ 23.97 | 14.21 |

LABORERS CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter Tender; Cement Mason Tender; Cleaning of Machines; Concrete; Demolition; Dredging; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level D; Flagperson; Grade Checker; Hand Digging & Hand Back Filling; Highway Marker Placer; Landscaping, Mesh Handler & Placer; Puddler; Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail & Fence Installer; Signal Person; Sound Barrier Installer; Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper; Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer); Brickmason Tender; Mortar Mixer Operator; Scaffold Builder; Burner & Welder; Bushhammer; Chain Saw Operator; Concrete Saw Operator; Deckhand Scow Man; Dry Cement Handler; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level C; Forklift Operator for Masonary; Form Setter; Green Concrete Cutting; Hand Operated Grouter & Grinder Machine Operator; Jackhammer; Pavement Breaker; Paving Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven Georgia Buggy & Wheel Barrow; Power Post Hole Digger; Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind Trencher; Sand Blaster; Concrete Chipper; Surface Grinder; Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman; Gunnite Operator & Mixer; Grout Pump Operator; Side Rail Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Levels A & B; Miner & Driller (Free Air); Tunnel Blaster; & Tunnel Mucker (Free Air); Directional & Horizontal Boring; Air Track Drillers (All Types); Powdermen & Blasters; Troxler & Concrete Tester if Laborer is Utilized

LABO0189-008 07/01/2018

ANDERSON, BULLITT, CARROLL, HARDIN, HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, TRIMBLE & WASHINGTON COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| Laborers: | | |
| GROUP 1..... | \$ 23.07 | 14.21 |
| GROUP 2..... | \$ 23.32 | 14.21 |
| GROUP 3..... | \$ 23.37 | 14.21 |
| GROUP 4..... | \$ 23.97 | 14.21 |

LABORERS CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter Tender; Cement Mason Tender; Cleaning of Machines; Concrete; Demolition; Dredging; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level D; Flagperson; Grade Checker; Hand Digging & Hand Back Filling; Highway Marker Placer; Landscaping, Mesh Handler & Placer; Puddler; Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail & Fence Installer; Signal Person; Sound Barrier Installer; Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper; Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer); Brickmason Tender; Mortar Mixer Operator; Scaffold Builder; Burner & Welder; Bushhammer; Chain Saw Operator; Concrete Saw Operator; Deckhand Scow Man; Dry Cement Handler; Environmental - Nuclear, Radiation, Toxic & Hazardous Waste - Level C; Forklift Operator for Masonary; Form Setter; Green Concrete Cutting; Hand Operated Grouter & Grinder Machine Operator; Jackhammer; Pavement Breaker; Paving Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven Georgia Buggy & Wheel Barrow; Power Post Hole Digger; Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind Trencher; Sand Blaster; Concrete Chipper; Surface Grinder; Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman; Gunnite Operator & Mixer; Grout Pump Operator; Side Rail Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free

Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher;
 Environmental - Nuclear, Radiation, Toxic & Hazardous Waste
 - Levels A & B; Miner & Driller (Free Air); Tunnel Blaster;
 & Tunnel Mucker (Free Air); Directional & Horizontal
 Boring; Air Track Drillers (All Types); Powdermen &
 Blasters; Troxler & Concrete Tester if Laborer is Utilized

LABO0189-009 07/01/2018

BRECKINRIDGE & GRAYSON COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| Laborers: | | |
| GROUP 1..... | \$ 23.07 | 14.21 |
| GROUP 2..... | \$ 23.32 | 14.21 |
| GROUP 3..... | \$ 23.37 | 14.21 |
| GROUP 4..... | \$ 23.97 | 14.21 |

LABORERS CLASSIFICATIONS

GROUP 1 - Aging & Curing of Concrete; Asbestos Abatement
 Worker; Asphalt Plant; Asphalt; Batch Truck Dump; Carpenter
 Tender; Cement Mason Tender; Cleaning of Machines;
 Concrete; Demolition; Dredging; Environmental - Nuclear,
 Radiation, Toxic & Hazardous Waste - Level D; Flagperson;
 Grade Checker; Hand Digging & Hand Back Filling; Highway
 Marker Placer; Landscaping, Mesh Handler & Placer; Puddler;
 Railroad; Rip-rap & Grouter; Right-of-Way; Sign, Guard Rail
 & Fence Installer; Signal Person; Sound Barrier Installer;
 Storm & Sanitary Sewer; Swamper; Truck Spotter & Dumper;
 Wrecking of Concrete Forms; General Cleanup

GROUP 2 - Batter Board Man (Sanitary & Storm Sewer);
 Brickmason Tender; Mortar Mixer Operator; Scaffold Builder;
 Burner & Welder; Bushhammer; Chain Saw Operator; Concrete
 Saw Operator; Deckhand Scow Man; Dry Cement Handler;
 Environmental - Nuclear, Radiation, Toxic & Hazardous Waste
 - Level C; Forklift Operator for Masonary; Form Setter;
 Green Concrete Cutting; Hand Operated Grouter & Grinder
 Machine Operator; Jackhammer; Pavement Breaker; Paving
 Joint Machine; Pipelayer; Plastic Pipe Fusion; Power Driven
 Georgia Buggy & Wheel Barrow; Power Post Hole Digger;
 Precast Manhole Setter; Walk-Behind Tamper; Walk-Behind
 Trencher; Sand Blaster; Concrete Chipper; Surface Grinder;
 Vibrator Operator; Wagon Driller

GROUP 3 - Asphalt Luteman & Raker; Gunnite Nozzleman;
 Gunnite Operator & Mixer; Grout Pump Operator; Side Rail
 Setter; Rail Paved Ditches; Screw Operator; Tunnel (Free
 Air); Water Blaster

GROUP 4 - Caisson Worker (Free Air); Cement Finisher;
 Environmental - Nuclear, Radiation, Toxic & Hazardous Waste
 - Levels A & B; Miner & Driller (Free Air); Tunnel Blaster;
 & Tunnel Mucker (Free Air); Directional & Horizontal
 Boring; Air Track Drillers (All Types); Powdermen &

Blasters; Troxler & Concrete Tester if Laborer is Utilized

PAIN0012-005 06/11/2005

BATH, BOURBON, BOYLE, CLARK, FAYETTE, FLEMING, FRANKLIN,
 HARRISON, JESSAMINE, MADISON, MERCER, MONTGOMERY, NICHOLAS,
 ROBERTSON, SCOTT & WOODFORD COUNTIES:

| | Rates | Fringes |
|----------------------------------------------------------------------|----------|---------|
| PAINTER | | |
| Bridge/Equipment Tender and/or Containment Builder..... | \$ 18.90 | 5.90 |
| Brush & Roller..... | \$ 21.30 | 5.90 |
| Elevated Tanks; Steeplejack Work; Bridge & Lead Abatement..... | \$ 22.30 | 5.90 |
| Sandblasting & Waterblasting..... | \$ 22.05 | 5.90 |
| Spray..... | \$ 21.80 | 5.90 |

PAIN0012-017 05/01/2015

BRACKEN, GALLATIN, GRANT, MASON & OWEN COUNTIES:

| | Rates | Fringes |
|------------------------------------------------------------------------------|----------|---------|
| PAINTER (Heavy & Highway Bridges - Guardrails - Lightpoles - Striping) | | |
| Bridge Equipment Tender and Containment Builder..... | \$ 20.73 | 9.06 |
| Brush & Roller..... | \$ 23.39 | 9.06 |
| Elevated Tanks; Steeplejack Work; Bridge & Lead Abatement..... | \$ 24.39 | 9.06 |
| Sandblasting & Water Blasting..... | \$ 24.14 | 9.06 |
| Spray..... | \$ 23.89 | 9.06 |

PAIN0118-004 06/01/2018

ANDERSON, BRECKINRIDGE, BULLITT, CARROLL, GRAYSON, HARDIN,
 HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY,
 SPENCER, TRIMBLE & WASHINGTON COUNTIES:

| | Rates | Fringes |
|-----------------------------------------------------------------------|----------|---------|
| PAINTER | | |
| Brush & Roller..... | \$ 22.00 | 12.52 |
| Spray, Sandblast, Power Tools, Waterblast & Steam Cleaning..... | \$ 23.00 | 12.52 |

PAIN1072-003 12/01/2018

BOYD, CARTER, ELLIOTT, GREENUP, LEWIS and ROWAN COUNTIES

| | Rates | Fringes |
|-------------------------------------------------------------------------|----------|---------|
| Painters: | | |
| Bridges; Locks; Dams; Tension Towers & Energized Substations..... | \$ 33.33 | 18.50 |
| Power Generating Facilities. | \$ 30.09 | 18.50 |

PLUM0248-003 06/01/2018

BOYD, CARTER, ELLIOTT, GREENUP, LEWIS & ROWAN COUNTIES:

| | Rates | Fringes |
|------------------------------|----------|---------|
| Plumber and Steamfitter..... | \$ 36.00 | 20.23 |

PLUM0392-007 06/01/2018

BRACKEN, CARROLL (Eastern Half), GALLATIN, GRANT, MASON, OWEN & ROBERTSON COUNTIES:

| | Rates | Fringes |
|-------------------------------|----------|---------|
| Plumbers and Pipefitters..... | \$ 32.01 | 19.67 |

PLUM0502-003 08/01/2018

BRECKINRIDGE, BULLITT, CARROLL (Western Half), FRANKLIN (Western three-fourths), GRAYSON, HARDIN, HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, TRIMBLE & WASHINGTON COUNTIES

| | Rates | Fringes |
|--------------|----------|---------|
| PLUMBER..... | \$ 34.62 | 20.78 |

SUKY2010-160 10/08/2001

| | Rates | Fringes |
|----------------|----------|---------|
| Truck drivers: | | |
| GROUP 1..... | \$ 16.57 | 7.34 |
| GROUP 2..... | \$ 16.68 | 7.34 |
| GROUP 3..... | \$ 16.86 | 7.34 |
| GROUP 4..... | \$ 16.96 | 7.34 |

TRUCK DRIVER CLASSIFICATIONS

GROUP 1 - Mobile Batch Truck Tender

GROUP 2 - Greaser; Tire Changer; & Mechanic Tender

GROUP 3 - Single Axle Dump; Flatbed; Semi-trailer or Pole Trailer when used to pull building materials and equipment; Tandem Axle Dump; Distributor; Mixer; & Truck Mechanic

GROUP 4 - Euclid & Other Heavy Earthmoving Equipment &

Lowboy; Articulator Cat; 5-Axle Vehicle; Winch & A-Frame
 when used in transporting materials; Ross Carrier; Forklift
 when used to transport building materials; & Pavement
 Breaker

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

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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)).

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

Union Rate Identifiers

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

the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

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

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

Union Average Rate Identifiers

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

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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

PART VI
CONTRACT AGREEMENT

INDEX

1. SCOPE OF WORK
2. TIME OF COMPLETION
3. ISSUANCE OF WORK ORDERS
4. THE CONTRACT SUM
5. LIQUIDATED DAMAGES
6. PROGRESS PAYMENTS
7. ACCEPTANCE AND FINAL PAYMENT
8. THE CONTRACT DOCUMENTS
9. EXTRA WORK
10. ENUMERATION OF BID PROPOSAL AND DRAWINGS

PART VI

CONTRACT AGREEMENT

THIS AGREEMENT, made on the _____ day of _____, 20____, by and between **Lexington-Fayette Urban County Government**, acting herein called "OWNER" and _____, doing business as *(an individual) (a partnership) (a corporation) located in the City of _____, County of _____, and State of _____, hereinafter called "CONTRACTOR."

WITNESSETH: That the CONTRACTOR and the OWNER in consideration of _____ Dollars and _____ Cents (\$ _____) quoted in the proposal by the CONTRACTOR, dated _____, hereby agree to commence and complete the construction described as follows:

1. SCOPE OF WORK

The CONTRACTOR shall furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, and the Special Conditions of the Contract, the Specifications and Contract Documents therefore as prepared by **Strand Associates, Inc.** for the **Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects.**

2. TIME OF COMPLETION

The time period estimated and authorized by the OWNER for the proper execution of the Work by the Contract, in full, is hereby fixed as **two-hundred seventy (270) calendar days**. The time shall begin ten (10) days after the CONTRACTOR is given the Notice to Proceed with the Work.

3. ISSUANCE OF WORK ORDERS

Notice to begin Work will be given in whole or for part of the Work as determined by the OWNER pending the availability of funds. The order of construction will be as determined by the Engineer after consultation with the CONTRACTOR and the OWNER.

4. THE CONTRACT SUM

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the Contract, as quoted in the proposal, subject to any additions and deductions, as provided therein.

5. LIQUIDATED DAMAGES

It is mutually agreed by and between the parties hereto that time is of the essence of this Contract, and that there will be sustained by the OWNER damages, monetary and otherwise, in the event of

PART VI

CONTRACT AGREEMENT

THIS AGREEMENT, made on the 9th day of December, 2019, by and between **Lexington-Fayette Urban County Government**, acting herein called "OWNER" and **Pace Contracting LLC**, doing business as a corporation located in the City of Louisville, County of Jefferson, and State of Kentucky, hereinafter called "CONTRACTOR."

WITNESSETH: That the CONTRACTOR and the OWNER in consideration of three million nine hundred thousand seven hundred twenty-seven Dollars and No Cents (\$3,900,727.00) quoted in the proposal by the CONTRACTOR, dated September 13, 2019, hereby agree to commence and complete the construction described as follows:

1. SCOPE OF WORK

The CONTRACTOR shall furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, and the Special Conditions of the Contract, the Specifications and Contract Documents therefore as prepared by Strand Associates, Inc. for the Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects.

2. TIME OF COMPLETION

The time period estimated and authorized by the OWNER for the proper execution of the Work by the Contract, in full, is hereby fixed as **two-hundred seventy (270) calendar days**. The time shall begin ten (10) days after the CONTRACTOR is given the Notice to Proceed with the Work.

3. ISSUANCE OF WORK ORDERS

Notice to begin Work will be given in whole or for part of the Work as determined by the OWNER pending the availability of funds. The order of construction will be as determined by the Engineer after consultation with the CONTRACTOR and the OWNER.

4. THE CONTRACT SUM

The OWNER agrees to pay the CONTRACTOR in current funds for the performance of the Contract, as quoted in the proposal, subject to any additions and deductions, as provided therein.

5. LIQUIDATED DAMAGES

It is mutually agreed by and between the parties hereto that time is of the essence of this Contract, and that there will be sustained by the OWNER damages, monetary and otherwise, in the event of delay in the completion of the Work hereby contracted. The CONTRACTOR will be held responsible to the OWNER for delays in completion of the Work herein contracted beyond the date set for

completion. Such monetary damage shall be deducted from the Contract sum in the amount of **TWO THOUSAND FOUR HUNDRED DOLLARS (\$2,400.00)** per calendar day of such delay. If the Work contracted to be done shall not, in good faith, be commenced at the time specified, then the CONTRACTOR together with the Surety or Sureties upon the bond herein provided for, shall be liable for and shall pay to the OWNER all damages sustained by reason of such failure for breach of Contract, and the OWNER may immediately re-let the Work involved.

6. PROGRESS PAYMENTS

The OWNER shall make payments on account of the Contract, as provided in accordance with the General Conditions, as estimated by the Engineer, less the aggregate of previous payments.

7. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due within ninety (90) days after completion of the Work, provided the Work be then fully completed and the Contract fully accepted.

Before issuance of final certificate, the CONTRACTOR shall submit evidence satisfactory to the Engineer that all payrolls, material bills, and other indebtedness connected with the Work has been paid.

If, after the Work has been substantially completed, full completion thereof is materially delayed through no fault of the CONTRACTOR, and the ENGINEER so certifies, the OWNER shall upon certificate of the ENGINEER, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

8. THE CONTRACT DOCUMENTS

The Advertisement for Bids, Information for Bidders, the General Conditions, Performance and Payment Bonds, Contract Agreement, Special Conditions, General Provisions, any and all Addenda, and Bid Proposal, and Plan Drawings form the Contract, and they are fully a part of the Contract as if hereto attached or herein repeated.

9. EXTRA WORK

The OWNER, without invalidating the Contract, may order extra work or make changes by altering, adding to or deducting from the Work, the Contract Sum being adjusted accordingly. All such Work shall be executed and paid for in accordance with the General Conditions, which is a part of this Contract.

10. THE FOLLOWING IS AN ENUMERATION OF THE BID PROPOSAL AND DRAWINGS (CONTRACT DOCUMENTS):

CONTRACT DOCUMENTS

| PART NO. | TITLE |
|-------------|--------------------------------------------------------------------------|
| I | Advertisement for Bids |
| II | Information for Bidders |
| III | Form of Proposal |
| IV | General Conditions |
| V | Special Conditions |
| VI | Contract Agreement |
| VII | Performance and Payment Bonds |
| VIII | Technical Specifications |
| IX | Addendum |
| APPENDIX A | LFUCG Standard Drawings |
| APPENDIX B | KYTC Approved Traffic Management Plan |
| APPENDIX C | Local Public Agencies – Special Provisions for LPA Administered Projects |

PLAN DRAWINGS

IN WITNESSETH WHEREOF, the parties hereto have executed this Contract as of the date and year above written.

(Seal)

Lexington-Fayette Urban County Government.
Lexington, Kentucky
(Owner)

ATTEST:

Mackenzie Summers
Deputy Clerk of the Urban County Council

BY: Rinda Gorton
MAYOR

[Signature]
(Witness)

Deputy Council clerk
(Title)

(Seal)

Pace Contracting LLC
(Contractor)

Ratanaia Scott
(Secretary)*

BY: [Signature]

Jahya Candell
(Witness)

Administrative Member
(Title)

15415 Shelbyville Rd, Louisville, KY 40245
(Address and Zip Code)

IMPORTANT: *Strike out any non-applicable terms.

Secretary of the Owner should attest. If the CONTRACTOR is corporation, Secretary should attest. Give proper title of each person-executing Contract.

PART VII

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that

Pace Contracting, LLC

(Name of CONTRACTOR)

15415 Shelbyville Rd

Louisville, KY 40245

(Address of CONTRACTOR)

a Limited Liability Company

_____, hereinafter

(Corporation, Partnership, or Individual)

called Principal, and Western Surety Company

(Name of Surety)

151 N. Franklin St.

Chicago, IL 60606

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
200 East Main Street, Third Floor
Lexington, Kentucky 40507

hereinafter called "OWNER" in the penal sum of: Three Million Nine Hundred Thousand Seven Hundred Twenty-seven And Dollars, (\$3,900,727.00), for the payment of whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal by written agreement is entering into a Contract with OWNER for Fourth Street Corridor **(project name)** Enhancement & Legacy Trail Ph 3 Projects in accordance with drawings and specifications prepared by: (the Engineer) which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

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

The Surety hereby waives notice of any alteration or extension of time made by the OWNER.

