

**PART VI**

**CONTRACT AGREEMENT**

THIS AGREEMENT, made on the 9th day of February 2023, by and between Lexington-Fayette Urban County Government, acting herein called "OWNER" and Todd Johnson Contracting, Inc., doing business as \*(an individual) (a partnership) (a corporation) located in the City of Danville, County of Boyle, and State of Kentucky, hereinafter called "CONTRACTOR."

WITNESSETH: That the CONTRACTOR and the OWNER in consideration of One Hundred Fifty five thousand one hundred ninety five Dollars and twenty-four Cents (\$155,195.24) quoted in the proposal by the CONTRACTOR, dated 12/20/2022, 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 Prime AE for the De Roode Street Manhole Project.

**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 **ninety (90)** 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 **SIX HUNDRED DOLLARS (\$600.00)** per day. 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	Addendum
IX	Technical Specifications
Appendix A	LPA Special Provisions
Appendix B	KYTC Approved Traffic Management Plan
Appendix C	KYTC Approved Right-Of-Way Certification
Appendix D	KYTC Approved Utility Impact Note
Appendix E	KYTC Change Order Form
Appendix F	Property Management Plan
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:

*Deputy*  
MacKenzie Stock  
Clerk of the Urban County Council

BY: Linda Gorton  
MAYOR

Brenda Whittington  
(Witness)

Mayor  
(Title)

(Seal)

Todd Johnson Contracting Inc.  
(Contractor)

Jerry Mason  
(Secretary)\*

BY: Linda Johnson

Amanda Johnson  
(Witness)

President  
(Title)

497 Dillehay St. Danville, KY 40422  
(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.

END OF SECTION

CA-5

**PART VII**

**PERFORMANCE AND PAYMENT BONDS**

1. PERFORMANCE BOND
2. PAYMENT BOND

THE AMERICAN INSTITUTE OF ARCHITECTS



Bond No. 54250531

AIA Document A312

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Todd Johnson Contracting, Inc.
497 Dillehay Street
Danville, KY 40422

OWNER (Name and Address):

Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507

SURETY (Name and Principal Place of Business):

United Fire & Casualty Company
118 2nd Ave. SE, PO Box 73909
Cedar Rapids, IA 52401

CONSTRUCTION CONTRACT

Date:
Amount: \$155,195.24 One Hundred Fifty Five Thousand One Hundred Ninety Five Dollars and 24/100
Description (Name and Location): Bid #141-2022: DERODE STREET MANHOLE PROJECT

BOND

Date (Not earlier than Construction Contract Date): January 24, 2023
Amount: \$155,195.24 One Hundred Fifty Five Thousand One Hundred Ninety Five Dollars and 24/100
Modifications to this Bond: [X] None [ ] See Page 3

CONTRACTOR AS PRINCIPAL Company:

Todd Johnson Contracting, Inc.

Signature: [Handwritten Signature]
Name and Title: President

(Corporate Seal)

SURETY Company:

United Fire & Casualty Company

Signature: [Handwritten Signature]
Name and Title: Erica Thomas
Attorney-in-Fact

(Corporate Seal)

(Any additional signatures appear on page 3)

(FOR INFORMATION ONLY - Name, Address and Telephone) AGENT or BROKER:

USI Insurance Services LLC
2021 Spring Rd Ste 100
Oak Brook, IL 60523
312-442-7200

OWNER'S REPRESENTATIVE (Architect, Engineer or other party) :

**1** The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

**2** If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

**3** If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

**3.1** The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

**3.2** The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

**3.3** The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

**4** When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

**4.1** Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

**4.2** Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

**4.3** Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

**4.4** Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

**.1** After investigation, determine the amount for

which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

**.2** Deny liability in whole or in part and notify the Owner citing reasons therefor.

**5** If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

**6** After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

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

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

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

**7** The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.

**8** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**9** Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation avail-

able to sureties as a defense in the jurisdiction of the suit shall be applicable.