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

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

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

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

IN WITNESS WHEREOF, this instrument is executed in 3 each one of which shall be
(number)
deemed an original, this the 20th day of November, 2019.

ATTEST:

Patricia Scott
(Principal) Secretary

Pace Contracting, LLC

Principal

BY: [Signature] (S)

15415 Shelbyville Rd

(Address)

Louisville, KY 40245

[Signature]
Witness as to Principal

15415 Shelbyville Rd

(Address)

Louisville, KY 40245

Western Surety Company

Surety

BY: Monica A. Kaiser
Attorney-in-Fact

151 N. Franklin St.

(Address)

Chicago, IL 60606

ATTEST:

Paula J. Teague
(Surety) Secretary Paula J. Teague
Witness

(SEAL)

Madison Haller
Witness as to Surety

127 S Sherrin Ave

(Address)

Louisville, KY 40207

TITLE: Attorney-in-Fact

Surety

BY: Monica A. Kaiser

TITLE: Madison Haller Witness

NOTE: The number of executed counterparts of the bond shall coincide with the number of executed counterparts of the Contract.

PART VII
PAYMENT BOND

KNOW ALL MEN BY THESE PRESENT: that

Pace Contracting, LLC

(Name of Contractor)

15415 Shelbyville Rd

Louisville, KY 40245

(Address of Contractor)

a Limited Liability Company

_____, hereinafter

(Corporation, Partnership or Individual)

called Principal, and Western Surety Company

(Name of Surety)

151 N. Franklin St.

Chicago, IL 60606

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto:

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
200 East Main Street, Third Floor
Lexington, Kentucky 40507

Obligee, hereinafter called OWNER, for the use and benefit of claimants as hereinafter defined, in the amount of Three Million Nine Hundred Thousand Seven Hundred Twenty-seven And No/100 Dollars (\$3,900,727.00) the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal by written agreement is entering into a Contract with OWNER for Fourth Street Corridor Enhancement (project name) and Legacy Trail Ph 3 Projects in accordance with drawings and specifications prepared by: (the Engineer) which Contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

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

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the OWNER that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The OWNER shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:
 - (a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the OWNER, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the Work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the Work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, OWNER, or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.
 - (b) After the expiration of one (1) year following the date on which Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
 - (c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against aid improvement, whether or not claim for the amount of such lien be presented under and against this bond.

IN WITNESS WHEREOF, this instrument is executed in 3 counterparts, each one of
(number)

which shall be deemed an original, this the 20th day of November, 2019.

ATTEST:

Katarina Scott
(Principal) Secretary

(SEAL)

Lahyn Candill
(Witness to Principal)

15415 Shelbyville Rd
(Address)
Louisville, KY 40245

Pace Contracting, LLC
(Principal)

BY: *[Signature]* (s)
15415 Shelbyville Rd
(Address)

Louisville, KY 40245

ATTEST:

Paula J. Teague
(Surety) Secretary Paula J. Teague
Witness

(SEAL)

Madison Haller
Witness as to Surety
127 S Sherrin Ave Louisville, KY 40207
(Address)
Madison Haller Witness

Western Surety Company
(Surety)

BY: *Monica A. Kaiser*
(Attorney-in-Fact)

Monica A. Kaiser Attorney-in-Fact
(Address)

151 N. Franklin St.
Chicago, IL 60606

NOTE: The number of executed counterparts of the bond shall coincide with the number of executed counterparts of the Contract.

END OF SECTION

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Paula J Teague, Todd P Loehnert, John B Ayres, Monica A Kaiser, Michael W Baxter, Madison M Haller, Individually

of Louisville, KY, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 28th day of October, 2019.

WESTERN SURETY COMPANY

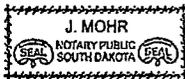


Paul T. Bruflat
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 28th day of October, 2019, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
June 23, 2021



J. Mohr
J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 20th day of November, 2019.



WESTERN SURETY COMPANY

L. Nelson
L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

PART VIII

TECHNICAL SPECIFICATIONS

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TECHNICAL SPECIFICATIONS

GENERAL PROVISIONS

A.1 KENTUCKY DEPARTMENT OF HIGHWAYS - SPECIFICATIONS

Except as otherwise indicated on the Plans, and in the Contract Documents and Specifications, all items of Work and administration of this project including materials, construction methods, method of measurement and basis of payment shall comply with the current edition of the *Kentucky Department of Highways (KDOH) Standard Specifications for Road and Bridge Construction* and all current revisions.

With regard to the incorporation *Standard Specifications of KDOH* into these Technical Specifications, the following should be noted:

- Unless either the content implicitly or the Plans and Contract Documents and Specifications explicitly indicate otherwise, all KDOH references to "the Department" should be construed as being references to the Lexington-Fayette Urban County Government (LFUCG).
- Any discrepancy between the *Standard Specifications of KDOH* and the express intentions of Lexington-Fayette Urban County Government (i.e., Plans, Contract Documents and Specifications, and Lexington-Fayette Urban County Government Standard Drawings) shall be resolved in favor of the latter. (An example of one of the more common types of discrepancy is that which sometimes occurs with regard to the measurement of and payment for Work items.)

A.2 ABBREVIATIONS

Abbreviations of standards, codes, and publications used within these Specifications are as follows:

| | |
|------|--------------------------------------------------------------------------------------------------------------|
| ASTM | American Society of Testing and Materials |
| ANSI | American National Standard Institute |
| KDOH | Kentucky Department of Highways, "Standard Specifications for Road and Bridge Construction", Current Edition |

A.3 SCOPE

It is the intent that the CONTRACTOR, in accordance with the Plans, Contract Documents and Specifications, and other mutually acknowledged informational materials shall perform everything required to be performed and to furnish a complete, fully operating Work, and shall provide and furnish all labor, materials, necessary tools, expendable and non-expendable equipment and all transportation services required for the entire, proper, substantial completion of the Work, the cost of all of which shall be included in his bid.

The CONTRACTOR shall make all requisite excavations and foundation preparation for constructing sidewalks, incidental drainage structures, and retaining walls. The CONTRACTOR shall, where required, excavate and prepare subgrade for pavement widening and replacement. The CONTRACTOR shall provide all signs, lighting, barricades, flagmen and watchmen, and make provisions necessary to protect and maintain buildings, fences, trees, shrubs, poles, existing utility fixtures, watercourses, surface drains, or other structures in, on, across, or adjacent to the Work and repair all damage done to them where and as required. The CONTRACTOR shall perform all backfilling, restore walks, grass plots, flowers, shrubs, trees, paved surfaces, etc., damaged or disturbed and clear away all rubbish and surplus materials. The CONTRACTOR shall put in complete and acceptable working order the items covered by the Contract.

This Specification sets forth several items of Work or conditions which are required as integral parts of the successful completion of the Project. All items discussed herein under General Provisions are considered incidental to the overall accomplishment of the Project and no separate payment shall be made therefore unless otherwise noted elsewhere in these specifications.

A.4 CONTRACTOR'S FACILITIES

A.4.1 Sanitary Facilities: The CONTRACTOR shall provide and maintain all necessary sanitary facilities at the site, in accordance with all applicable regulations, and shall properly remove same at completion of the Project.

A.4.2 Utilities: The obtaining of all utilities which may be required for construction shall be the responsibility of the CONTRACTOR.

A.5 CONTRACTOR'S FIELD OFFICE

A CONTRACTOR'S Field Office is not required for this project.

A.6 UTILITIES

The CONTRACTOR is to notify all utility companies prior to beginning construction operations.

It shall be the CONTRACTOR'S responsibility to locate all utilities, make appropriate arrangements regarding relocation, maintain utility service throughout the construction period, and make final relocations at the completion of the Work. The CONTRACTOR shall be responsible for any injury or damage to the existing utilities due to his operations whether shown or not shown in the plans. Where utilities are shown or indicated on the plans, the information given is in accordance with the best information in possession of the OWNER but is approximate only. The data is not warranted to be either complete or correct, and the CONTRACTOR shall assume all risks resulting from the conditions arising from the approximations shown.

The CONTRACTOR shall confer with the utility companies to inform them of the proposed construction schedule, verify the location and elevation of existing utilities and arrange for the

relocation and adjustment of any facilities to avoid interference with the proposed construction. All such activities are to be performed under the direction of and with the approval of the ENGINEER.

When the various utility owners find it necessary to make adjustments to their lines where the CONTRACTOR is presently working, the CONTRACTOR is to move his operations to another area of Work so as not to interfere in any way with the utility company's Work.

Any utilities covered up or lost by the construction operations of the CONTRACTOR shall be uncovered and found by the CONTRACTOR and the new construction repaired and/or replaced as directed by the ENGINEER. No additional compensation will be allowed for such Work nor shall any additional payment be allowed for the relocation and adjusting of any utility but shall be considered Incidentals to other Work.

The CONTRACTOR shall make a concerted effort to prevent any disruption of utility services, and if an unintended disruption occurs, the CONTRACTOR shall immediately and safely restore service. If disruption of any of the utility services covered in this section is unavoidable, it will be the responsibility of the CONTRACTOR to notify affected property owners. The CONTRACTOR shall also make every effort to restore said services before quitting Work for the day. In the event this cannot be done, the CONTRACTOR shall provide temporary service to the property owners until permanent service can be restored.

A.7 TESTING

CONTRACTOR shall perform slump, temperature, and concrete cylinder strength tests with the ENGINEER present and in accordance with the applicable specifications. CONTRACTOR shall create, store, test, and dispose of the concrete cylinders (three 6-inch by 12-inch) in accordance with the Kentucky Transportation Cabinet's Materials Field Sampling and Testing Manual. No direct payment will be made for testing of concrete.

ENGINEER may require that additional testing be performed to determine the materials provided meet the specified requirements. For additional testing, the ENGINEER will select a testing laboratory to perform the testing services. The cost of additional testing shall be the responsibility of the OWNER. If testing reveals defective materials or work, the cost of said testing will become the responsibility of the CONTRACTOR.

A.7.1 Codes and Standards: Testing, when required, will be in accordance with all pertinent codes and regulations and with selected standards of the American Society for Testing and Materials.

A.7.2 Cooperation with the Testing Laboratory: Representatives of the testing laboratory shall have ready access to the Work at all times. The CONTRACTOR shall provide facilities for such access in order that the laboratory may properly perform its functions.

A.8 INSTALLATION REQUIREMENTS

Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned, and conditioned as suggested by the respective manufacturers, unless otherwise specified herein or directed by the ENGINEER.

A.9 PROOF OF COMPLIANCE

Whenever the Contract Documents require that a product be in accordance with Federal Specifications, ASTM Designations, ANSI Specifications, or other associations' standards, the CONTRACTOR shall present a certification from the manufacturer that the product complies therewith. When requested or specified, the CONTRACTOR shall submit supporting test data to substantiate compliance.

A.10 DUST CONTROL

The CONTRACTOR shall be responsible for minimizing the generation of dust resulting from his operations at all times. The CONTRACTOR shall be required to maintain all excavations, embankments, stockpiles, roads, permanent access roads, plant sites, waste areas, and all other Work areas within or without the project boundaries free from dust which would cause a hazard or nuisance to others. Approved temporary methods of stabilization consisting of sprinkling, chemical treatment, light bituminous treatment, or similar methods will be permitted to control dust. Dust control shall be performed as the Work proceeds, and whenever a dust nuisance or hazard occurs.

A.11 REPAIR OF DAMAGE

Any damage done to structures, fills, roadways, or other areas shall be repaired at the CONTRACTOR'S expense before final payment is made.

A.12 PROJECT EXTENT

The CONTRACTOR shall be responsible for satisfying himself as to the construction limits for the Project. The CONTRACTOR shall not establish Work, storage, or staging area outside the Project limits, unless otherwise directed or approved by the ENGINEER.

A.13 WORKING HOURS

All Work on this Project shall be restricted to Monday thru Saturday, but may be restricted by the ENGINEER if required; except emergency Work, such as any necessary pumping, which may require 24-hour operation. If the CONTRACTOR elects to Work beyond the normal work week, he shall notify the ENGINEER of his intent as far in advance as possible. Lane closures for all streets with a functional classification above local shall occur only between the hours of 9:00 a.m. to 3:00 p.m. and 7:00 p.m. to 6:00 a.m., except as approved by the ENGINEER.

A.14 GUARANTEE

The CONTRACTOR shall assume responsibility for all workmanship and materials for a period of one year from final payment. Any Work found to be defective due to failure to comply with the provision and intent of the Contract Documents, Specifications, and Plans shall be replaced at the CONTRACTOR'S expense.

A.15 PROPERTY CONSIDERATION

Materials having a salvage value shall remain the property of the OWNER. Salvageable material shall be delivered by the CONTRACTOR to the Division of Traffic Engineering, Operations Center, 1515 Old Frankfort Pike, Lexington, KY 40508, unless otherwise noted. Salvageable material rejected by the OWNER shall become the responsibility of the CONTRACTOR to dispose of in a proper manner subject to the approval of the ENGINEER.

A.16 BLASTING

Blasting is addressed in the Special Conditions.

A.17 HAZARDOUS MATERIAL - GAS LINES

The CONTRACTOR is advised to exercise caution in his operations on this project, regardless of whether the plans indicate or do not indicate the presence of any gas or hazardous materials carrying lines.

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR LIMESTONE CURB (SN-01)

SN01.1 DESCRIPTION

The project lies within a National Registered Historic District and the existing limestone curb is a contributing element to the district. The work consists of:

1. Protecting existing limestone curb to remain in place.
2. Salvaging existing limestone curb and reinstalling either in existing location or relocating as necessary.
3. Delivering excess salvaged limestone curb.

SN01.2 SUBMITTALS

Submit a Quality Control Plan (QCP) to ENGINEER for review that includes experience working with stone curb and other similar materials, method for protecting existing curb to be salvaged including storage, and anticipated work plan and construction sequencing. Obtain ENGINEER's approval before beginning salvage activities.

SN01.3 MATERIALS AND EQUIPMENT

SN01.3.1 Concrete Cradle

Concrete - Conform to Section 601.02 and 601.03.

SN01.3.2 Non-Shrink Grout

Non-Shrink Grout - Conform to Section 601

SN01.4 CONSTRUCTION

SN01.4.1 Salvage Existing Limestone Header Curb

A) Carefully excavate and remove existing curb to avoid any unnecessary breakage. Extraneous materials, including concrete, are to be removed from curb in such manner as to be non-deleterious to curb.

B) Existing curb not noted to be salvaged shall be protected from damage.

C) Removed curb is to be stored at location that is safe and secure from damage by Contractor's ongoing operations, and from vandalism, theft or other mishap. Curb is to be

placed on level ground to provide even bearing across curb surface. Curb that is broken during excavation or salvage operations, or found to be unacceptable for reuse by ENGINEER, is to be properly disposed of.

D) Each individual piece of salvaged curb is to be labeled on top surface with yellow marking paint, indicating top width and running length.

SN01.4.2 Install Limestone Header Curb

A) Prior to excavation, existing pavement is to be saw cut full depth. Trench for installation of curb is to be as narrow as possible to accomplish work and to minimize disruption to existing tree root systems. Care is to be taken to not disturb or damage any existing features that are to remain. Any adjacent existing features that are damaged by Contractor's operations are to be repaired at no additional cost.

B) Contractor to stake curb alignment and grade to fit existing conditions and elevations. The ENGINEER will review and request the Contractor to make adjustments to the alignment and grade as necessary. Adjust staking as necessary and excavate or fill excavated curb subgrade to establish required curb grade. Maintain final curb grade line alignment and elevations until curb installation, if necessary re-stake curb alignment for actual installation.

C) Prior to installation of concrete cradle, Contractor to review inventory of Salvaged Existing Limestone Header Curb to determine if modifications to the depth of the concrete cradle detail is necessary. Contractor to thoroughly compact subbase to provide firm and uniform bearing. Contractor to form and install concrete cradle.

D) Contractor to review Salvaged Existing Limestone Header Curb with ENGINEER to evaluate the limestone curb pieces to be utilized and desired orientation of the pieces. Contractor to place Salvaged Existing Limestone Header Curb in concrete cradle and provide necessary temporary support so that the curb face and top surface are set true to line and grade. If necessary, Contractor shall redress top and ends of curbs to provide consistent tight joints and smooth curb surfaces to the approval of the ENGINEER.

E) Contractor to install non-shrink grout in the void between the concrete cradle and limestone curb to provide permanent support.

F) After curb has been installed, remaining portion of excavation behind curb is to be backfilled with either embankment in place or granular backfill material, and material shall be thoroughly compacted.

SN01.4.3 Deliver Limestone Header Curb

A) Salvaged curb not needed for the project is to be delivered to LFUCG Division of Streets and Roads, 1555 Old Frankfort Pike, Lexington, KY 40504, Monday through Friday, between the hours of 8:00 AM and 3:00 PM. Contractor to provide ENGINEER a minimum of 2 working days advance notice to make arrangements for delivery of salvaged materials.

B) When delivered, curb is to be stacked neatly and orderly, according to width, type and style, at location designated by ENGINEER. Stacked curb is to be separated into layers using wood strips.

SN01.4.4 Install Limestone Curb Raised Planting Bed

A) Contractor to review salvaged curb not needed for curb construction with ENGINEER to determine remaining pieces to be used for plant bed construction.

B) Planting bed dimensions, field location, and raised elevation to be determined in the field by ENGINEER.

C) Trench for installation of curb is to be as narrow as possible to accomplish work.

D) Contractor to stake curb alignment and grade to fit existing conditions and elevations. The ENGINEER will review and request the Contractor to make adjustments to the alignment and grade as necessary. Adjust staking as necessary and excavate or fill excavated curb subgrade to establish required curb grade. Maintain final curb grade line alignment and elevations until curb installation, if necessary re-stake curb alignment for actual installation.

E) Contractor to thoroughly compact subbase to provide firm and uniform bearing.

F) Contractor to review Salvaged Existing Limestone Header Curb with ENGINEER to evaluate the limestone curb pieces to be utilized and desired orientation of the pieces. Contractor to place Salvaged Existing Limestone Header Curb and provide necessary temporary support so that the curb face and top surface are set true to line and grade. If necessary, Contractor shall redress top and ends of curbs to provide consistent tight joints and smooth curb surfaces to the approval of the ENGINEER.