**10** Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

**11** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**12 DEFINITIONS**

**12.1** Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Con-

tractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

**12.2** Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

**12.3** Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

**12.4** Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

**MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:**

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL  
Company: \_\_\_\_\_ (Corporate Seal)

SURETY  
Company: \_\_\_\_\_ (Corporate Seal)

Signature: \_\_\_\_\_  
Name and Title:  
Address:

Signature: \_\_\_\_\_  
Name and Title:  
Address:



THE AMERICAN INSTITUTE OF ARCHITECTS



Bond No. 54250531

AIA Document A312

Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

Todd Johnson Contracting, Inc.
497 Dillehay Street
Danville, KY 40422

OWNER (Name and Address):

Lexington-Fayette Urban County Government
200 East Main Street
Lexington, KY 40507

SURETY (Name and Principal Place of Business):

United Fire & Casualty Company
118 2nd Ave. SE, PO Box 73909
Cedar Rapids, IA 52401

CONSTRUCTION CONTRACT

Date:

Amount: \$155,195.24 One Hundred Fifty Five Thousand One Hundred Ninety Five Dollars and 24/100

Description (Name and Location): Bid #141-2022: DE ROODE STREET MANHOLE PROJECT

BOND

Date (Not earlier than Construction Contract Date): January 24, 2023

Amount: \$155,195.24 One Hundred Fifty Five Thousand One Hundred Ninety Five Dollars and 24/100

Modifications to this Bond:

None

See Page 6

CONTRACTOR AS PRINCIPAL

Company:

Todd Johnson Contracting, Inc.

(Corporate Seal)

SURETY

Company:

United Fire & Casualty Company

(Corporate Seal)

Signature:

[Handwritten Signature]

Name and Title: President

Signature:

[Handwritten Signature]

Name and Title: Erica Thomas

Attorney-in-Fact

(Any additional signatures appear on page 6)

(FOR INFORMATION ONLY - Name, Address and Telephone)

AGENT or BROKER:

USI Insurance Services LLC

2021 Spring Rd Ste 100

Oak Brook, IL 60523

312-442-7200

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

**1** The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.

**2** With respect to the Owner, this obligation shall be null and void if the Contractor:

**2.1** Promptly makes payment, directly or indirectly, for all sums due Claimants, and

**2.2** Defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity whose claim, demand, lien or suit is for the payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.

**3** With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.

**4.** The Surety shall have no obligation to Claimants under this Bond until:

**4.1** Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

**4.2** Claimants who do not have a direct contract with the Contractor:

**.1** Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and

**.2** Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly; and

**.3** Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.

**5** If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.

**6** When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:

**6.1** Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

**6.2** Pay or arrange for payment of any undisputed amounts.

**7** The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

**8** Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

**9** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

**10** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**11** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

**12** Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.

**13** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond

conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.

**15 DEFINITIONS**

15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone

service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

**MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:**

§ 6 When the Claimant has satisfied the conditions of Section 4, the Surety shall promptly and at the Surety's expense take the following actions:

§ 6.1 Send an answer to the Claimant, with a copy to the Owner, within 4560 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.

§ 6.2 Pay or arrange for payment of any undisputed amounts.

§ 6.3 The Surety's failure to discharge its obligations under this Section 6 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a claim. However, if the Surety fails to discharge its obligations under this Section 6, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs to recover any sums found to be due and owing to the Claimant.

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL  
Company: \_\_\_\_\_ (Corporate Seal)

SURETY  
Company: \_\_\_\_\_ (Corporate Seal)

Signature: \_\_\_\_\_  
Name and Title:  
Address:

Signature: \_\_\_\_\_  
Name and Title:  
Address:



UNITED FIRE & CASUALTY COMPANY, CEDAR RAPIDS, IA  
 UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX  
 FINANCIAL PACIFIC INSURANCE COMPANY, LOS ANGELES, CA  
 CERTIFIED COPY OF POWER OF ATTORNEY  
 (original on file at Home Office of Company – See Certification)

Inquiries: Surety Department  
 118 Second Ave SE  
 Cedar Rapids, IA 52401

KNOW ALL PERSONS BY THESE PRESENTS, That United Fire & Casualty Company, a corporation duly organized and existing under the laws of the State of Iowa; United Fire & Indemnity Company, a corporation duly organized and existing under the laws of the State of Texas; and Financial Pacific Insurance Company, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint

JOHN S. MEEHAN, DEBORAH L. BURTON, WALTER M. ZOLLA, ERICA THOMAS, DEBRA HUTTS, CATHERINE M. KRUEGER,  
 EACH INDIVIDUALLY

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$50,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted is continuous and shall remain in full force and effect until revoked by United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted by the Boards of Directors of United Fire & Casualty Company, United Fire & Indemnity Company, and Financial Pacific Insurance Company.

**“Article VI – Surety Bonds and Undertakings”**

Section 2, Appointment of Attorney-in-Fact. “The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set of forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this

4th day of September, 2013



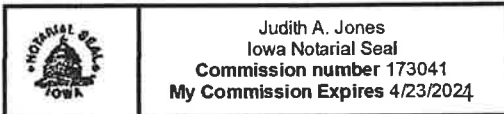
UNITED FIRE & CASUALTY COMPANY  
 UNITED FIRE & INDEMNITY COMPANY  
 FINANCIAL PACIFIC INSURANCE COMPANY

By: *Dennis J. Richmann*  
 Vice President

State of Iowa, County of Linn, ss:

On 4th day of September, 2013, before me personally came Dennis J. Richmann

to me known, who being by me duly sworn, did depose and say; that he resides in Cedar Rapids, State of Iowa; that he is a Vice President of United Fire & Casualty Company, a Vice President of United Fire & Indemnity Company, and a Vice President of Financial Pacific Insurance Company the corporations described in and which executed the above instrument; that he knows the seal of said corporations; 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 corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



*Judith A. Jones*  
 Notary Public  
 My commission expires: 4/23/2024

I, Mary A. Bertsch, Assistant Secretary of United Fire & Casualty Company and Assistant Secretary of United Fire & Indemnity Company, and Assistant Secretary of Financial Pacific Insurance Company, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations  
 this 24th day of January, 20 2023.



By: *Mary A. Bertsch*  
 Assistant Secretary,  
 UF&C & UF&I & FPIC

RESOLUTION NO. 051 - 2023

A RESOLUTION ACCEPTING THE BID OF TODD JOHNSON CONTRACTING, INC., IN THE AMOUNT OF \$155,195.24, FOR THE DE ROODE STREET MANHOLE PROJECT, FOR THE DIVISION OF WATER QUALITY, AND AUTHORIZING THE MAYOR, ON BEHALF OF THE URBAN COUNTY GOVERNMENT, TO EXECUTE AN AGREEMENT WITH TODD JOHNSON CONTRACTING, INC., RELATED TO THE BID.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the bid of Todd Johnson Contracting, Inc., in the amount of \$155,195.24, for the De Roode Street Manhole Project, for the Division of Water Quality, be and hereby is accepted and approved as to the specifications and amounts set forth in the terms of the bid and Agreement, which are attached hereto and incorporated herein by reference, and the Mayor, on behalf of the Urban County Government, to enter into the attached Agreement with Todd Johnson Contracting, Inc., related to the bid.

Section 2 - That an amount, not to exceed the sum of \$155,195.24, be and hereby is approved for payment to Todd Johnson Contracting, Inc., from account #3160-303204-92211 (Project: NEWTOWNPK\_2011 SUPPL\_2021) and account #4052-303204-92211 (Project: DERODE\_MH CONSTRUCT\_CAP), pursuant to the terms of the bid and Agreement.

Section 3 - That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: February 9, 2023



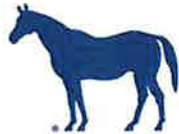
MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

0087-23:EAB:X:\Cases\WATER-AIR\23-LE0001\LEG\00773280.DOCX



**LEXINGTON**

**Lexington-Fayette Urban County Government  
Division of Water Quality**

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**De Roode Street Manhole Project**

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**DPR 031 001**

**KYTC Item No.: 07-00593.2**





**LEXINGTON**

**Lexington-Fayette Urban County Government  
Division of Water Quality**

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**Contract  
Documents  
And  
Specifications**

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**De Roode Street Manhole Project**