G) After curb has been installed, remaining portion of excavation behind curb is to be backfilled with either embankment in place or granular backfill material, and material shall be thoroughly compacted.

SN01.5 MEASUREMENT

SN01.5.1 Salvage Existing Limestone Header Curb

The ENGINEER will measure the quantity of Salvaged Existing Limestone Header Curb by the linear foot of salvaged curb measured to the nearest tenth (0.10) of a foot. The

measurement will be taken within the top or bottom six inches (along the future face of curb line). Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN01.5.2 Install Limestone Header Curb

The ENGINEER will measure the quantity of Installed Limestone Header Curb by the linear foot of installed curb measured to the nearest tenth (0.10) of a foot. The measurement will be taken along the installed face of curb. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN01.5.3 Deliver Limestone Header Curb

The ENGINEER will measure the quantity of Limestone Curb delivered to LFUCG Streets and Roads measured to the nearest tenth (0.10) of a foot. The measurement will be taken within the top or bottom six inches (along the future face of curb line). Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN01.5.4 Install Limestone Curb Raised Planting Bed

The ENGINEER will measure the quantity of Installed Limestone Curb Raised Planting Bed measured to the nearest tenth (0.10) of a foot. The measurement will be taken within the top or bottom six inches (along the planting bed). Contractor is not responsible for providing topsoil for planting bed. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN01.6 PAYMENT

The following pay items will be applicable:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|--------------------------------------------|-----------------|
| 30023 | Salvage Existing Limestone Header Curb | Linear Foot |
| 30024 | Install Limestone Header Curb | Linear Foot |
| 30025 | Deliver Limestone Header Curb | Linear Foot |
| 30046 | Install Limestone Curb Raised Planting Bed | Linear Foot |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR COLORIZED PAVEMENT DEMARCATION (SN-02)

SN02.1 DESCRIPTION

Furnish and install colorized pavement demarcation consisting of a polymer resin binder with a 100% Recycled Pigmented glass aggregate topping onto an asphalt and/or concrete pavement.

SN02.2 SUBMITTALS

Provide the following submittals to ENGINEER for review. Obtain ENGINEER's approval before beginning the trial section of colorized pavement demarcation.

A) Submit a colored demarcation Quality Control Plan (QCP). The colored demarcation QCP must include:

1. Schedule for the trial work and the production work colored demarcation.
2. Description of equipment for placing colored demarcation and traffic control plan.
3. Description of equipment for measuring, mixing, placing, and finishing colored demarcation.
4. Method for protecting areas not to receive colored demarcation.
5. Cure time estimates for colored demarcation.
6. Storage and handling of colored demarcation components.
7. Disposal of excess colored demarcation and containers.
8. Contingency plan for possible failure during the colored demarcation application.
9. Name of the certified independent testing laboratory for the material components.
10. An inspection of the automated application equipment prior to the award of the project.

B) Submit a material safety data sheet (SDS) for each shipment of colored demarcation components before use.

C) Submit a certificate of compliance for the polymer resin binder and the 100% recycled pigmented glass aggregate topping.

D) Have the polymer resin binder and the 100% recycled pigmented glass aggregate topping tested at a certified independent testing laboratory and then furnish the verifications to the Engineer that the materials meet all requirements listed in these specifications.

E) Submit several color variation options meeting the color requirements within this special note.

F) Obtain ENGINEER's approval of trial colored demarcation on asphalt pavement and conduct a pre-construction conference with supplier, foreman, project superintendent, and

ENGINEER before starting colored demarcation production work. The trial colored demarcation shall be in accordance with the following:

1. Be at least 6 feet wide by 20 feet long.
2. Be constructed using the same equipment as the production work.
3. Replicate field conditions, including ambient and surface temperatures, anticipated for the production work.
4. Demonstrate surface preparation requirements.
5. Remove pavement markers and delineation within the area to receive colored demarcation, for the lane and length involved, prior to placing polymer resin binder.
6. Document the settings on the applicator equipment, initial quantities of resin and aggregate topping, and unused quantities of resin and the 100% recycled pigmented aggregate topping remaining in the applicator equipment after application.
7. Determine the initial set time for polymer resin binder in colored demarcation.
8. Complete in accordance with approved traffic control plan.
9. Have a coefficient of friction of at least 0.65 when tested in conformance BS / BPN Tester. If the coefficient of friction testing is below 0.65, correct or remove and replace the trial colored demarcation to meet or exceed the specified value.
10. Demonstrate colored demarcation removal methods by removing the trial.
11. Dispose of removed material.

SN02.3 MATERIALS AND EQUIPMENT

SN02.3.1 Polymer Resin Binder

Provide a polymer resin binder which holds the aggregate topping firmly in place, and which meets the following requirements.

Polymer Resin Binder Requirements

| Property | Requirement | Test Method |
|-----------------------------|--------------------------------|----------------------------|
| Ultimate Tensile Strength | 2650 psi min. | ASTM D638 |
| Elongation at break point | 30% min. | ASTM D638 |
| Compressive Strength | 1600 psi min. | ASTM D695 |
| Water Absorption | 1.0 % max. | ASTM D570 |
| Shore D Hardness, min. 77°F | 65-75 | ASTM D2240 |
| Viscosity | 1000-3000 mPa | ASTM D2393 |
| Gel Time, minutes | 15-45 min. | ASTM C881 |
| Cure Rate | 3 hrs. max. | ASTM D1640, 0.2" thickness |
| Mixing Ratio | As recommended by manufacturer | N/A |

SN02.3.2 Aggregate Topping

A) Furnish a post 100% recycled pigmented glass aggregate. The aggregate topping is to be clean, dry, and free from deleterious matter. The aggregate topping must meet the following requirements and must be certified by the manufacturer as being completely post recycled with a five year fade free warranty.

Technical Data

| | |
|--------------------------|-------------------------------------------------|
| Characteristic: | 100% Recycled Pigmented Glass Aggregate |
| Specific Gravity: | 2.5 |
| Bulk Density: | Avg 86lb/ft ³ |
| Volume/Ton: | Avg 26.5ft ³ |
| Softening Point: | ~1350°F |
| Shape: | Sub-Angular; Non-Porous |
| Hardness: | 6.0 Mohs |
| Physical Composition: | Amorphus Silica |
| Chemical Composition: | Sodium Oxide:12-15% |
| Aluminum / Other Oxides: | Oxide: 1-2% |
| Color Retention: | 100% |
| Recycled Material: | 100% |
| Color Selection: | Per below requirements and selected by ENGINEER |
| Size Range Available: | 0.8-1.2mm |
| Environmentally Sound: | 100% green post recycled material |

B) The daytime and nighttime chromaticity coordinates for the color used for green colored pavement shall be as follows:

| | 1 | | 2 | | 3 | | 4 | |
|-----------|-------|-------|-------|-------|-------|-------|-------|-------|
| | x | y | x | y | x | y | x | y |
| Daytime | 0.230 | 0.754 | 0.266 | 0.500 | 0.367 | 0.500 | 0.444 | 0.555 |
| Nighttime | 0.230 | 0.754 | 0.336 | 0.540 | 0.450 | 0.500 | 0.479 | 0.520 |

C) The daytime luminance factor (Y) shall be at least 7, but no more than 35.

D) The green colored pavement reflectivity shall be uniform.

SN02.3.3 Automated Continuous Application

A) Automated continuous application shall be performed by an applicator vehicle with a minimum pigmented glass aggregate capacity of 40,000lbs and a minimum of 1200 gallons of the resin binder. The applicator shall continuously mix, meter, monitor and apply the resin binder and high friction aggregate in one continuous application pass.

B) The applicator vehicle shall be equipped with an inbuilt data management unit which is capable of producing real time data flow showing the volume of resin, the resin mil thickness on average throughout the application width, the volume of aggregate applied throughout the application width. The automated continuous application vehicle will have continuous

pumping and portioning devices that blend the polymer binder within a controlled system. The polymer binder shall be blended and mixed in the ratio per the manufacturer's specification (+/- 2% by volume); the polymer binder shall be continuously applied once blended. The application vehicle should be capable of applying the minimum polymer binder spread rate.

C) The high friction 100% recycled pigmented glass aggregate shall be applied by the same automated continuous application vehicle that applies the resin binder to the pavement section. The automatic aggregate spreader shall be capable of applying up to a continuous 12 foot width application. The high friction recycled pigmented glass aggregate shall be applied within 3 seconds (+/- 1 sec) of the base polymer binder application onto the pavement section, from a maximum height of 12 inches from above the pavement section surface, at the minimum spread rate.

SN02.4 CONSTRUCTION

SN02.4.1 Attendance

Attendance during construction activities is mandatory for colored demarcation supplier, foreman, and project superintendent.

SN02.4.2 Surface Preparation

A) Surfaces must be clean, dry and free of all dust, oil, debris and other material that might interfere with the bond between the polymer resin binder material and existing surfaces.

B) Remove pavement markers and delineation within the area to receive colored demarcation, prior to placing polymer resin binder.

C) Sandblasting is required prior to installation on asphalt surfaces constructed within 30 days of colored pavement demarcation installation.

D) Perform additional surface preparation recommended by polymer resin binder supplier.

SN02.4.3 Weather Limitations

Do not apply the polymer resin binder on a wet surface or when the ambient temperature is below 55°F or when the anticipated weather conditions would prevent the proper application of the surface treatment.

SN02.4.4 Installation

A) The minimum spread rate for polymer resin binder is 0.28-0.32 gallons per square yard.

B) The minimum spread rate of retained aggregate is 13-20 pounds per square yard.

C) No exposed wet spots of the polymer binder shall be visible once the recycled green pigmented aggregate is installed. The operations should proceed in such a manner that will not allow the mixed material to separate, cure, dry, be exposed or otherwise harden in such a way as to impair retention and bonding of the high friction surfacing 100% recycled pigmented glass aggregate. Walking, standing or any form of contact or contamination with the wet uncured resin will result in that section of resin and pigmented glass aggregate being removed and replaced at the installer's expense.

D) Colored demarcation shall be allowed to cure for the minimum duration as recommended by the supplier. During that time the application area shall be closed to all vehicle and contractor equipment traffic.

E) The surface texture of the colored demarcation shall be uniform and have a coefficient of friction not less than 0.65. Provide a correction plan for colored demarcation that fails to meet the coefficient of friction of 0.65. The correction plan may include correction of existing colored demarcation or remove & replace at the installers expense.

F) The excess 100% recycled pigmented glass aggregate can be reused; the aggregate shall be reclaimed by a mechanical sweeper, the recovered aggregate must be clean, uncontaminated and dry.

G) Excess and lose 100% recycled pigmented glass aggregate must be removed from the traveled way and bike lanes by street sweeping. Application of colored demarcation requires a second street sweeping 36 hours after application.

H) Utilities, drainage structures, curbs, and any other structures within or adjacent to the treatment location must be protected against the application of the colored demarcation materials.

SN02.5 MEASUREMENT

The ENGINEER will measure the quantity of Colorized Pavement Demarcation by square foot of installed area. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN02.6 PAYMENT

The following pay item will be applicable:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|----------------------------------------|-----------------|
| 30026 | Colorized Pavement Demarcation - Green | Square Foot |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR COLORED JPC PAVEMENT (SN-03)

SN03.1 DESCRIPTION

Construct a single course of JPC pavement with integral concrete colorant.

SN03.2 MATERIALS AND EQUIPMENT

Conform to Subsection 501.02 with the following exceptions and additions:

501.02.01 Concrete.

A) Integrally color concrete using non-fading pigments conforming to ASTM C979. Match the concrete color in reasonably close conformance with Transylvania University's primary color crimson for the Bourbon Avenue raised intersection crosswalk and black for the Johnson Avenue raised intersection crosswalk. Provide color samples to ENGINEER for approval.

B) Add integral concrete colorant according to manufacturer's instructions. Provide a copy of manufacturer's instructions to the ENGINEER before producing material for incorporation into the work.

C) Maintain mix characteristics for colored concrete requiring a matching finish. Use the same source, brand, type, and color of cement, supplementary cementitious materials, aggregates, and admixtures for colored concrete throughout the project. Use constant cement content, supplementary cementitious material content, and water cementitious materials ratio to maintain consistent color.

D) Furnish admixtures designed for use with and compatible with colored concrete pigments. Do not use calcium chloride or other admixtures containing chlorides.

501.02.08 Curing Materials. Furnish Type 1-D liquid membrane-forming curing compound.

501.02.24 Colored Concrete Mix Approval

A) Obtain ENGINEER's approval for colored concrete mixes before placing concrete. The Engineer will base approval on trial batches. The Engineer will evaluate color no earlier than 5 days after pouring and sealing the test concrete. Upon the Engineer's approval, the submitted sample panel or the test slab will be the visual quality standard for finished work under the contract.

B) The Contractor may use preliminary laboratory or field trial batching to establish the mix proportions necessary to conform to the contract-required color.

C) Produce test slabs of each color to demonstrate the texture, surface finish, color, and color intensity. At least 2 business days in advance, provide the ENGINEER with the date and time for the test slab construction.

D) At an Engineer-allowed location on the project, place, finish, and cure a 10 foot by 10-foot by 6-inch colored concrete test slab using the same methods proposed for contract work. Produce test slabs using the same workers designated to perform the contract work. Retain samples of cements, sands, aggregates, and color additives used in test slabs for comparison with materials used in contract work. Use at least a 2-cubic-yard batch for the trial. Dispose of surplus or unsuitable material. Submit final mix design information to the Engineer including specific sources and, if applicable, trade names for materials.

SN03.3 CONSTRUCTION

Conform to Subsection 501.03 with the following exceptions and additions:

A) Cure with clear curing compound and use only non-chloride admixtures.

B) Produce consistently colored concrete. The ENGINEER will not allow variations in the quantities, types, or source of materials with the exception of minor adjustments of water and air-entraining agent. Other changes require mix re-approval..

C) Schedule placement to minimize exposure to rapid drying conditions, wind, and full sun before applying curing compound. Do not place colored concrete if rain, snow, or freezing temperatures are forecast within 24-hours.

D) Cover or otherwise protect adjacent concrete work from discoloration and spillage while placing and curing colored concrete. Remove and replace discolored concrete as the ENGINEER directs.

E) Perform finishing operations consistently to avoid color variation. Do not begin finishing while bleed water is present. The ENGINEER will order removal and replacement of colored concrete if the Contractor adds water to the surface to aid in finishing. Apply strokes in the same direction during finish finishing and texturing.

F) Protect colored concrete from premature drying and excessive cold or hot temperatures by promptly applying curing compound. Do not allow plastic sheeting to come in contact with colored concrete.

G) Protect the colored concrete from damage. Do not permit construction traffic or material storage on colored concrete. Exclude foot traffic from colored concrete for at least 24 hours after placement.

H) Remove test slabs not permanently incorporated into the work and restore the site after the ENGINEER determines the test slab is no longer needed.

SN03.4 MEASUREMENT

The ENGINEER will measure the quantity of Colored JPC Pavement in accordance with Subsection 501.04.01.

SN03.5 PAYMENT

Conform to Subsection 501.05 with the following exceptions and additions:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|----------------------|-----------------|
| 30027 | Colored JPC Pavement | Square Yard |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR FLAG POLE ASSEMBLY (SN-04)

SN04.1 DESCRIPTION

Construct flag pole assembly including concrete foundation and 3-25 foot aluminum flag poles as specified in the Standard Specifications except as hereafter specified.

SN04.2 SUBMITTALS

Provide the following submittals to ENGINEER for review. Obtain ENGINEER's approval before beginning the fabrication.

A) Submit shop drawing including the following information:

1. Manufacturer's data sheets on each product to be used including: preparation instructions and recommendations, storage and handling requirements and recommendations, and installation instructions and recommendations.
2. Manufacturer's structural calculations (bending moment, axial load, shear force, stress analysis, bending moment, etc.) and foundation system recommendation stamped and signed by a Professional Engineer, registered in the State of Kentucky. The structural calculations for the pole and foundation shall meet or exceed performance criteria outlined per National Association of Architectural Metal Manufacturers FP 1001 and be able to withstand a 225 mph wind velocity unflagged and a wind velocity of 120 mph when flying a 200 denier nylon flag, five feet wide by twelve feet long, lanyard mounted along the length of the flag.

SN04.3 MATERIALS AND EQUIPMENT

SN04.3.1 Aluminum Flagpoles

A) Obtain each 25-foot flagpole as a complete unit from manufacturer, including fittings, accessories, bases, and anchorage devices. All flagpole assemblies and supports shall be capable of withstanding the effects of wind load requirements above.

B) Fabricate from seamless, extruded tubing with uniform conical taper, complying with ASTM B 211 (Standard Specification for Aluminum and Aluminum-Alloy Extruded Bars, Rods, Wire, Profiles, and Tubes), alloy 6063-T6, having a tensile strength not less than 30,000 psi with a yield point of 25,000 psi. Heat treated after fabrication to comply with ASTM B597 (Standard Practice for Heat Treatment of Aluminum Alloys), temper T-6.

C) Finish to be directional sanded satin.

D) Embedded portion of the flagpole shall be given a heavy coat of asphaltum paint.

E) Finial ball shall be #14 gauge aluminum with a flush seam, threaded mounting stem and aluminum satin finish to match pole finish. Ball shall be sized to match the shaft diameter.

F) Provide cast aluminum revolving truck assembly with stainless steel ball bearings.

G) Provide #10 braided white polypropylene halyard with six chrome plated, bronze swivel snap and stainless steel link.

H) Provide one internally mounted spring action Cam Cleat. Cleat shall be accessed behind a locking door fitted to a peripherally reinforced cast aluminum frame. Locking doors for all flagpoles shall be keyed alike.

I) Provide spun aluminum type FC11 ornamental flash collar finished to match the pole. The diameter of the collars shall be at least one inch greater than the foundation sleeve.

J) Provide ground set foundation consisting of a sleeve, base plate, support plate, and ground spike. The sleeve shall be fabricated from 16-gauge galvanized corrugated steel tube. The base plate shall be 3/16-inch thick steel with centering wedges for aligning the pole during installation. Base plate diameter shall be at least three inches greater than the diameter of the sleeve. Steel support plate shall be a minimum 6"x6"x (3/16" thick) and shall be welded to a 3/4" diameter by 18 inches long ground spike.