**LFUCG Bid No.: 141-2022  
Prepared by: Lexington-Fayette Urban County Government**

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**De Roode Street Manhole Project**

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2022

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**PART 1**

**ADVERTISEMENT FOR BIDS**

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## PART 1

### ADVERTISEMENT FOR BIDS

#### 1. INVITATION

Sealed proposals for the De Roode Street Manhole Project will be received by the Lexington-Fayette Urban County Government (LFUCG), via Ion Wave until 2:00 p.m., local time, 12/20/22, for furnishing all labor and/or materials and performing all work as set forth by this advertisement, conditions (general and special), specifications, Ion Wave Q&A, and/or the drawings prepared by Prime AE Group. No bids shall be accepted after the bid letting time of 2:00 PM. Immediately following the scheduled closing time for reception of bids, all proposals which have been submitted in accordance with the above will be opened electronically and tab sheet will be posted on Ion Wave.

**Due to the current environment and recommendations for social distancing, LFUCG will only be accepting bids on-line through Ion Wave for this solicitation. Base bid and alternate totals (if included) should be provided on the appropriate line items tab on Ion Wave. Submissions without line item totals may be rejected and deemed non-responsive. All forms normally provided with bid submission should be downloaded from Ion Wave, filled out, notarized if required\* and attached with bid submission, including Excel spreadsheet of unit prices. A copy of bid bond must be included with submission. THESE INSTRUCTIONS SUPERCEDE ALL OTHER BID SUBMISSION INSTRUCTIONS PROVIDED IN THIS PACKAGE. PLEASE SUBMIT ALL QUESTIONS VIA THE Q&A MODULE ON ION WAVE.**

Except as otherwise indicated on the Plans, and in the Contract Documents and Specifications, all items of Work including administration, materials, construction methods, method of measurement and basis of payment shall comply with the current edition of the *Kentucky Transportation Cabinet (KYTC) Standard Specifications for Road and Bridge Construction, 2019 Edition* and all current revisions.

#### 2. DESCRIPTION OF WORK

Installation of a new manhole structure on top of an existing concrete culvert (12' by 8') approximately 18.5 feet from the roadway surface to the flowline. All work will be within the public right of way.

**Plans are available on Ion Wave only. 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 Ion Wave (LFUCG's electronic bidding system). Ion Wave can be accessed at <https://lexingtonky.ionwave.net>

**4. METHOD OF RECEIVING BIDS**

Bids will be received from Prime Contracting firms that are **KYTC Prequalified in Grade and Drain (A) and/or Bridges (E)** on a **Line Item Unit Price Basis** for the 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.**

**Bids will only be accepted via Ion Wave.**

**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. The OWNER reserves the right to reject the Bid of any Bidder that is deemed to be unbalanced or front loaded.

**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 via Ion Wave not later than 2:00 p.m. local time, 12/20/22. Bids will remain sealed until 12/20/22, 2:00 pm, the official Bid closure time. Bids received after the scheduled closing time for receipt of bids will not be accepted. The bid must be submitted electronically in portable document format (pdf) with the entire proposal and include all pages.

**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, 3<sup>rd</sup> 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 **five percent (5%)** 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, 3<sup>rd</sup> 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 **5 percent (5%)** of the total value of this contract being 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 9:00 AM on December 5th at Division of Water Quality Building (125 Lisle Industrial Avenue) in the North Elkhorn Conference Room.

**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 via Ion Wave, at the time and in the manner set forth in the Advertisement for Bids. 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 120 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.

#### **2. PREPARATION OF BID**

The bid must be submitted electronically in portable document format (pdf) 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.

#### **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 Ion Wave. **Bidders must be KYTC Prequalified in Grade and Drain (A) and/or Bridges (E).** DBE subcontractors must be prequalified with KYTC 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 SIX HUNDRED DOLLARS (\$600) 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 LFUCG Ionwave electronic bidding system. 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 Ionwave database please register your company at <https://lexingtonky.ionwave.net>. 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 **five percent (5%) 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:

<https://lexingtonky.ionwave.net>

## 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 **5%** 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 5 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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**PART III**

**Invitation to Bid No. 141-2022**  
**De Roode Street Manhole Project**

**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 **De Roode Street Manhole Project** 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 **ninety (90) consecutive calendar days** thereafter. BIDDER further agrees to pay liquidated damages, the sum of **\$600.00** for each consecutive calendar day thereafter.

The Bidder hereby acknowledges receipt of the following addenda:

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

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 (KYTC)**  
Revised July 2022

**ANNUAL AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS**

Affidavit Effective Date: \_\_\_\_\_  
Affidavit Expiration Date: \_\_\_\_\_  
Maximum Length One-Year

**REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS**

PAGE 1 OF 2

**FOR BIDS AND CONTRACTS IN GENERAL:**

- I. Each bidder or offeror swears and affirms under penalty of perjury, that to the best of their knowledge:
- 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.
  - e. The bidder or offeror swears and affirms under penalty of perjury that the entity bidding, is not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade, as defined in KRS 45A.607.
  - f. The bidder or offeror swears and affirms that the entity bidding, and all subcontractors therein, have not violated any of the prohibitions set forth in KRS 11A.236 during the previous ten (10) years, and further pledge to abide by the restrictions set forth in such statute for the duration of the contract awarded.
  - g. The bidder or offeror swears and affirms that they have not procured an original, subsequent, or similar contract while employing an executive agency lobbyist who was convicted of a crime related to the original, subsequent, or similar contract within five (5) years of the conviction of the lobbyist.

**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 to the best of their knowledge:
- 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.

ANNUAL AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

REQUIRED AFFIDAVIT FOR BIDDERS, OFFERORS AND CONTRACTORS

PAGE 2 OF 2

- 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 \_\_\_\_\_

Commonwealth of Kentucky Vendor Code (if known) \_\_\_\_\_

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)**

**Page 1 of 2**

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

**BIDDERS AFFIDAVIT (LFUCG)**

**Page 2 of 2**

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 shall submit Bid Schedule Excel spreadsheet via Ion Wave. Page P-15 must be fully executed and submitted via IonWave. The excel spreadsheet is available through the LFUCG's Ion Wave website (<https://lexingtonky.ionwave.net>).**

### Bid Schedule

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	FP	TOTAL
NBC	SURVEYING STAKEOUT	1	LS		\$	
01768	MANHOLE TYPE C MOD	1	EA		\$	
08100	CLASS "A" CONCRETE	7	CY		\$	
08150	STEEL REINFORCEMENT	2,794	LB		\$	
02403	REMOVE CONCRETE MASONRY	1	CY		\$	
08003	FOUNDATION PREPARATION	1	LS		\$	
40072	BITUMINOUS SURFACE COURSE	4	TN		\$	
40073	BITUMINOUS BASE COURSE	7	TN		\$	
00001	DGA BASE	21	TN		\$	
02184	BACKFILLING	132	CY		\$	
02183	CONTAMINATED SOIL DISPOSAL	78	TN		\$	
NBC	CLEAN NO. 57 STONE BACKFILL	52	TN		\$	
01810	STANDARD CURB AND GUTTER	40	LF		\$	
21415ND	EROSION CONTROL	1	LS		\$	
02650	MAINTAIN & CONTROL TRAFFIC	1	LS		\$	
NBC	FINAL CLEANUP	1	LS		\$	
NBC	RECORD DRAWINGS	1	LS		\$	
2200	ROADWAY EXCAVATION	60	SY		\$	
20550ND	SAWCUT PAVEMENT	100	LF		\$	
2568	MOBILIZATION	1	LS		\$	
2569	DEMOBILIZATION	1	LS		\$	

**PROPOSED BID = \_\_\_\_\_**

TOTAL OF BASE BID PRICES FOR **DE ROODE STREET MANHOLE PROJECT:**

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

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/>
2. Asphalt 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: TAP 4003 012

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 5% 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 \_\_\_% 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 6<sup>th</sup> 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.