K) Provide miscellaneous hardware as recommended by the manufacturer and required for a complete installation.

SN04.3.2 Concrete Foundation

A) Concrete - Conform to Section 601.02 and 601.03.

B) Reinforcing Steel - Conform to Section 811.

C) Coarse Aggregate - Conform to Section 805.

SN04.3.3 Flags

Owner will provide flags for each pole.

SN04.4 CONSTRUCTION

SN04.4.1 Delivery, Storage, and Handling

A) Spiral wrap flagpoles with heavy paper and enclose in a hard fiber tube or other protective container for shipping.

B) Handle with protective gloves to prevent unwanted distortion.

SN04.4.2 Installation

A) Foundation preparation and backfill to be in accordance with Section 603 of the Standard Specifications. Excavate as necessary to place foundation and 6 inch minimum No. 57 aggregate base. When unsuitable foundation material is encountered, excavate and replace with acceptable material as the ENGINEER directs.

B) Install flagpoles and base as indicated and in compliance with final shop drawings and manufacturer's instructions. Provide positive lighting ground for each flagpole installation.

SN04.4 MEASUREMENT

The ENGINEER will measure the quantity by each Flag Pole Assembly unit installed. Each Flag Pole Assembly includes 3-flag poles. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN04.5 PAYMENT

The following pay item will be applicable:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|--------------------|-----------------|
| 30028 | Flag Pole Assembly | Each |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR INTERPRETIVE SIGNS (SN-05)

SN05.1 DESCRIPTION

Furnish interpretive signal panel and install on panel support as specified in the Standard Specifications except as hereafter specified.

SN05.2 SUBMITTALS

Submit a sample sign from an OWNER supplied graphic file to confirm quality and shop drawing of sign supports for ENGINEER to review. Obtain ENGINEER's approval before fabrication.

SN05.2 MATERIALS AND EQUIPMENT

SN05.2.1 Panels

A) OWNER will provide graphic files for all panels. Upright Panels will have graphics for both sides.

B) Panel must be entirely made in America.

C) Panel to be 1/2 inch thick.

D) Graphics must be manufactured as Custom High Pressure Laminate (CHPL). CHPL graphic sign material is composed of several layers of phenolic resin impregnated kraft filler paper, a digitally imaged graphic, a layer of melamine resin, surfaced by a layer of translucent exterior UV / graffiti overlay protection. The entire panel, including exterior overlay, must be bonded under heat and extreme pressure to form a composite panel. The finish must be smoothly textured with reflectivity of 30 + or - 5 gloss units.

E) The CHPL graphics must be warranted for a minimum of 10 years against fading, delamination and weather deterioration on a non-prorated basis including shipping. There should be no warranty requirements for an annual application of water sealant, no exclusions for panels used in extreme temperatures and no clause that warranties can be denied due to "improper maintenance".

F) Panels must be able to be cleaned with any solvent and not restrict use of products containing lacquer thinner or acetone.

G) All cutting and finishing to be done using a CNC router.

H) Graphics must be made using 12-Color High Definition printing technology.

SN05.2.2 Panel Support

A) Panel support types.

1. Cantilevered two post style: Sign shall be mounted 30 inches above the ground and angled at 45°. All signs will be mounted with the cantilevered two post style with exception of the two signs at the Fourth Street and North Broadway intersection.
2. Upright double-offset three post style: Sign shall be mounted 30 inches above the ground. The two signs at the Fourth Street and North Broadway intersection will be mounted on the upright double-offset sign post.

B) Panel supports shall be powder coated aluminum. OWNER to confirm color prior to fabrication. Panel supports shall be 2.5 inch minimum square or as recommended by manufacturer. Post thickness and mounting to be as recommended by manufacturer.

C) Provide Tamper resistant bolt with button-head anti-vandal screws and include an anti-vandal hex key, stainless steel.

SN05.3 CONSTRUCTION

Embed panel supports a minimum of 24 inches below ground and set within concrete foundation as recommended by manufacturer.

SN05.4 MEASUREMENT

The ENGINEER will measure the quantity by each interpretive sign unit installed. Upright double-offset signs will be measured as two separate signs. The back graphic for the upright double-offset signs will be incidental to the interpretive sign unit installed. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN05.5 PAYMENT

The following pay item will be applicable:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|-------------------|-----------------|
| 30029 | Interpretive Sign | Each |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR DECORATIVE CONCRETE PAVEMENT (SN-06)

SN06.1 DESCRIPTION

This work shall consist of installing and finishing decorative concrete sidewalk, concrete bands and cast stone medallion as specified in the Standard Specifications except as hereafter specified.

SN06.2 SUBMITTALS

A) Submittals must include technical information and specifications for any substitute, a detailed summary of the differences between the specification and the proposed substitute, and an estimate of any cost differential.

B) Obtain ENGINEER's approval of mockups to verify selections made under sample submittals and to demonstrate aesthetic effects and set quality standards for materials and execution. Approval of mockups does not constitute approval of deviations from the Contract Documents contained in the mockups unless ENGINEER specifically approved such deviation in writing. The mockups shall be in accordance with the following:

1. Construct 3 mockups of decorative paving in the location and of the size indicated, or if not indicated, build mockups were directed by ENGINEER and not less than 5 feet by 5 feet.
2. Construct mockups of full-thickness sections of decorative concrete paving to demonstrate typical joints; surface color, pattern and texture; curing; and standard of workmanship.
3. Approved mockups may become part of the completed work if undisturbed at time of Substantial Completion. Dispose of surplus or unsuitable material.

SN06.3 MATERIALS AND EQUIPMENT

Conform to Subsection 505.02, 601.02, and Division 800 with the following exceptions and additions:

SN06.3.1 Decorative Concrete

A) Coarse Aggregate shall be Size No. 57, 95 - 100% shall be smaller than 1 inch in diameter. Supplement with the following:

1. Medium grit 20/40, 2.0-3.5 mil, coal-fired boiler black slag. 100lbs per square yard Black Beauty or equivalent product meeting approved requirements by US Minerals or Opta Minerals.

B) Portland Cement shall be gray cement, Type 1, ASTM C 150.

C) Decorative concrete sidewalk provide woven wire mesh meeting requirements of Section 811 (Steel Reinforcement)

D) Integral color pigment: ASTM C 979, synthetic mineral-oxide pigments or colored water-reducing admixtures; color stable, non-fading, and resistant to lime and other alkalis.

1. Manufacturers: Subject to compliance with requirements, provide products by one of the following:

- i. Davis Colors
- ii. Scofield, L.M. Company
- iii. Solomon Colors

Or approved equal.

2. Color: Basis-of-design; Scofield, L.M. Company, Cool Gray 1266.

E) Patching materials if required shall be colored to match the appearance of decorative concrete sidewalk or crosswalk.

F) Silicone joint sealant at preformed joint filler at locations shown on plans. Provide colored joint sealant. Acceptable joint sealant manufacturers include Tremco and Pecora. Provide manufacturers standard joint sealant colors for final selection of joint sealant color. Joint sealant shall meet requirements of Section 807.

G) Clear acrylic sealer, provide waterborne membrane forming, medium gloss, acrylic copolymer emulsion solution, specifically manufactured for colored concrete, containing not less than 15% solids by volume, nonyellowing and UV resistant. Provide LM Scofield Company, 'Cementone Color Sealer' or 'Solomon Colors' product meeting requirements of approved equals.

H) Chemical Surface retarder: Water-soluble, liquid, set retarder with color dye, for horizontal concrete surface application, capable of temporarily delaying final hardening of concrete to depth of 1/16 to 1/8 inch.

1. Products: Subject to compliance with requirements, provide one of the following:

- i. Conspec by Dayton Superior; Delay S
- ii. Dayton Superior Corporation; Sure Etch
- iii. Meadows, W.R., Inc.; Top-Stop.

Or approved equal

I) Submittals must include technical information and specifications for the substitute, a detailed summary of the differences between the specification and the proposed substitute, and an estimate of any cost differential.

SN06.3.2 Cast-Stone

A) Cast-stone, comply with ASTM C 1364, and manufacture using the dry cast method.

B) Cast-stone shall be resistant to freezing and thawing as determined by laboratory testing according to ASTM C 666, Procedure A, as modified by ASTM C 1364.

C) Fabricate units with sharp arras and accurately reproduced details, with indicated texture on all exposed surfaces unless otherwise indicated.

1. Cure unit enclosed, moist curing room at 95 to 100 percent relative humidity and temperature of 70 deg F for 16 hours.
2. Keep units damp and continue curing to comply with one of the following:
 - i. No fewer five days at mean daily temperature of 70 deg F or above.
3. Acid etch units after curing to remove cement film from surfaces to be exposed to view.

SN06.3.3 Mortar Setting-Bed and Joints

A) Portland Cement, comply with ASTM C 150/C 150M, Type I or Type II.

B) Sand, comply with ASTM C 33/C33M.

C) Latex Additive: Manufacturer's standard water emulsion, serving as replacement for part or all of gaging water, of type specifically recommended by latex-additive manufacturer for use with field-mixed portland cement and aggregate mortar bed, and not containing a retarder.

D) Thin-Set Mortar for Bond Coat: Latex -Portland cement mortar complying with ANSI A1118.4 shear bond strength and ANSI A 118.11 and complies with ISO 13007 classification C2TES1P1.

1. Manufacturers: Subject to compliance with requirements, available manufacturers offering product that may be incorporated into the Work include, but are not limited to the following:
 - i. Bonsal American.
 - ii. Custom Building Products.
 - iii. Laticrete International, Inc.
 - iv. MAPEI Corporation.
 - v. TEC, H.B. Fuller Construction Products.

Or approved equal

2. Provide product that is approved by manufacturer for application thickness of 5/8 inch.

SN06.3.4 Grout Materials

A) High-Performance Cement Grout: ANSI A118.7, sanded.

1. Manufacturers: Subject to compliance with requirements, available manufacturers offering product that may be incorporated into the Work include, but are not limited to the following:
 - i. Bonsal American.
 - ii. Custom Building Products.
 - iii. Laticrete International, Inc.
 - iv. MAPEI Corporation.
 - v. TEC, H.B. Fuller Construction Products.Or approved equal.
2. Polymer Type: Ethylene vinyl acetate or acrylic additive, in dry, redispersible form, prepackaged with other dry ingredients.
3. Polymer Type: Acrylic resin or styrene-butadiene rubber in liquid-latex form for addition to prepackaged dry-grout mix.
4. Grout Colors: As selected by Landscape Architect from manufacturer's full range.
5. Water: Potable.

SN06.4 CONSTRUCTION

Conform to Subsection 505.03 with the following exceptions and additions:

SN06.4.1 Decorative Concrete Sidewalk

A) Add color pigment to concrete mixture according to manufacturer's written instructions and to result in hardened concrete color consistent with approved sample.

B) Provide clear acrylic sealer uniformly in two coats in continuous operations according to manufacturer's written instructions. Allow first coat to dry before applying second coat in perpendicular direction to first coat.

1. Begin sealing decorative concrete sidewalk or crosswalk no sooner than 14 days after concrete placement.

C) Control Joints: Form weakened-place control joints, sectioning concrete into area as indicated on the Drawings. Construction control joints for a depth equal to at least one-fourth of the concrete thickness; as follows:

1. Sawed Joints: form contraction joints with power saws equipped with shatterproof abrasive or diamond-rimmed blades. Cut 1/8 inch wide joints into concrete when cutting action will not tear, abrade, or otherwise damage surface and before developing random contraction cracks.

D) Edging: After initial floating, tool edges or paving and joints in concrete with an edging tool with a 3/8 inch radius. Repeat tooling after applying surface finish. Eliminate edging tool marks on concrete surface.

E) Top of joint filler shall be terminated 1/2 inch below the finished surface.

F) Exposed-Aggregate Finish: Expose coarse aggregate in paving surface as follows:

1. Immediately after float finishing, spray-apply chemical surface retarder to paving according to manufacturer's written instructions.
2. Cover paving surface with plastic sheeting, sealing laps with tape, and remove when ready to continue finishing operations.
3. Without dislodging aggregate, remove mortar concealing the aggregate by lightly brushing surface with a stiff, nylon-bristle broom. Limit exposure depth to 1/16 to 1/8 inch as required to slightly expose top of coarse aggregate.
4. Fine spray surface with water and brush. Repeat cycle of water flushing and brushing until cement film is removed from aggregate surfaces to depth required.

SN06.4.2 Cast-Stone Installation

A) Do not use pavers with chips, cracks, voids, discolorations, or other defects that might be visible or cause staining in finished work.

B) Tolerances: Do not exceed 1/32-inch unit-to-unit offset from flush (lippage) nor 1/8 inch in 10 feet from level, or indicated slope, for finished surface of paving.

SN06.4.3 Mortar Setting-bed Applications

A) Saturate concrete subbase with clean water several hours before placing setting bed. Remove surface water about one hour before placing setting bed.

B) Apply mortar-bed bond coat over surface of concrete subbase about 15 minutes before placing mortar bed. Do not exceed 1/16-inch thickness for bond coat. Limit area of bond coat to avoid its drying out before placing setting bed.

C) Apply mortar bed over bond coat; spread and screed mortar bed to uniform thickness at subgrade elevations required for accurate setting of cast stone markers to finished grades indicated.

D) Place cast stone paver before initial set of cement occurs. Immediately before placing pavers on mortar bed, apply uniform 1/16-inch-thick bond coat to mortar bed or to back of each paver with a flat trowel.

E) Tamp or beat paver with a wooden block or rubber mallet to obtain full contact with setting bed and to bring finished surfaces within indicated tolerances. Set each paver in a single operation before initial set of mortar; do not return to areas already set or disturb markers for purposes of realigning finished surfaces or adjusting joints.

F) Grouted Joints: Grout paver joints complying with ASNI A108.10.

G) Grout joints as soon as possible after initial set of setting bed.

1. Force grout into joints, taking care not to smear grout on adjoining surfaces.
2. Clean pavers as grouting progresses by dry brushing or rubbing with dry burlap to remove smears before tooling joints.
3. Tool exposed joints slightly concave when thumbprint hard, using a jointer larger than joint thickness unless otherwise indicated.
4. If tooling squeezes grout from joint, remove excess grout and smears by dry brushing or rubbing with dry burlap and tool joints again to produce a uniform appearance.

H) Cure grout by maintaining a damp condition for seven days unless otherwise recommended by grout or liquid-latex manufacturer.

SN06.4.4 Repairing, Pointing and Cleaning

A) Remove and replace unit pavers that are loose, chipped, broken, stained, or otherwise damaged or that do not match adjoining units. Provide new units to match adjoining units and install in same manner as original units, with same joint treatment and with no evidence of replacement.

B) Pointing: During tooling of joints, enlarge voids or holes and completely fill with grout. Point joints at sealant joints to provide a neat, uniform appearance, properly prepared for sealant application.

SN06.5 MEASUREMENT

SN06.5.1 Decorative Concrete Sidewalk

The ENGINEER will measure the quantity of decorative concrete sidewalk by square yard of installed area. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section including excavation, forming, reinforcement, installation, construction and contraction joints and finishing as shown on the plans. Dense Graded Aggregate base will be paid for separately.

SN06.5.2 Decorative Concrete Band

The ENGINEER will measure the quantity of decorative concrete band by linear foot along the center of the curb. Payment shall be considered full compensation for all materials and

labor required to complete the work described in this section including excavation, forming, reinforcement, installation, construction and contraction joints and finishing as shown on the plans.

SN06.5.3 Cast Stone Medallion

The ENGINEER will measure the quantity of cast stone medallion by each unit. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section including furnishing and installation.

SN06.6 PAYMENT

The following pay items will be applicable:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|------------------------------|-----------------|
| 30030 | Decorative Concrete Sidewalk | Square Yard |
| 30031 | Decorative Concrete Band | Linear Foot |
| 30032 | Cast Stone Medallion | Each |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR GATEWAY COLUMNS, PEDESTALS, MILE MARKERS AND SEATWALLS (SN-07)

SN07.1 DESCRIPTION

This work shall consist of providing and installing gateway columns, gateway pedestals, mile markers and seatwalls that consist of stone masonry anchored and adhered to concrete, precast concrete, mortar and grout, masonry joint reinforcement and accessories as specified in the Standard Specifications except as hereafter specified.

SN07.2 SUBMITTALS

A) Submittals must include the following:

1. Test data indicating compliance with physical properties required by referenced ASTM standards.
2. For each type of mortar and grout, include description of type and proportions of ingredients. Include test reports, per ASTM C 780 for mortar mixes required to comply with property specifications.
3. Verification that stone masonry veneer installer is qualified and employs stone masons and fitters experienced in similar construction.

B) Provide samples for verification of the following:

1. Pigmented and colored-aggregate mortar. Make samples using same sand and mortar ingredients to be used on the Project.
2. Two samples for each type of stone masonry veneer indicated, exhibiting extremes of the full range of color and other visual characteristics expected in completed columns, pedestals, and seatwalls. Samples will establish the standard by which stone provided will be judged.
3. Weep holes/vents.
4. Accessories embedded in masonry.

C) Detail fabrication and installation of architectural precast concrete units must include: Indicate locations, plans, elevations, dimensions, shapes, and cross sections of each unit. Indicate joints, reveals, and extent and location of each surface finish. Indicate details

1. Indicate locations, plans, elevations, dimensions, shapes, and cross sections of each unit.
2. Indicate joints, reveals, and extent and location of each surface finish.
3. Indicate details at corners.

4. Indicate welded connections by AWS standard symbols. Detail loose and cast-in hardware and connections.
5. Indicate locations and details of anchorage devices to embedded in or attached to structure or other construction.
6. Indicate location of each architectural precast concrete unit by same identification mark placed on back of panel.
7. If design modifications are proposed to meet performance requirements and field conditions, submit design calculations and shop drawing. Do not adversely affect the appearance, durability, or strength of units when modifying details or materials and maintain the general design concept.

D) Obtain ENGINEER's approval of mockups to verify selections made under sample submittals and to demonstrate aesthetic effects and set quality standards for materials and execution. Approval of mockups does not constitute approval of deviations from the Contract Documents contained in the mockups unless ENGINEER specifically approved such deviation in writing. The mockups shall be in accordance with the following:

1. Construct full size stone masonry veneer monuments full size or 6 feet tall whichever is shorter.
2. Mock-ups shall include complete monument assembly including architectural precast concrete and monument accessories.
3. Approved mockups may become part of the completed work if undisturbed at time of Substantial Completion. Dispose of surplus or unsuitable material.

SN07.3 MATERIALS AND EQUIPMENT

SN07.3.1 Limestone

A) Limestone caps, base and band, comply with ASTM C 568.

1. Classification: II Medium Density.
2. Description: Oolitic Limestone.
3. Grade and Color: standard gray according to grade and color classification established by ILI.
4. Finish: smooth
5. Provide Indiana limestone quarried in Monroe, Owen or Lawrence County, Indiana at locations indicated on the drawings.

B) Limestone veneer, comply with ASTM C 568.

1. Classification: II Medium Density.
2. Grade and Color: mix of tan, cream and gray
3. Finish: Rockface
4. Provide a native limestone quarried in Fayette, Jessamine, Bourbon, Woodford, Clark or Madison County, Kentucky at locations indicated on drawings.
5. Cut and select stone to comply with sizes, shapes and tolerances recommended by the Dry Stone Conservancy, Lexington, Kentucky.

C) Obtain each type of stone from one quarry with resources to provide materials of consistent quality in appearance and physical properties.

SN07.3.2 Cast-Stone Veneer and Marker

A) Cast-stone, comply with ASTM C 1364, and manufacture using the dry cast method.

B) Cast-stone shall be resistant to freezing and thawing as determined by laboratory testing according to ASTM C 666, Procedure A, as modified by ASTM C 1364.

C) Fabricate units with sharp arras and accurately reproduced details, with indicated texture on all exposed surfaces unless otherwise indicated.

1. Cure unit enclosed, moist curing room at 95 to 100 percent relative humidity and temperature of 70 deg F for 16 hours.
2. Keep units damp and continue curing no fewer than five days at mean daily temperature of 70 deg F or above.
3. Acid etch units after curing to remove cement film from surfaces to be exposed to view.

SN07.3.3 Concrete - Conform to Section 601.02 and 601.03.

SN07.3.4 Steel Reinforcement - Conform to Section 811.

SN07.3.5 Precast Concrete - Conform to Section 605.02.

SN07.3.6 Latex Admixtures for thin-set stone masonry veneer - Conform to Section 841.

SN07.3.7 Mortar

A) Portland Cement: comply with ASTM C 150, Type I or Type II, except Type III may be used for cold-weather construction; natural color or white cement may be used as required to produce mortar color indicated.

B) Masonry Cement, comply with ASTM C 91.

C) Mortar Cement, comply with ASTM C 1329.

D) Aggregate for Mortar, comply with ASTM C 144. Use washed aggregate consisting of natural sand or crushed stone.

E) Latex Additive: Manufacturer's standard water emulsion, serving as replacement for part or all of gaging water, of type specifically recommended by latex-additive manufacturer for use with field-mixed portland cement mortar bed, and not containing a retarder.

1. Provide latex additive to mortar mixes for thin veneer stone applications at litter receptacles and mile marker monuments. Use manufacturer's standard water emulsion, serving as replacement for part or all of gaging water, of type specifically recommended by latex-additive manufacturer for use with field-mixed portland cement mortar bed, and not containing a retarder. Proportion and mix portland cement, aggregate, and latex additive to comply with latex-additive manufacturer's written instructions.

F) Cold-Weather Admixture: Nonchloride, noncorrosive, accelerating admixture complying with ASTM C 494/C 494M, Type C, and recommended by manufacturer for use in masonry mortar of composition indicated.

G) Water: Potable.

SN07.3.8 Dowels and Pins - Fabricate dowels and pins for anchors from stainless steel, ASTM A 276, Type 304.

SN07.3.9 Ties and Anchors

A) Ties and anchors made from materials consisting of the following:

1. Stainless-steel wire: ASTM A 580, Type 304.
2. Stainless-steel sheet: ASTM A 666, Type 304.

B) Corrugated Metal Ties: Metal strips not less than 7/8 inch wide with corrugations having a wavelength of 0.3 to 0.5 inch and an amplitude of 0.06 to 0.10 inch made from stainless-steel sheet not less than 0.043 inch thick.

C) Stone Anchors: Fabricate dowels, cramps, and other stone anchors from stainless-steel.

D) Anchor Bolts: Headed or L-shaped steel bolts complying with ASTM A 307, Grade A (ASTM F 586M, Property Class 4.6); with ASTM A 563 hex nuts and where indicated, flat washers; hot-dip galvanized to comply with ASTM A153/A 153M, Class C; of dimensions indicated.

SN07.3.10 Damproofing - Provide Asphalt Damproofing to concrete substrate at concealed conditions: asphalt emulsion complying with ASTM D 1227, Type III or IV.

SN07.4 CONSTRUCTION

Conform to Sections 601, 602, and 605 with the following exceptions and additions:

SN07.4.1 Preparation

A) Advise installers of incidental items and other work about specific requirements for placement of reinforcement and similar items to be built into stone masonry veneer.

1. Examine conditions, with Installer present, for compliance with requirements for installation tolerances and other conditions affecting performance of work.
2. Verify that foundations are within tolerances specified.
3. Proceed with installation only after unsatisfactory conditions have been corrected.

B) Store cementitious materials on elevated platforms, under cover, and in a dry location. Do not use cementitious materials that have become damp. Store aggregates where grading and other required characteristics can be maintained and contamination avoided. Store masonry accessories, including metal items, to prevent corrosion and accumulation of dirt and oil.

C) Design, construct, erect, brace and maintain formwork according to ACI 301.

D) Place and secure anchorage devices and other embedded items required for adjoining work attached to or supported by cast-in-place concrete. Use setting drawings, templates, diagrams, instructions, and directions furnished with items to be embedded.

E) Comply with CRSI's "Manual of Standard Practice" for fabricating, placing, and supporting reinforcement. Do not cut or puncture vapor retarder. Repair damage and reseal vapor retarder before placing concrete.

F) Construct joints true to line with faces perpendicular to surface plane of concrete.

1. Locate and install so strength and appearance of concrete are not impaired, at locations indicated or as approved by ENGINEER.
2. Install joint-filler strips at junctions with slabs-on-grade and vertical surfaces, such as column pedestals, foundation walls, grade beams, and other locations, as indicated. Extend joint fillers full width and depth of joint, terminating flush with finished concrete surface, unless otherwise indicated.

G) Concrete placement shall be in accordance with the following:

1. Comply with ACI 301 for placing concrete.
2. Before test sampling and placing concrete, water may be added at Project site, subject to limitations of ACI 301.
3. Do not add water to concrete during delivery, at Project site, or during placement.
4. Consolidate concrete with mechanical vibrating equipment.

H) Finishing formed surfaces shall be in accordance with the following:

1. Rough-Formed Finish: As-cast concrete texture imparted by form-facing material with tie holes and defective areas repaired and patched. Remove fins and other projections exceeding 1/2 inch.
2. Smooth-Formed Finish: As-cast concrete texture imparted by form-facing material, arranged in an orderly and symmetrical manner with a minimum of seams. Repair and

patch tie holes and defective areas. Remove fins and other projections exceeding 1/8 inch.

3. Rubbed Finish: Apply smooth-rubber finish, defined in ACI 301, to smooth-formed finished as-cast concrete where indicated.
4. Related Unformed Surfaces: At tops of walls, horizontal offsets, and similar unformed surfaces adjacent to formed surfaces, strike off smooth and finish with a texture matching adjacent formed surfaces. Continue final surface treatment of formed surfaces uniformly across adjacent unformed surfaces, unless otherwise indicated.

I) Protection of Masonry: During construction, cover tops of walls, projections, and sills with waterproof sheeting at end of each day's work. Cover partially completed masonry when construction is not in progress.

J) Stain Prevention: Prevent grout, mortar, and soil from staining the face of masonry. Immediately remove grout, mortar, and soil that come in contact with such masonry.

K) Cold-Weather Requirements: Do not use frozen materials or materials mixed or coated with ice or frost. Do not build on frozen substrates. Remove and replace unit masonry damaged by frost or by freezing conditions. Comply with cold-weather construction requirements contained in ACI 530.1/ASCE 6/TMS 602.

SN07.4.2 Installation

A) Thickness: Build cavity and composite walls and other masonry construction to full thickness shown. Build single-wythe walls to actual widths of masonry units, using units of widths indicated

B) Build chases and recesses to accommodate items specified in this and other Sections

C) Leave openings for equipment to be installed before completing masonry. After installing equipment, complete masonry to match the construction immediately adjacent to opening.

D) Use full-size Indiana limestone units without cutting if possible. If cutting is required to provide a continuous pattern or to fit adjoining construction, cut units with motor-driven saws; provide clean, sharp, unchipped edges. Allow units to dry before laying unless wetting of units is specified. Install cut units with cut surfaces and, where possible, cut edges concealed

E) Perform necessary field cutting and trimming of local limestone as stone is set. Use hammer and chisel to split stone that is fabricated with split surfaces. Make edges straight and true, matching similar surfaces that were shop or quarry fabricated. Arrange stones in uncoursed rubble pattern with joint widths indicated

F) Select and arrange units for exposed unit masonry to produce a uniform blend of colors and textures

G) Comply with construction tolerances in ACI 530.1/ASCE 6/TMS 602 and with the following:

1. For vertical alignment of exposed head joints, do not vary from plumb by more than 1/4 inch in 10 feet, or 1/2 inch maximum.
2. For conspicuous horizontal lines, such as lintels, sills, parapets, and reveals, do not vary from level by more than 1/8 inch in 10 feet, maximum.
3. For exposed bed joints, do not vary from thickness indicated by more than plus or minus 1/8 inch, with a maximum thickness limited to 1/2 inch. Do not vary from bed-joint thickness of adjacent courses by more than 1/8 inch.
4. For exposed head joints, do not vary from thickness indicated by more than plus or minus 1/8 inch. Do not vary from adjacent bed-joint and head-joint thicknesses by more than 1/8 inch.

H) Fabricate architectural precast concrete units straight and true to size and shape with exposed edges and corner precise and true so each finished panel complies with the following product tolerances:

1. Overall height and width of units, plus or minus 1/8 inch.
2. Total flange thickness: Plus 1/8 inch, minus 1/8 inch.
3. Variation from Square or Designated Skew: Plus or minus 1/8 inch per 72 inches.
4. Warping: 1/16 inch per 12 inches of distance from nearest adjacent corner.
5. Tipping or flushness of Plates: Plus or minus 1/4 inch.
6. Dimensions of Architectural Features and Rustications: Plus or minus 1/8 inch.

SN07.4.3 Mortar Bedding and Jointing

A) Lay solid masonry units with completely filled bed and head joints; butter ends with sufficient mortar to fill head joints and shove into place. Do not deeply furrow bed joints or slush head joints.

B) Set stone trim units in full bed of mortar with full vertical joints. Fill dowel, anchor, and similar holes.

C) Wet joint surfaces thoroughly before applying mortar.

D) Rack back exposed joints when thumbprint hard to depth indicated.

SN07.4.4 Anchoring Masonry Veneers

A) Anchor masonry veneers to concrete and masonry backup with masonry-veneer anchors to comply with the following requirements:

1. Fasten anchors to concrete and masonry backup with metal fasteners of type indicated. Use two fasteners unless anchor design only uses one fastener.

2. Embed tie sections, connector sections and continuous wire in masonry joints. Provide not less than 1 inch of air space between back of masonry veneer and substrate
3. Locate anchor sections to allow maximum vertical differential movement of ties up and down.
4. Space anchors as indicated, but not more than 16 inches on center vertically and 24 inches on center horizontally, with not less than 1 anchor for each 2 sq. ft. of wall area. Install additional anchors within 12 inches of openings and at intervals, not exceeding 8 inches, around perimeter.

SN07.4.5 Installation of Adhered Stone Masonry Veneer

A) Coat backs of stone units and face of masonry backup with cement-paste bond coat, then butter both surfaces with setting mortar. Use sufficient setting mortar so a slight excess will be forced out the edges of stone units as they are set. Tap units into place, completely filling space between units and masonry backup.

SN07.4.6 Flashing Weep Holes, Cavity Drainage, and Vents

A) Prepare masonry surfaces so they are smooth and free from projections that could puncture flashing. Where flashing is within mortar joint, place through-wall flashing on sloping bed of mortar and cover with mortar. Before covering with mortar, seal penetrations in flashing with adhesive, sealant, or tape as recommended by flashing manufacturer.

B) At lintels and shelf angles, extend flashing a minimum of 6 inches into masonry at each end. At heads and sills, extend flashing 6 inches at ends and turn up not less than 2 inches to form end dams.

C) Interlock end joints of ribbed sheet metal flashing by overlapping ribs not less than 1-1/2 inches or as recommended by flashing manufacturer, and seal lap with elastomeric sealant.

D) Install metal drip edges and sealant stops with ribbed sheet metal flashing by interlocking hemmed edges to form hooked seam. Seal seam with elastomeric sealant.

E) Install metal drip edges beneath flexible flashing at exterior face of wall. Stop flexible flashing 1/2 inch back from outside face of wall and adhere flexible flashing to top of metal drip edge.

F) Install metal flashing termination beneath flexible flashing at exterior face of wall. Stop flexible flashing 1/2 inch back from outside face of wall and adhere flexible flashing to top of metal flashing termination.

SN07.4.7 Repairing, Pointing, and Cleaning

A) Remove and replace masonry units that are loose, chipped, broken, stained, or otherwise damaged or that do not match adjoining units. Install new units to match adjoining units; install in fresh mortar, pointed to eliminate evidence of replacement.

B) Pointing: During the tooling of joints, enlarge voids and holes, except weep holes, and completely fill with mortar. Point up joints, including corners, openings, and adjacent construction, to provide a neat, uniform appearance. Prepare joints for sealant application, where indicated.

C) In-Progress Cleaning: Clean unit masonry as work progresses by dry brushing to remove mortar fins and smears before tooling joints.

D) Final Cleaning: After mortar is thoroughly set and cured, clean exposed masonry as follows:

1. Remove large mortar particles by hand with wooden paddles and nonmetallic scrape hoes or chisels.
2. Test cleaning methods on sample wall panel; leave one-half of panel un-cleaned for comparison purposes. Obtain Landscape Architect's approval on sample cleaning before proceeding with cleaning of masonry.
3. Protect adjacent stone and non-masonry surfaces from contact with cleaner by covering them with liquid strippable masking agent or polyethylene film and waterproof masking tape.
4. Wet wall surfaces with water before applying cleaners; remove cleaners promptly by rinsing surfaces thoroughly with clear water.
5. Clean stone trim to comply with stone supplier's written instructions
6. Clean limestone units to comply with recommendations in ILI's "Indiana Limestone Handbook."

E) Repair architectural precast concrete units if permitted by Owner. The Owner reserves the right to reject repaired units that do not comply with requirements. Mix patching materials and repair units so cured patches blend with color, texture, and uniformity of adjacent exposed surfaces and show no apparent line of demarcation between original and repaired work.

SN07.4.8 Masonry Waste Disposal

A) Salvageable Materials: Unless otherwise indicated, excess masonry materials are Contractor's property. At completion of unit masonry work, remove from Project site.

B) Waste Disposal as Fill Material: Dispose of clean masonry waste, including excess or soil-contaminated sand, waste mortar, and broken masonry units, by crushing and mixing with fill material as fill is placed.

C) Crush masonry waste to less than 4 inches in each dimension.

D) Do not dispose of masonry waste as fill within 18 inches of finished grade.

E) Excess Masonry Waste: Remove excess clean masonry waste that cannot be used as fill, as described above, and other masonry waste, and legally dispose of off Owner's property.

SN07.5 MEASUREMENT

SN07.5.1 Gateway Column

The ENGINEER will measure the quantity by each gateway column unit installed. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN07.5.2 Gateway Pedestal

The ENGINEER will measure the quantity by each gateway pedestal unit installed. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN07.5.3 Mile Marker

The ENGINEER will measure the quantity by each mile marker unit installed. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN07.5.3 Seatwall

The ENGINEER will measure the quantity by each seatwall unit installed. The seatwall units may consist of either a combination of concrete and stone masonry veneer or concrete only. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN07.6 PAYMENT

The following pay items will be applicable:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|------------------|-----------------|
| 30033 | Gateway Column | Each |
| 30034 | Gateway Pedestal | Each |
| 30035 | Mile Marker | Each |
| 30036 | Seatwall | Each |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR SITE FURNISHINGS (SN-08)

SN08.1 DESCRIPTION

This work shall consist of providing and installing bike racks as specified in the Standard Specifications except as hereafter specified.

SN08.2 SUBMITTALS

Site furnishing submittals shall include:

1. Product data and shop drawing for each type of site furnishing indicated.
2. 6 inch square samples for each type of exposed finish required.
3. Maintenance data for site furnishings.
4. Detailed summary of the differences between the specified product and the proposed substitute if any, and an estimate of any cost differential.

SN08.3 MATERIALS AND EQUIPMENT

SN08.3.1 Bike Rack

A) In ground mount stainless steel 'Bicycle Garden' bike rack by Forms and Surfaces.

B) Layout: configuration A

C) Color: aluminum texture

D) Aluminum: Alloy and temper recommended by aluminum producer and finisher for type of use and finish indicated; free of surface blemishes. Sheet and Plate to meet requirements of ASTM B 209 (ASTM B209M).

E) Stainless Steel shall be free of surface blemishes and comply with the following:

1. Sheet, Strip, Plate and Flat bars: ASTM A666.
2. Pipe: Schedule 40 steel pipe complying with ASTM A312/A312M.
3. Tubing: ASTM A554.

F) Anchors to be 3/4 inch diameter with length sufficient to provide 2 inch minimum embedment in concrete pavement.

G) Fasteners, fittings, and hardware to be stainless steel, commercial quality, tamperproof, vandal and theft resistant.

H) Angle anchors to be welded and permanently attached to site furnishings for inconspicuously bolting legs of site furnishings to on grade substrate; extent as indicate.

I) Weld connections continuously. Weld solid members with full-length, full-penetration welds and hollow members with full-circumference welds. At exposed connections, finish surfaces smooth and blended so no roughness or unevenness shows after finishing and welded surface matches contours of adjoining surfaces.

J) Form simple and compound curves in pipes and tubs by blending members in jigs to produce uniform curvature for each repetitive configuration required. Maintain cylindrical cross section of member throughout entire bend without buckling, twisting, cracking, or otherwise deforming exposed surfaces of railing components.

K) Polish, sand, or otherwise finish all exposed surfaces; smooth, free of burrs, barbs, splinters, and sharpness; all edges and ends rolled, rounded, or capped.