**14. NON-COLLUSION CERTIFICATION**

COMMONWEALTH OF KENTUCKY

COUNTY: FAYETTE

FED PROJECT NO: TAP 4003 012

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 (Not Hispanic or Latino)		Hispanic or Latino		Black or African- American (Not Hispanic or Latino)		Native Hawaiian and Other Pacific Islander (Not Hispanic or Latino)		Asian (Not Hispanic or Latino)		American Indian or Alaskan Native (not Hispanic or Latino)		Two or more races (Not Hispanic or Latino)		Total		
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	
Administrators																			
Professionals																			
Superintendents																			
Supervisors																			
Foremen																			
Technicians																			
Protective Service																			
Para-Professionals																			
Office/Clerical																			
Skilled Craft																			
Service/Maintenance																			
<b>Total:</b>																			

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 1, Part 1.3 – see provisions	CGL	\$1,000,000 per occ. And \$2,000,000 aggregate	\$			
SC-3, Section 1, Part 1.3 – see provisions	AUTO	\$1,000,000/per occ.	\$			
SC-3, Section 1, Part 1.3 – see provisions	WC	Statutory w/endorsement as noted	\$			
SC-3, Section 1, Part 1.3 – see provisions	EXC	\$5,000,000 per occ.	\$			

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**

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 contact. Please include, the date of the determination the state agency issuing the determination. (Please use extra sheets if necessary.)

KRS VIOLATION	DATE	STATE AGENCY
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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.

**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.

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Signature of Authorized Official

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Title

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Date

END OF SECTION

**PART IV**

**GENERAL CONDITIONS**

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END OF SECTION

## 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 thirty (30) 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 declamatory 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 thirty (30%) 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. WEATHER RELATED DELAYS
10. STANDARD SPECIAL PROVISIONS  
(Payment of Predetermined Minimum Wage, Statements and Payrolls)
11. FEDERAL WAGE RATES

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) Notwithstanding, the foregoing, with respect to any professional services performed by CONTRACTOR hereunder (and to the fullest extent permitted by law), CONTRACTOR shall indemnify, save, hold harmless and defend LFUCG from and against any and 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, for any damage due to death or injury to any person or injury to any property (including the loss of use resulting therefrom) to the extent arising out of, pertaining to or relating to the negligence, recklessness or willful misconduct of CONTRACTOR in the performance of this agreement.
- (4) 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.

- (5) These provisions shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this agreement.
- (6) 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.

**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	\$1 million per occurrence, \$2 million aggregate
Commercial Automobile Liability (Insurance Services Office Form CA 0001)	\$1 million per occurrence
Worker's Compensation	Statutory

Employer's Liability	\$100,000 each accident bodily injury; \$500,000 policy limit bodily injury by disease; \$100,00 each employee bodily injury by disease
Excess/Umbrella Liability	\$5 million per occurrence

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.

**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.

**2. BLASTING**

Blasting is NOT allowed on this project.

**3. LABOR/EQUAL EMPLOYMENT OPPORTUNITY INFORMATION PACKAGE**

**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. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

**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, United States Code, as required in 23 CFR 633.102(b) (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). 23 CFR 633.102(e).

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. 23 CFR 633.102(e).

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) in accordance with 23 CFR 633.102. 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 solicitation-for-bids or request-for-proposals 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). 23 CFR 633.102(b).

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. 23 CFR 633.102(d).

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. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

**II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)**

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A 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 Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 230, Subpart A, 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 (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 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 Part 35 and 29 CFR Part 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. 23 CFR 230.409 (g)(4) & (5).

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, sexual orientation, gender identity, 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 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 or other knowledgeable company official.

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, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure 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. 23 CFR 230.409. 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 thereunder. 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, sexual orientation, gender identity, 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, 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. Assurances Required:**

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of 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 recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**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 more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, 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, sexual orientation, gender identity, 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), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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 (29 CFR 5.5)

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

(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 (29 CFR 5.5)

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 (29 CFR 5.5)

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. 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 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), 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 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 18 U.S.C. 1001 and 31 U.S.C. 231.

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 (29 CFR 5.5)

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

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

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

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

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

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

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

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV, 23 CFR 230.111(e)(2). 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 as provided in 29 CFR 5.5.

**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 as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, 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 (29 CFR 5.5)**

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**

Pursuant to 29 CFR 5.5(b), 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. 29 CFR 5.5.