L) Assemble components in the factory to greatest extent possible to minimize field assembly. Clearly mark unit for assembly in the field.

SN08.3.2 Nonshrink, Nonmetallic Grout: Premixed, factory-packaged, nonstaining, noncorrosive, nongaseous grout for exterior applications complying with ASTM C 1107 as recommended in writing by manufacturer

SN08.4 CONSTRUCTION

A) Examine areas and conditions, with installer present, for compliance with requirements for correct and level finished grade, mounting surfaces, installation tolerances, and other conditions affecting performance. Proceed with installation only after unsatisfactory conditions have been corrected.

B) Comply with manufacturer's written installation instructions unless more stringent requirements are indicated. Complete field assembly of site furnishings where required. Unless otherwise indicated, install site furnishings after landscaping and paving have been completed. Install site furnishings level, plumb, true, and securely anchored at locations indicated on Drawings. After completing site furnishings installation, inspect components. Remove spots, dirt, and debris. Repair damaged finishes to match original finish or replace component.

SN08.5 MEASUREMENT

The ENGINEER will measure the quantity by each bike rack unit installed. Payment shall be considered full compensation for all materials and labor required to complete the work described in this section.

SN08.6 PAYMENT

The following pay items will be applicable:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|-------------------|-----------------|
| 30037 | Bike Rack, Type B | Each |
| 30038 | Bike Rack, Type C | Each |
| 30039 | Bike Rack, Type D | Each |
| 30040 | Bike Rack, Type E | Each |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR PLANTING, TREES, SHRUBS, AND PERENNIALS (SN-09)

SN09.1 DESCRIPTION

This work shall be as specified in Section 724 of the Standard Specifications except as hereafter specified.

SN09.2 MATERIALS.

Conform to Subsection 724.02 with the following addition:

A) Label at least one plat of each variety, size, and caliper with a securely attached, waterproof tag bearing legible designation of common name and full scientific name, including genus and species. All plants shall be specimen quality or better with straight and true trunks and branching fuller than is representative for the species. Other attributes of plants shall be representative of the normal species or varieties, true to type, and standard form. Collected plants are not permitted.

SN09.3 CONSTRUCTION

Conform to Subsection 724.03 with the following exceptions and additions:

A) Delete Subsection 724.03.04 Backfill for Planting in its entirety and replace with the following:

Planting Soil: Imported topsoil or manufactured topsoil from off-site sources, supplemented with on-site topsoil from top 4 inches of existing grades. Off-site topsoil shall be obtained from naturally well-drained construction or mining sites where topsoil occurs at least 4 inches deep; do not obtain from bogs or marshes. Mix imported topsoil with the following soil amendments and fertilizers in the following quantities to produce planting soil:

Ratio of loose compost to imported topsoil by volume: 1:4

Ratio of on-site topsoil to imported topsoil by volume: 1:4

Volume of sand plus 10 percent per 1000 sq. ft: 2 cubic yards

Weight of slow release fertilizer per 1000 sq. ft: 7 lbs.

Weight of commercial fertilizer per 1000 sq. ft: 7 lbs.

Provide dry granular mycorrhizal fungi containing at least 5300 spores per lb. of vesicular-arbuscular mycorrhizal fungi and 95 million spores per lb. of ectomycorrhizal fungi, 33 percent hydrogel, and a maximum of 5.5 percent inert material. Topsoil, fertilizer and mulch shall meet the requirements of Section 827.

Compost shall be well-composted, stable, and weed-free organic matter, pH range of 5.5 to 8; moisture content 35 to 55 percent by weight; 100 percent passing through 25-mm sieve; soluble salt content of 5 to 10 decisiemens/m; not exceeding 0.5 percent inert contaminants and free of substances toxic to plantings; and with Organic Matter Content of 50 to 60 percent of dry weight.

Commercial-grade complete fertilizer of neutral character, consisting of fast- and slow-release nitrogen, 50 percent derived from natural organic sources of urea formaldehyde, phosphorous, and potassium in the following composition; Composition: 0.5 kg/100 sq. m of actual nitrogen, 4 percent phosphorous, and 2 percent potassium, by weight.

B) Add the following subsections:

Subsection 724.03.13 Spaded Edge. In planting beds separate mulched areas from turf areas with a 45-degree, 4 to 6 inch deep, shovel-cut edge as indicated on the drawings.

Subsection 724.03.14 Bracing. Provide marking flag at each guywire of 6 inch lengths of plastic surveyors tape 30 inches above finished grade.

SN09.4 MEASUREMENT

Conform to Subsection 724.04 with the following addition:

A) The spaded edge planting bed edges is considered incidental to the plant.

SN09.5 PAYMENT

The following pay items will be applicable:

| <u>Code</u> | <u>Pay Item</u> | <u>Pay Unit</u> |
|-------------|-----------------|-----------------|
| 30041 | Ground Cover | Each |
| 30042 | Perennial | Each |
| 30043 | Shrub | Each |
| 30044 | Flowering Tree | Each |
| 30045 | Shade Tree | Each |

TECHNICAL SPECIFICATIONS

SPECIAL NOTE FOR TESTING (SN-10)

SN10.1 DESCRIPTION

The ENGINEER may require such inspection and testing during the course of the Work as he/she deems necessary to ascertain and assure the integrity and acceptable quality of the materials incorporated and the work performed. Inspection presence may be either full-time or intermittent, and neither the presence nor absence at any time of the ENGINEER or the INSPECTOR shall relieve the CONTRACTOR of sole responsibility for the acceptability and integrity of the Work or any part thereof.

The costs of sampling, testing, and inspection on-site to ascertain acceptability of the Work and materials will be borne by the OWNER except as otherwise provided. The OWNER will select a testing laboratory to perform such sampling and testing. Sampling and/or testing required by the CONTRACTOR or necessitated by failure of Work or materials to meet the above acceptability test shall be at the expense of the CONTRACTOR.

Inspection services may be performed by the employees of the OWNER or by others selected or designated by the OWNER or the ENGINEER.

Sampling and/or testing required for manufacturing quality and/or process control, for certification that raw mineral materials or manufactured products are the quality specified in the contract, or to assure the acceptability for incorporation into the Work shall be borne by the CONTRACTOR or the material supplier.

Cost for inspection, sampling, testing, and approvals required by the laws or regulations of any public body having competent jurisdiction shall be borne by the CONTRACTOR or the material supplier.

Sampling and testing will be in accord with pertinent codes and regulations and with appropriate standards of the American Society of Testing Materials or other specified standards.

On-Site Construction Test and Other Testing

All inspections, tests or approvals other than those required by Laws or Regulations of any public body having jurisdiction shall be performed by organizations acceptable to OWNER and CONTRACTOR (or by ENGINEER if so specified).

Covered Work

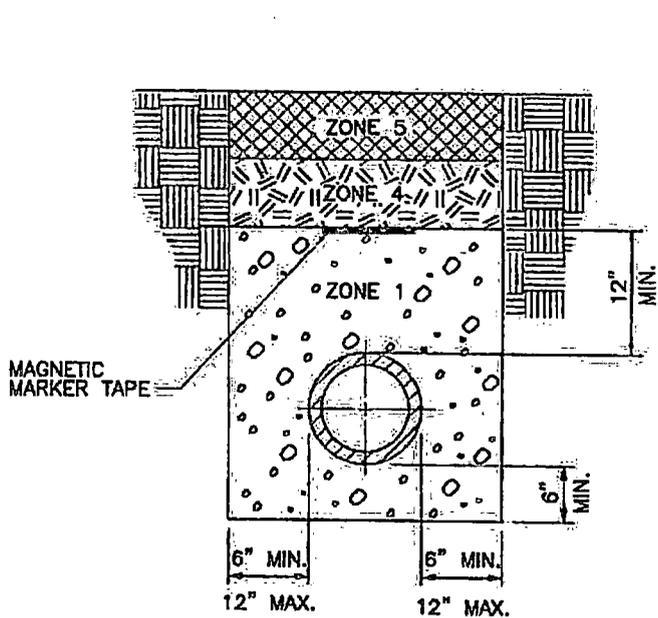
If any Work (including the work of others) that is to be inspected, tested or approved is covered without written concurrence of ENGINEER, it must,

if requested by ENGINEER, be uncovered for observation. Such uncovering shall be at CONTRACTOR'S expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR'S intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

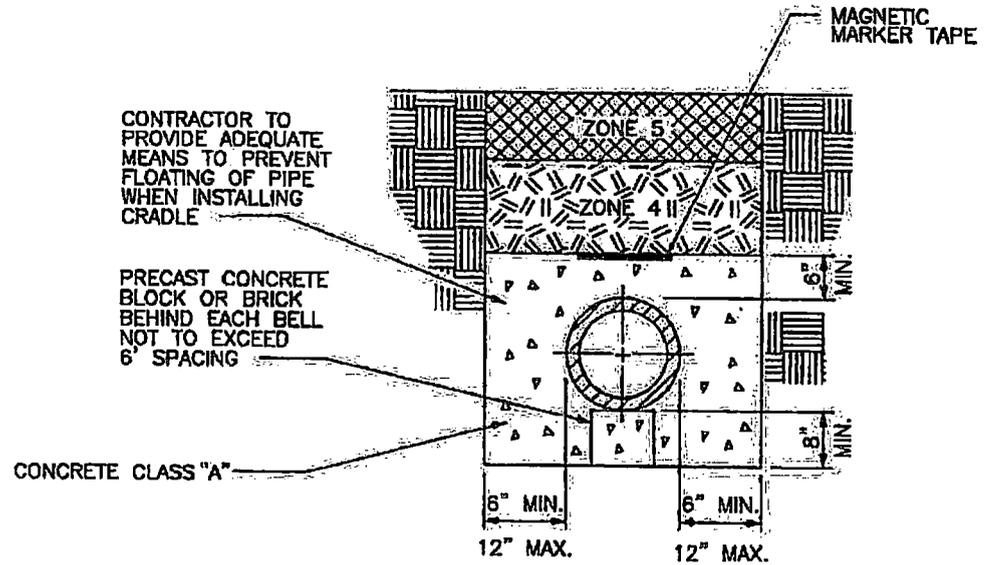
CONTRACTOR'S Obligation

Neither observations by ENGINEER nor inspections, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR'S obligations to perform the Work in accordance with the Contract Documents.

Appendix A
Standard Drawings



PIPE LAID IN ROCK OR SOIL TRENCH



STANDARD CONCRETE ENCASEMENT
(NOTE: AS REQUIRED BY DESIGN)

| PIPE BACKFILL DESCRIPTIONS | |
|----------------------------|-----------------------------------------------------------------------------|
| ZONE 1 | NO. 9 STONE |
| ZONE 2 | NO. 9 OR NO. 57 STONE |
| ZONE 3 | COMPACTED DGA |
| ZONE 4 | CONSOLIDATED SOIL (NO ROCK GREATER THAN 6" DIAMETER) NO. 9, OR NO. 57 STONE |
| ZONE 5 | 12" MAX TOPSOIL NO ROCK ALLOWED |

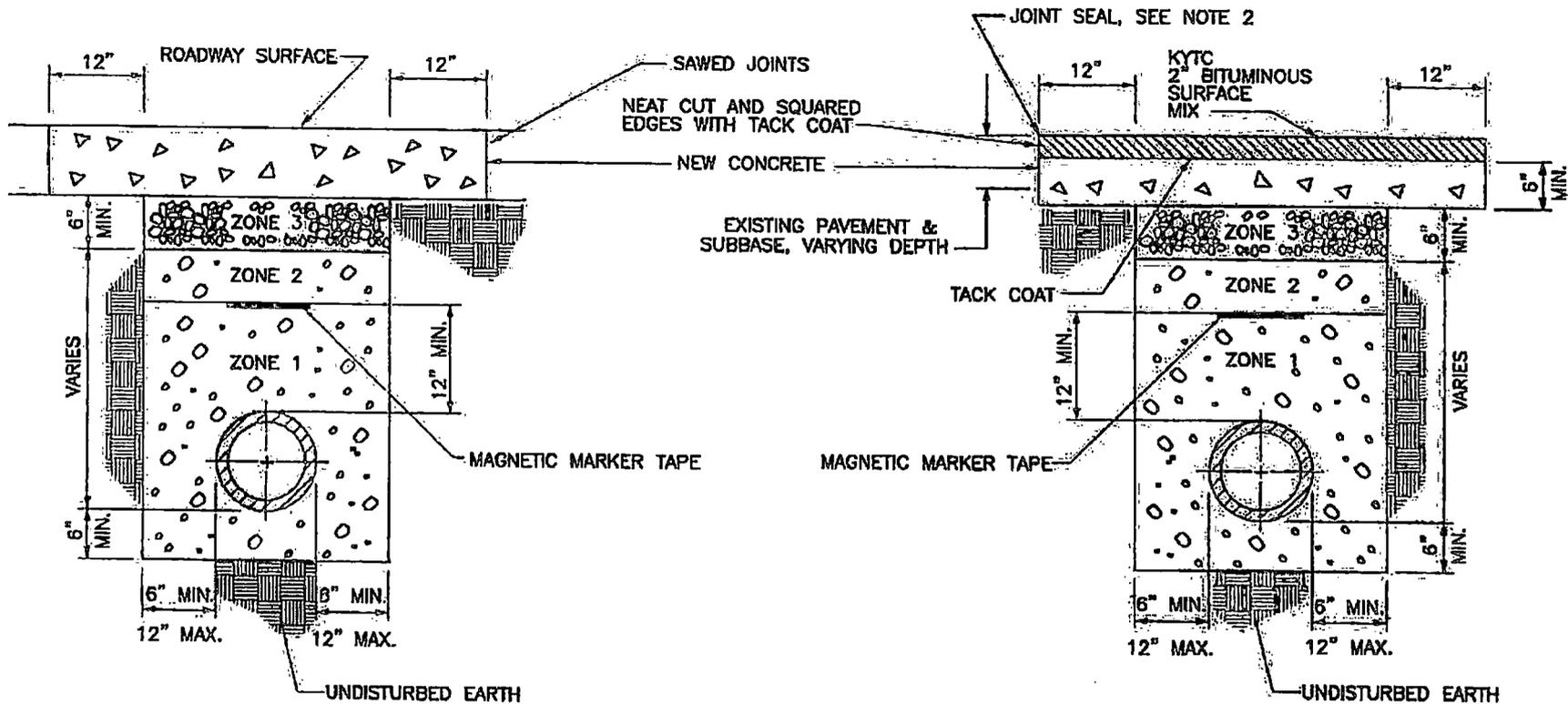
NOTES:

1. COVER, UP TO AND INCLUDING ZONE 4 SHALL BE ESTABLISHED BEFORE TRENCH EXCAVATION.
2. ALL SANITARY SEWER LINES CONSTRUCTED FROM NON-METALLIC MATERIALS SHALL HAVE MAGNETIC MARKER TAPE INSTALLED IN THE TRENCH ABOVE THE SANITARY SEWER LINE.
3. MAGNETIC MARKER TAPE FOR SANITARY SEWER ONLY.

LEXINGTON
 DIVISION OF ENGINEERING
 TRENCHING, LAYING,
 BACKFILLING AND BEDDING
 OUTSIDE R/W LIMITS
 STANDARD DRAWING NO. 200
 APPROVAL: *[Signature]* 9/22/17
 1. DREW: COUNTY ENGINEER: *[Signature]* 9/22/17
 2. CHECKED: *[Signature]* DATE:

CONCRETE PAVEMENT

BITUMINOUS PAVEMENT



NOTES:

1. REPLACE CONCRETE PAVEMENT WITH NEW CONCRETE PAVEMENT, 6" MINIMUM OR EXISTING THICKNESS, WHICHEVER IS GREATER.
2. SEAL PERIMETER OF CUT PAVEMENT WITH CRACK SEALANT THAT MEETS ASTM D6690, TYPE 2.
3. MAGNETIC MARKER TAPE FOR SANITARY SEWER ONLY.

| PIPE BACKFILL DESCRIPTIONS | |
|----------------------------|-------------------------------------------------------------------------------|
| ZONE 1 | NO. 9 STONE |
| ZONE 2 | NO. 9 OR NO. 57 STONE |
| ZONE 3 | COMPACTED DGA |
| ZONE 4 | CONSOLIDATED SOIL, (NO ROCK GREATER THAN 6" DIAMETER), NO. 9, OR NO. 57 STONE |
| ZONE 5 | 12" MAX. TOPSOIL NO ROCK ALLOWED |

LEXINGTON

DIVISION OF ENGINEERING

TRENCHING, LAYING,
BACKFILLING AND BEDDING
UNDER STREET PAVEMENT

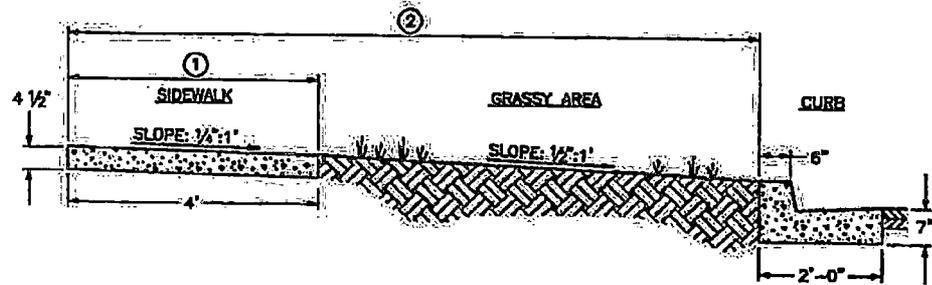
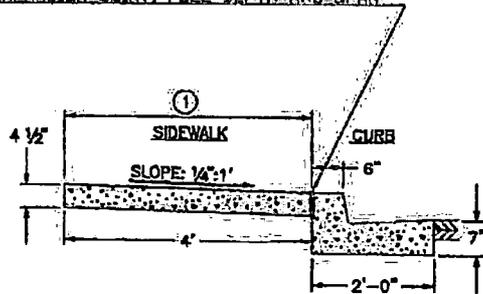
STANDARD DRAWING NO. 201-1

APPROVAL: 9/20/17

URBAN COUNTY ENGINEER 9/20/17

COMMISSIONER _____ DATE

EXPANSION JOINT, FULL DEPTH AND SPAN



SIDEWALK/CURB AND GUTTER

NOTES:

1. CONCRETE SIDEWALKS AND WALKWAYS SHALL BE CONSTRUCTED ON A THOROUGHLY COMPACTED SUB-GRADE AND SHALL BE FOUR AND ONE HALF (4 1/2) INCHES IN THICKNESS AND A MINIMUM WIDTH OF FOUR (4) FEET. CONCRETE SHALL MEET THE REQUIREMENTS FOR CLASS "A" AND SHALL BE COATED WITH WHITE PIGMENTED CURING COMPOUND TYPE 2, ALL AS SPECIFIED IN KYTC SPECIFICATION, SECTION 823.02.
2. FULL DEPTH EXPANSION JOINTS SHALL BE PLACED AT CONTACT WITH NEW OR EXISTING CONCRETE, EXISTING CONCRETE, AT ABUTTING RIGID STRUCTURES OR FEATURES SUCH AS BUILDINGS, DRIVEWAYS, UTILITY POLES FIRE HYDRANTS, ECT. AND NOT TO EXCEED 200' MAXIMUM SPACING FOR SLIP FORM APPLICATION AND 32' FOR HAND PLACED. EXPANSION MATERIAL SHALL BE 1/2" ASPHALTIC MATERIAL OR APPROVED EQUAL MEETING KYTC 807.04.03.
3. CONTROL JOINTS SHALL BE PLACED AT INTERVALS EQUIVALENT TO THE SIDEWALK WIDTH, WITH A DEPTH OF 1/4 THE SIDEWALK THICKNESS.
4. THE SIDEWALKS SHALL BE PLACED ADJACENT TO THE STREET RIGHT-OF-WAY LINE. SLOPE TOWARD CURB SHALL BE ONE QUARTER (1/4) OF AN INCH TO THE FOOT. CONSTRUCTION IN EXISTING NEIGHBORHOODS SHALL REQUIRE THE CONTRACTOR TO MATCH EXISTING GRADE AND SIDEWALK WIDTH UNLESS SPECIFIED OTHERWISE BY THE DIVISION OF ENGINEERING.
5. SIDEWALK REPAIR FOR ANY CUTS MADE FOR UTILITY WORK REPLACEMENT SHALL BE FULL PANEL MATCHING THE ORIGINAL DIMENSIONS.

SHEET NOTES:

- ① NORMAL SIDEWALK WIDTH SHALL BE 4' UNLESS CHANGE IS AUTHORIZED BY URBAN COUNTY ENGINEER'S OFFICE.
- ② DISTANCE WILL VARY WITH ROAD CROSS-SECTION.

SIDEWALK/CURB AND GUTTER WITH GRASS UTILITY STRIP

| | |
|--------------------------------------------------------------------------------------------------------|---------|
|  LEXINGTON | |
| DIVISION OF ENGINEERING | |
| SIDEWALK CONSTRUCTION SPECIFICATIONS | |
| STANDARD DRAWING NO. | 303 |
| APPROVAL | 9/22/17 |
| URBAN COUNTY ENGINEER | 9/22/17 |
| DESIGNER | DATE |

Appendix B

KYTC Approved Traffic Management Plan

**KENTUCKY TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
TRAFFIC MANAGEMENT PLAN**

County: Fayette Item No.: 7-3103, 7-3716

Federal Project No.: STPE-3003 (263), CM 3003 (322)

Project Description:

Urban roadway improvements including intersection improvements, full depth roadway replacement, replacement of curb and sidewalks, drainage improvements, and asphalt resurfacing.

Roadway Classification: 3rd Street - Urban Minor Arterial
4th Street - Urban Collector

| | | | | | |
|---------------|------------------------------|---------|---------------------|---------|---------------------|
| ADT (Current) | 3rd St - 7,192 (2014) | AM Peak | 3rd St - N/A | PM Peak | 3rd St - N/A |
| | <u>4th St - 2,790 (2015)</u> | Current | <u>4th St - N/A</u> | Current | <u>4th St - N/A</u> |

Project Designation: Significant Other: _____

Traffic Control Plan Design:

Taper and Diversion Design Speeds Posted Speed Limit - 25 MPH for all roads except US 27 (North Broadway) which is 35 MPH.

Minimum Lane Width 10' Minimum Shoulder Width 1'

Minimum Taper Length 50' Minimum Intersection LOS N/A

Existing Traffic Queue Lengths N/A Projected Traffic Queue Lengths N/A

Comments:

The project is in the north side of Downtown Lexington. With the exception of the US 27 (North Broadway) and Fourth Street intersection, the project extents are on LFUCG maintained streets.

**KENTUCKY TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
TRAFFIC MANAGEMENT PLAN**

The primary goal of the Public Information Plan (PIP) is to inform the public and area stakeholders of project information including Temporary Traffic Control Plan (TTCP). LFUCG will coordinate and disseminate to stakeholders and the media appropriate information regarding construction activities.

Project Impacts

The project is within an urban area with sidewalks along both sides of the roadway. There are multiple properties along the corridor that generate significant pedestrian and vehicular traffic including: Transylvania University, Lexington Traditional Magnet School, Living Arts and Sciences, Lyric Theater, and Charles Young Center. In addition, there are several public transit routes along the corridor that will need to be maintained.

Local Stakeholders

The following stakeholders will be contacted at the beginning of the construction and at key transition points during construction activities.

- City Council Members
- Kentucky Transportation Cabinet, District 7
- LFUCG Emergency Services
- LexTran
- Fayette County Public Schools
- Transylvania University
- Utility Companies
- Neighborhood Associations

Media Strategies

The following media will be contacted at the beginning of the construction project at key construction transition points during construction and at the end of construction:

Points of Media Contact

- Newspapers
- Radio
- Television / Cable

Milestones to Contact Media

Media will be contacted immediately prior to construction and updated throughout construction, and at significant transitions of construction phases.

Public Information Message

Notifications of the closures and detours will be provided a minimum of one week advance notice. Further, variable message boards will be used throughout the community for notice.

**KENTUCKY TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
TRAFFIC MANAGEMENT PLAN**

The Contractor shall develop the Traffic Control Plan including scheme and phasing based on the following requirements for the review and approval of the Engineer. Contrary to Section 112 of the Standard Specifications, all activities required to maintain and control traffic in accordance with Section 112, this Traffic Management Plan, and the Manual on Uniform Traffic Control Devices (MUTCD) will be measured by the lump sum. No additional payment will be made for items required for the Contractor to maintain and control traffic.

Contractor shall furnish and erect suitable barricades, signs and other necessary devices to control, guide, and safeguard traffic passing through or around the construction project. All such devices shall conform in all respects to the requirements of the MUTCD. Contractor, before erecting any barricades or changing the location of one already placed, shall notify the Engineer at least three days prior to such contemplated erection or change, except in case of an emergency. In case of an emergency, the Engineer may direct the Contractor to immediately provide safety and warning devices to safeguard traffic. All night-time control devices requiring illumination shall be lighted every night during the entire period from sunset to sunrise. The CONTRACTOR will be held responsible for all damage to Work due to failure to provide barricades, signs, lights, and watchmen to protect it; and whenever evidence of such damage is found prior to acceptance, the Engineer may order the damaged portion removed and replaced by the Contractor at the Contractor's expense. The responsibility remains the Contractor's until the project is accepted.

Allowable Traffic Control Restrictions and Closures

On-Street Parking and Loading Zone Restrictions

Contractor may temporarily close on-street parking within active construction areas. Contractor to verify with LFUCG Traffic Engineering the correct signage necessary to restrict on-street parking and/or loading zones.

Bike Lane Closures

Contractor may temporarily close bike lanes within active construction areas. Contractor shall provide closure signage in accordance with the MUTCD.

Auxiliary Turn Lane Closures

Contractor may temporarily close auxiliary turn lanes within active construction areas. Contractor to provide closure signage in accordance with the MUTCD and modify existing signage and adjust existing traffic signal heads as required.

Entrance Closures

Contractor will not be required to provide continuous access to residential properties during the working day. However, at the end of each day the Contractor shall provide reasonable egress and ingress to each property. The time during which a residential entrance is blocked shall not exceed six (6) hours unless otherwise approved by impacted property owner. The Contractor will be required to maintain at least one (1) entrance on commercial properties unless otherwise approved by impacted property owner. Contractor shall notify all property owners twenty-four (24) hours in advance of any driveway or entrance closings.

**KENTUCKY TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
TRAFFIC MANAGEMENT PLAN**

Travel Lane Closures

Contractor may temporarily close one lane of travel in accordance with Standard Drawing TTC-100-04 for single-lane closures on two-lane, two-direction roadways and TTC-115-03 for single lane closures on multi-lane roadways, and the following requirements:

1. No lane closures are allowed during the weekday from 7 AM to 9 AM and from 3 PM to 6 PM.
2. Lane closures along Third Street will not be permitted while lane restrictions are in place along Midland Avenue for the Town Branch Commons Sanitary Sewer Construction.

Sidewalk Closures

Pedestrian access shall remain available at all times, either by reasonable detour or diversion. The temporary facility must replicate the existing facility as nearly as practical including ADA compliance where necessary. Contractor shall provide signed detour route and sidewalk closure signage in accordance with the MUTCD. Contractor shall utilize appropriate temporary barriers and/or temporary fence on the sidewalk to separate and protect the pedestrians from the adjacent work areas.

Road Closures

Contractor may close the following segments of roadway to through traffic: Fourth Street from Jefferson Street to North Broadway and from Limestone Street to Martin Luther King Boulevard. Road closures to through traffic shall be in accordance with the following requirements.

1. Timeframe - Road closure is permitted only from May 29, 2018 to August 22, 2018 for Jefferson Street to North Broadway and from June 4, 2018 to August 10, 2018 for Limestone Street to Martin Luther King Boulevard.
2. Contractor shall maintain local traffic during this time period.
3. Contractor shall provide signed detour route and road closure signage in accordance with the MUTCD for Engineer approval.
4. Contractor shall maintain pedestrian traffic on one side of the street.
5. Contractor shall use portable changeable message signs on project. The signs shall be used during construction for the entire project. Signs shall be placed at the beginning and end of construction zone.

Contractor Restrictions

Work Hour Restrictions

This project is located in a residential area. No work shall be conducted between 9:00 pm and 6:00 am.

Holiday and Special Event Restrictions

Contractor will be made aware of Special Events and will make accommodations for these events.

Additional Restrictions

Living Arts and Sciences Center has significant activity both from vehicular and pedestrian traffic from June 1st through August 15th. Contractor shall not close the entrances during this time frame.

Liquidated Damages

See Part V Special Conditions for Liquidated Damages.

KENTUCKY TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
TRAFFIC MANAGEMENT PLAN

APPROVAL:

Keith Lewis
Project Manager _____ Date 1/31/19

R. J. [Signature]
~~TEBM for Project Delivery (Construction)~~
OT LPA PM _____ Date 3/7/19

TEBM for Engineering Support Services (Traffic) _____ Date

FHWA Representative _____ Date

Revisions to the TMP require review/approval by the signatories.

Legacy Trail

APPENDIX C

LOCAL PUBLIC AGENCIES –

SPECIAL PROVISIONS FOR LPA ADMINISTERED PROJECTS

APPENDIX C



Office of Local
Programs
Special
Provisions for
LPA
Administered
Projects

- All contractors and subcontractors must be prequalified by the Kentucky Transportation Cabinet
<http://transportation.ky.gov/Professional-Services/Pages/Prequalification-Application-and-Instructions.aspx>
- The Local Public Agency (LPA) will operate in compliance with the Federal Procurement Code, including but not limited to, 23 CFR 635.112 (<https://www.fhwa.dot.gov/legsregs/directives/cfr23toc.htm>)
- This project will follow the Kentucky Standard Specifications for Road and Bridge Construction, 2019 Edition
<http://transportation.ky.gov/construction/pages/kentucky-standard-specifications.aspx>
- Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving Federal financial assistance. Specifically, Title IV provides that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving Federal financial assistance” (42 U.S.C. Section 2000d). The Civil Rights Act of 1964 shall be followed in the administration of this project.
- Patented or proprietary materials are discouraged but if they are specified then 23 CFR 635.11 (<https://www.fhwa.dot.gov/legsregs/directives/cfr23toc.htm>) must be followed.
- All Change Orders must be pre-approved by the KYTC. Change order requests must be submitted to the District LPA Coordinator and the OLP Project manager at the same time. All change order requests must be submitted on the LPA-chord (07/02/2010) form
- Failure by a bidder to comply with all applicable sections of the current Kentucky Standards Specifications, including, but not limited to the following, may result in a bid not being considered responsive and thus not eligible to be considered for an award:
 - 102.10 Delivery of Proposals
 - 102.08 Irregular Proposals
 - 102.14 Disqualification of Bidders
 - 102.09 Proposal Guaranty

The following laws, statutes, and regulations must be followed: Federal

- Equal Employment Opportunity Act of 1964
- Rehabilitation Act of 1973
- Age Discrimination Act of 1975
- Americans with Disabilities Act of 1987
- Civil Rights Restoration Act of 1987
- 23 USC 140 (Nondiscrimination)
- 49 CFR 21 (Civil Rights)
- 49 CFR 26 (Disadvantage Business Enterprises)
- 23 CFR 230 (External Programs)
- 23 CFR 633 (Required Contract provisions)
- 23 CFR 635 (Construction and Maintenance)
- Executive Order 11246 (Nondiscrimination)
- 23 USC 106 (Project approval and oversight)
- 23 USC 112 (Letting of contracts)
- 23 USC 113 (Prevailing rate of wage)
- 40 USC 276(a) Davis Bacon Act
- 29 CFR 1 Wage rate determinations
- 29 CFR 3 Weekly statements of payrolls
- 29 CFR 5 Wages
- 29 CFR 6 Wages
- 29 CFR 7 Wages

State

KRS 45 A Model procurement code
KRS 176 Department of Highways Procurement
KRS 136 Corporation and utility taxes
KRS 139 Sales and use taxes
KRS 141 Income taxes
KRS 337 Wage and hours (must have payment bond for wages if less than 5 years in Kentucky)
KRS 338 OSHA
KRS 341 Unemployment Compensation
KRS 342 Workers compensation (must be on file with the Dept. of Workers Claims)
KAR 603 Prequalification of contractors

Revised 10/01/10

**NOTICE TO ALL BIDDERS
TO REPORT BID RIGGING, BIDDER COLLUSION OR OTHER FRAUDULENT ACTIVITIES**

BID RIGGING, BIDDER COLLUSION OR OTHER FRAUDULENT ACTIVITIES

The U.S. Department of Transportation (USDOT) maintains a Hotline Complaint Center and 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, DBE fraud or other fraudulent activities should use the following hotline number or address to report such activities:

Hotline Number:

(202) 755-1855 or 800-424-9071

Hotline Address:

**Office of Inspector General
P. O. Box 23178 L'Enfant Plaza Station
Washington, D.C. 20024-0178**

The hotline is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of USDOT's Inspector General. All information will be treated confidentially and caller anonymity will be respected.

Revised 10/01/10

**EMPLOYMENT REQUIREMENTS
RELATING TO
NONDISCRIMINATION OF EMPLOYEES
(APPLICABLE TO FEDERAL-AID SYSTEM CONTRACTS)**

AN ACT OF THE KENTUCKY GENERAL ASSEMBLY
TO PREVENT DISCRIMINATION IN EMPLOYMENT

KRS CHAPTER 344
EFFECTIVE JUNE 16, 1972

The contract on this project, in accordance with KRS Chapter 344, provides that during the performance of this contract, the contractor agrees as follows:

1. The contractor shall not fail or refuse to hire, or shall not discharge any individual, or otherwise discriminate against an individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, national origin, sex, disability or age (between forty and seventy); or limit, segregate, or classify his employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, national origin, sex, disability or age (between forty and seventy). The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The contractor shall not print or publish or cause to be printed or published a notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by the employment agency, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, national origin, sex, disability or age (between forty and seventy), except that such notice or advertisement may indicate a preference, limitation, or specification based on religion, or national origin when religion, or national origin is a bona fide occupational qualification for employment.

3. If the contractor is in control of apprenticeship or other training or retraining, including on-the-job training programs, he shall not discriminate against an individual because of his race, color, religion, national origin, sex, disability or age (between forty and seventy), in admission to,

or employment in any program established to provide apprenticeship or other training.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance.

REVISED: 12-3-92

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION
TO ENSURE 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 Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate work force in each trade on all construction work in the covered area, are as follows:

| GOALS FOR MINORITY PARTICIPATION IN EACH TRADE | GOALS FOR FEMALE PARTICIPATION EACH TRADE |
|---------------------------------------------------------------|----------------------------------------------------------|
| 10.8% | 6.9% |

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

The Contractor's compliance with the Executive Order and the regulations in CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmation action obligations required by the specifications set forth in 41 CFR 60-4, 3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within ten (10) working days of award of any construction subcontract in excess of \$10,000.00 at any tier for construction work under the contract resulting from the solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed. The notification shall be mailed to:

**Evelyn Teague, Regional Director
Office of Federal Contract Compliance Programs
61 Forsyth Street, SW, Suite 7B75
Atlanta, Georgia 30303-8609**

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is Fayette County.

DISTRICT/LOCALITY/MINORITY PERCENTAGE REQUIRED BY COUNTY

| DISTRICT | LOCALITY | % | DISTRICT | LOCALITY | % | DISTRICT | LOCALITY | % |
|----------|--------------|-----------|----------|------------|-----------|----------|------------|-----------|
| 8 | ADAM | (2) 7.0% | 6 | GRANT | (3) 9.2% | 9 | HASON | (3) 9.2% |
| 3 | ALLEN | (1) 12.0% | 4 | GRAYSON | (3) 9.6% | 4 | HEAD | (3) 9.6% |
| 7 | ANDERSON | (3) 7.0% | 1 | GRAVES | (1) 5.2% | 10 | HEMPER | (2) 7.0% |
| 1 | BALLARD | (1) 5.2% | 4 | GREEN | (2) 7.0% | 7 | HENDER | (3) 7.0% |
| 9 | BATH | (3) 7.0% | 9 | GREENUP | (3) 2.9% | 3 | HETCALFE | (2) 12.0% |
| 3 | BARRER | (2) 12.0% | 2 | HANCOCK | (1) 3.5% | 3 | MONROE | (2) 12.0% |
| 11 | BELL | (2) 4.5% | 4 | HARDIN | (3) 9.6% | 7 | MONTGOMERY | (3) 7.0% |
| 6 | BOONE | (4) 11.0% | 11 | HARLAN | (2) 4.5% | 2 | MULLENBERG | (1) 3.5% |
| 7 | BOUNSON | (3) 10.8% | 6 | HARRISON | (3) 7.0% | 10 | MORGAN | (2) 7.0% |
| 9 | BOYD | (3) 2.9% | 4 | HART | (2) 9.6% | 4 | NELSON | (3) 9.6% |
| 7 | BOYLE | (3) 7.0% | 2 | HENDERSON | (1) 4.8% | 9 | NICHOLAS | (3) 7.0% |
| 6 | BRACKEN | (3) 9.2% | 5 | HENRY | (3) 9.6% | 2 | OHIO | (1) 3.5% |
| 10 | BREATHITT | (2) 7.0% | 1 | HICKMAN | (1) 5.2% | 5 | OLDHAM | (3) 11.2% |
| 4 | BRECKINRIDGE | (3) 9.6% | 2 | HOPKINS | (1) 3.5% | 6 | OWEN | (3) 9.2% |
| 5 | BULLITT | (3) 11.2% | 11 | JACKSON | (2) 7.0% | 10 | OWSLY | (2) 7.0% |
| 3 | BUTLER | (1) 12.0% | 5 | JEFFERSON | (3) 11.2% | 6 | PERDLETON | (4) 9.2% |
| 2 | CALDWELL | (1) 5.2% | 7 | JESSAMINE | (3) 10.8% | 10 | PERRY | (2) 7.0% |
| 1 | GALLOWAY | (1) 5.2% | 12 | JOHNSON | (2) 2.5% | 12 | PIKE | (2) 2.5% |
| 6 | CAMPBELL | (4) 11.0% | 6 | KENTON | (4) 11.0% | 10 | POWELL | (2) 7.0% |
| 1 | CARLISLE | (1) 5.2% | 12 | KNOTT | (2) 7.0% | 8 | PULASKI | (2) 7.0% |
| 6 | CARROLL | (3) 9.2% | 11 | KNOX | (2) 4.5% | 6 | ROBERTSON | (3) 9.2% |
| 9 | CARTER | (3) 2.5% | 4 | LARUE | (3) 9.6% | 8 | ROCKCASTLE | (2) 7.0% |
| 8 | CASEY | (2) 7.0% | 11 | LAUREL | (2) 4.5% | 9 | ROWAN | (3) 2.5% |
| 2 | CHRISTIAN | (1) 18.2% | 12 | LAWRENCE | (2) 2.5% | 8 | RUSSELL | (2) 7.0% |
| 7 | CLARK | (3) 10.8% | 10 | LEE | (2) 7.0% | 7 | SCOTT | (3) 10.8% |
| 11 | CLAY | (2) 7.0% | 11 | LESLIE | (2) 7.0% | 5 | SHELBY | (3) 9.6% |
| 8 | CLINTON | (2) 12.0% | 12 | LETCHER | (2) 7.0% | 3 | SIMPSON | (1) 12.0% |
| 1 | CRITTENDEN | (1) 5.2% | 9 | LEWIS | (3) 9.2% | 5 | SPENCER | (3) 9.6% |
| 8 | CUMBERLAND | (2) 12.0% | 8 | LINCOLN | (2) 7.0% | 4 | TAYLOR | (2) 7.0% |
| 2 | DAVIESS | (1) 4.7% | 1 | LIVINGSTON | (1) 5.2% | 3 | TODD | (1) 12.0% |
| 3 | EDMONSON | (1) 12.0% | 3 | LOGAN | (1) 12.0% | 1 | TRIGG | (1) 12.0% |
| 9 | ELLIOTT | (3) 2.5% | 1 | LYON | (1) 5.2% | 5 | TRIMBLE | (3) 9.6% |
| 10 | ESTILL | (2) 7.0% | 1 | McCRACKEN | (1) 5.2% | 2 | UNION | (1) 3.5% |
| 7 | FAYETTE | (3) 10.8% | 6 | McCREARY | (2) 4.5% | 3 | WARREN | (1) 12.0% |
| 9 | FLEMING | (3) 9.2% | 2 | McLEAN | (1) 3.5% | 4 | WASHINGTON | (3) 9.6% |
| 12 | FLOYD | (2) 2.5% | 7 | MADISON | (3) 7.0% | 8 | WAYNE | (2) 4.5% |
| 5 | FRANKLIN | (3) 7.0% | 10 | MAGOFFIN | (2) 7.0% | 2 | WEBSTER | (1) 3.5% |
| 1 | FULTON | (1) 5.2% | 4 | MARION | (3) 9.6% | 11 | WHITLEY | (2) 4.5% |
| 6 | GALLATIN | (3) 9.2% | 1 | MARSHALL | (1) 5.2% | 10 | WOLFE | (2) 7.0% |
| 7 | GARRARD | (2) 7.0% | 12 | MARTIN | (2) 2.5% | 7 | WOODFORD | (3) 10.8% |

LOCALITY I (Federal)

Kentucky Determination No. CR 85-I-HWY dated 8/15/85 and Federal Decision No. KY 85-1007 dated 10/4/85.

(State) Kentucky Determination No. CR 85-I-HWY dated 8/15/85.

LOCALITY II (Federal)

Kentucky Determination No. CR 85-II-HWY dated 8/15/85 and Federal Decision No. KY 85-1008 dated 10/4/85.

(State) Kentucky Determination No. CR 85-II-HWY dated 8/15/85.

LOCALITY III (Federal)

Kentucky Determination No. CR 85-III-HWY dated 8/15/85 and Federal Decision No. KY 85-1009 dated 10/4/85.

(State) Kentucky Determination No. CR 85-III-HWY dated 8/15/85.

LOCALITY IV (Federal)

Kentucky Determination No. CR 85-IV-HWY dated 8/15/85 and Federal Decision No. KY 85-101 dated 10/4/85.

(State) Kentucky Determination No. CR 85-IV-HWY dated 8/15/85.

US Department of Labor Final Rule on Federal Executive Order 11246

Discrimination:

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; 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 provisions of this non-discrimination clause.
2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor; state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.
7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.



Commonwealth of Kentucky
FINANCE AND ADMINISTRATION CABINET
Office of the Controller
Office of Procurement Services
Room 086 Capitol Annex
Frankfort, Kentucky 40601
(502) 564-4510
(502) 564-1434 Facsimile

STEVEN L. BESHEAR
Governor

Lori H. Flanery
Secretary

Ed Ross
Executive Director

Don Speer
Executive Director

TO: All Agency Purchasing Contacts

FROM: Donald R. Speer, Executive Director *DRS by DS*
Office of Procurement Services

DATE: April 7, 2015

SUBJECT: US Department of Labor Final Rule on Federal Executive Order 11246

On April 8, 2015, a new federal rule takes effect amending federal Executive Order 11246. This Executive Order, originally signed in 1965, concerns the prohibition of discrimination by contractors and subcontractors where the contract utilizes federal funds. In July, 2014, a new Executive Order was issued to amend EO 11246 by adding sexual orientation and gender identity to the existing categories protected from discrimination in hiring and employment.

For all solicitations issued by a state agency and for all contracts executed or amended on or after April 8, 2015, that utilize federal funds, the following standard boilerplate provisions with new language shall be included:

Discrimination:

Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual

orientation, gender identity, age or disability. 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 compensations; 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 provisions of this non-discrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such

April 7, 2015
Page 3 of 3

provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Please contact the Office of Procurement Services at 564-4510, if you have any questions.

Standard Title VI/Non-Discrimination Assurances

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

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Highway Administration**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **Federal Highway Administration** to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **Federal Highway Administration**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **Federal Highway Administration** may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **Federal Highway Administration** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

Standard Title VI/Non-Discrimination Statutes and Authorities

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

**CERTIFICATION REGARDING
KRS 45A.485**

Pursuant to 1994's Senate Bill 258, the bidder/offeror shall reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the contractor within the previous five (5) year period of the provisions of KRS Chapter 136, 139, 141, 337, 338, 341 and 342.

For the purpose of complying with the provisions of Senate Bill 258, please list any final determination(s) of violations(s) of KRS Chapters 136, 139, 141, 337, 338, 341, and 342, which have been rendered against the bidder or offeror within the five (5) years preceding the award of this contract. Please include, the date of the determination the state agency issuing the determination. (Please use extra sheets if necessary.)

KRS VIOLATION

DATE

STATE AGENCY

The contractor is further notified that 1994's Senate Bill 258 requires that for the duration of this contract, the contractor shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342, which apply to the contractor's operations. Senate Bill 258, further provides that the contractor's failure to reveal a final determination of a violation of KRS Chapters 136, 139, 141, 337, 338, 341 and 342, or failure to comply with the above-cited statues for the duration of the contact, shall be grounds for the Commonwealth's cancellation of the contract, and the contractor's disqualification from eligibility to bid or submit proposals to the Commonwealth for a period of two (2) years.

635.410 Buy America requirements.

(a) The provisions of this section shall prevail and be given precedence over any requirements of this subpart which are contrary to this section. However, nothing in this section shall be construed to be contrary to the requirements of §635.409(a) of this subpart.

(b) No Federal-aid highway construction project is to be authorized for advertisement or otherwise authorized to proceed unless at least one of the following requirements is met:

(1) The project either: (i) Includes no permanently incorporated steel or iron materials, or (ii) if steel or iron materials are to be used, all manufacturing processes, including application of a coating, for these materials must occur in the United States. Coating includes all processes which protect or enhance the value of the material to which the coating is applied.

(2) The State has standard contract provisions that require the use of domestic materials and products, including steel and iron materials, to the same or greater extent as the provisions set forth in this section.

(3) The State elects to include alternate bid provisions for foreign and domestic steel and iron materials which comply with the following requirements. Any procedure for obtaining alternate bids based on furnishing foreign steel and iron materials which is acceptable to the Division Administrator may be used. The contract provisions must (i) require all bidders to submit a bid based on furnishing domestic steel and iron materials, and (ii) clearly state that the contract will be awarded to the bidder who submits the lowest total bid based on furnishing domestic steel and iron materials unless such total bid exceeds the lowest total bid based on furnishing foreign steel and iron materials by more than 25 percent.

(4) When steel and iron materials are used in a project, the requirements of this section do not prevent a minimal use of foreign steel and iron materials, if the cost of such materials used does not exceed one-tenth of one percent (0.1 percent) of the total contract cost or \$2,500, whichever is greater. For purposes of this paragraph, the cost is that shown to be the value of the steel and iron products as they are delivered to the project.

(c) (1) A State may request a waiver of the provisions of this section if;

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality.

(2) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request. The RFHWA will have approval authority on the request.

(3) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(4) The denial of the request by the RFHWA may be appealed by the State to the Federal Highway Administrator (Administrator), whose action on the request shall be considered administratively final.

(5) A request for a waiver which involves nationwide public interest or availability issues or more than one FHWA region may be submitted by the RFHWA to the Administrator for action.

(6) A request for waiver and an appeal from a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public upon request. Any request for a nationwide waiver and FHWA's action on such a request may be published in the Federal Register for public comment.

(7) In determining whether the waivers described in paragraph (c)(1) of this section will be granted, the FHWA will consider all appropriate factors including, but not limited to, cost, administrative burden, and delay that would be imposed if the provision were not waived.

(d) Standard State and Federal-aid contract procedures may be used to assure compliance with the requirements of this section.

[48 FR 53104, Nov. 25, 1983, as amended at 49 FR 18821, May 3, 1984; 58 FR 3

§ 635.109 Standardized changed condition clauses.

(a) Except as provided in paragraph (b) of this section, the following changed conditions contract clauses shall be made part of, and incorporated in, each highway construction project approved under 23 U.S.C. 106:

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

(ii) Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.

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

(iv) No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the STD's at their option.)

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

(ii) Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.

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

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

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

(ii) If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

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

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

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

(B) When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.(b) The provisions of this section shall be governed by the following:

(1) Where State statute does not permit one or more of the contract clauses included in paragraph (a) of this section, the State statute shall prevail and such clause or clauses need not be made applicable to Federal-aid highway contracts.

(2) Where the State transportation department has developed and implemented one or more of the contract clauses included in paragraph (a) of this section, such clause or clauses, as developed by the State transportation department may be included in Federal-aid highway contracts in lieu of the corresponding clause or clauses in paragraph (a) of this section. The State's action must be pursuant to a specific State statute requiring differing contract conditions clauses. Such State developed clause or clauses, however, must be in conformance with 23 U.S.C., 23 CFR and other applicable Federal statutes and regulations as appropriate and shall be subject to the Division Administrator's approval as part of the PS&E.(c) In the case of a design-build project, STDs are strongly encouraged to use "suspensions of work ordered by the engineer" clauses, and may consider "differing site condition" clauses and "significant changes in the character of work" clauses which are appropriate for the risk and responsibilities that are shared with the design-builder.

Instructions for Completing the Office of Local Programs Change Order

Please note that change orders are required for any item that deviates from the original approved scope of your Office of Local Programs (OLP) project. This includes field orders and minor changes. The approved scope of the project can be found in Attachment A of your contract with the OLP for this project.

When a change order becomes necessary the project sponsor shall e-mail the OLP Project Manager, OLP Historic Preservation Coordinator, and the District LPA Coordinator at the same time. This e-mail should include all proposed changes. The OLP Project Manager will then notify the project sponsor as to whether or not the change order would be minor or major.

If the change order is minimal, (meaning it will have no adverse affect and requires no additional documentation)the OLP Project Manager may provide an e-mail approval so work on the project may continue without interruption. However, the Change Order must still be submitted and formally approved.

If a major change is required, work on that particular item must cease until the Change Order has been approved by the Transportation Cabinet.

When completing the Change Order form, please make sure to identify the purpose of the change order, and include detailed explanations for the changes, including time extensions. A cost analysis must be included when appropriate.

A copy of the signed LPA Change Order must be sent to the OLP Project Manager for approval by KYTC Central Office. It is the responsibility of the LPA to secure the signature of the project engineer, the LPA signature authority, and the district LPA Coordinator. A copy of the approved Change Order will be forwarded to the LPA.

Keep in mind that the OLP does not increase funding for a project after it has been awarded. Project sponsors will be responsible for all additional costs if this change order will result in a cost increase that exceeds the budget for this project.

When a reimbursement request is submitted to the OLP for costs associated with the change order the LPA must attach a copy of the approved Change Order with the reimbursement request and documentation.

If you have any questions regarding the Change Order process, please contact your OLP Project Manager.



**Kentucky Transportation Cabinet
Office of Local Programs
LPA CHANGE ORDER**

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Page
Contract ID
Change Order No
Contractor
Contractor
Address

Project Sponsor
County
Project Number
Project Name

Proposed Changes in Connection with Contract Items:

| Item No. | Description | Quantity | Unit | Unit Price | Amount |
|---------------------------------------|-------------|----------|------|------------|--------|
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| <i>Total for this Page</i> | | | | | |
| <i>Total for Continuation Page(s)</i> | | | | | |
| <i>Total Contract Items</i> | | | | | |

Proposed Items of Supplemental Agreement:

| Ref. No. | Description | Quantity | Unit | Unit Price | Amount |
|---------------------------------------|-------------|----------|------|------------|--------|
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| <i>Total for this Page</i> | | | | | |
| <i>Total for Continuation Page(s)</i> | | | | | |
| <i>Total Supplemental Agreement</i> | | | | | |
| <i>Total Amount</i> | | | | | |

Time Extension/Explanation:

Reasons for Proposed Changes and Cost Analysis:

If approved by Transportation Cabinet, the undersigned contractor agrees to do the work outlined herein and to accept as payment in full the basis of payment as set forth herein.

By: _____
Contractor

Date

Requested _____ DATE
Project Engineer
Recommended _____ DATE
District LPA Coordinator
Recommended _____ DATE
Commissioner of Rural & Municipal Aid
Approved _____ DATE
LPA Signature Authority

Title
Approved _____ DATE
Secretary of Transportation Cabinet



Kentucky Transportation Cabinet
Office of Local Programs
LPA CHANGE ORDER

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Page

Contract ID
Change Order No
Contractor
Contractor
Address

Project Sponsor
County
Project Number
Project Name

Reasons for Proposed Changes and Cost Analysis:

A large, empty rectangular box with a black border, intended for the user to provide reasons for proposed changes and a cost analysis.

Construction Inspection Plan

Lexington-Fayette Urban County Government

Fourth Street Corridor Enhancement and Legacy Trail Phase 3 Projects

Scope of Work:

Lexington-Fayette Urban County Government (LFUCG) will provide construction inspection throughout the project. The city will use currently employed inspectors for on-site inspection of the construction project, qualified in ACI testing, and also capable of managing the testing of materials. LFUCG requirements for a construction inspector include an associate's degree (or 60 hours of college) in land surveying, drafting, construction, civil engineering, or related field and three years of experience performing professional engineering work relative to the area of assignment.

The construction inspectors are required to have considerable knowledge of:

- materials, methods and techniques of public works construction,
- engineering principals and practices,
- processes, procedures, equipment, EPA regulations and record keeping requirements
- Surveying and drafting instruments and methods
- and mathematics including algebra, geometry and trigonometry.

Other skills related to construction are recommended. Construction inspectors are also certified by KEPSC to conduct erosion and sediment control inspections on all Capital Improvement Projects.

The actual testing of materials will be provided by a KYTC qualified firm. The city inspector shall use inspection instruments and visual inspection to inspect the contractors work and ensure compliance with all contract provisions, including enforcement of the Kentucky Standard Specifications, Special Notes and Provisions, and the project proposal, and plans. The inspector shall keep complete and accurate daily records of all work performed, preparation of final paperwork, and the materials used in accordance with the Division of Construction Guidance Manual or KYTC current policy.

Construction Inspectors shall use procedures and methods as outlined in the LFUCG Construction Manual. Inspectors will provide daily inspections as required and will maintain records necessary to insure an acceptable project.

Special Instructions:

The city inspector will provide daily inspections as required to review demolition, excavations, and installation of formwork for preparation of the sidewalk construction. Additionally, records will be kept to identify temperature, weather conditions, crews provided by the contractor, as well as equipment.

The city inspector will supervise the testing firm providing testing of the concrete poured for sidewalk installation for every 100 yards of concrete poured, and at a minimum once daily when pouring concrete. Slump and air testing will be provided, along with storing of 4-concrete cylinders to determine 7-day and 28-day compressive strengths. Testing of cylinders will be provided at the testing lab at random to determine if compressive strengths are acceptable by the firm listed above.

All reports of inspections and testing will be provided to LFUCG and KYTC as required. Additionally, a *Final Completion Inspection* will be coordinated with KYTC District 7 personnel.