**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 currently provided in 29 CFR 5.5(b)(2)\* 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. 29 CFR 5.5.

\* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).



**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. 29 CFR 5.5.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

#### **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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" in paragraph 1 of Section VI 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: (based on longstanding interpretation)

- (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. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), 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. Pursuant to 23 CFR 635.116(c), 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. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

#### **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 Part 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. 23 CFR 635.108.

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 Part 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). 29 CFR 1926.10.

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 Part 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 11, 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 (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

#### **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. 2 CFR 180.220 and 1200.220.

##### **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. 2 CFR 180.320.

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. 2 CFR 180.325.

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. 2 CFR 180.345 and 180.350.

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, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 180.330.

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. 2 CFR 180.220 and 180.300.

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. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. 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 System for Award Management website (<https://www.sam.gov>). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

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## **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 CFR 180.335;

(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, 2 CFR 180.800;

(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, 2 CFR 180.700 and 180.800; 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. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

## **3. 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). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant 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. 2 CFR 180.365.

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, Subpart I, 180.900 – 180.1020, 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 recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 1200.220 and 1200.332.

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. 2 CFR 180.220 and 1200.220.

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 System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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. 2 CFR 180.325.

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**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:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

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**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 Part 20, App. A.

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-L.L., "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.

#### **XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**  
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

### **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.

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 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 Community Development, 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 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 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 any 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, 3<sup>rd</sup> Floor  
Lexington, KY 40507  
(859) 258-3326  
TDD [hearing impaired only] (859) 258-3606

**All Contractors and Subcontractors must be qualified for roadway construction by the Kentucky Department of Transportation.**

**KYTC Prequalified DBE list can be found at:**

<http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development/Pages/Certified-and-Prequalified-DBEs.aspx>



**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: \_\_\_\_\_

#### **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.

## 8. UTILITIES

Notify all utility companies prior to beginning construction operations. Locate all utilities and make appropriate arrangements regarding relocation. Maintain utility service throughout the construction period and make final relocations at the completion of the Work.

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. Provide access to the site and reasonable accommodation to the utility companies to allow them to complete their relocation work.

Maintain utility service throughout the construction period. If disruption of utility services is unavoidable, notify affected property owners. Provide temporary service to property owners if permanent service will be disrupted for an extended period. If an unintended disruption in utility service occurs, immediately and safely restore service.

The Lexington-Fayette Urban County Government maintains the right to remove or alter portions of this contract if a utility conflict occurs.

### IMPACT ON CONSTRUCTION

#### **BEFORE YOU DIG**

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.

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*Please Note: The information presented in this Utility Note is informational in nature and the information contained herein is not guaranteed.*

**UTILITY NOTES TO BE INCLUDED IN THE PROPOSAL  
IMPACT ON CONSTRUCTION**

**FAYETTE COUNTY**

**De Roode Street Manhole Project**

Utility coordination efforts are outlined in the Appendix D – Utility and Rail Certification Note. 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.

**SPECIAL CAUTION NOTE – PROTECTION OF UTILITIES**

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.

**SPECIALTY ITEM WORK**

Specialty item work that may be accomplished by contractors that are certified for that item, but not necessarily prequalified by the Department, will require a submission of a subcontract. The prime contractor should submit evidence of experience performing the requested work items for the specialty subcontractor with the subcontract request.

The submittal should include company personnel and equipment used for the work. The OWNER will review and determine whether to approve or disapprove the request.

## UTILITY CONTACT LIST FOR PROJECT AREA

We are providing 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](mailto:Kevin.Long@lge-ku.com)

Spectrum  
2544 Palumbo Drive  
Lexington, KY 40509

Contact: Ralph Mcdonie  
(859) 514-1439  
[Ralph.Mcdonie@charter.com](mailto:Ralph.Mcdonie@charter.com)

Windstream Communications  
130 West New Circle Road, Suite 170  
Lexington, KY 40505

Contact: Steve Johnson  
859-357-6216  
[steve.johnson@windstream.com](mailto:steve.johnson@windstream.com)

Kentucky American Water  
2300 Richmond Road  
Lexington, KY 40502

Contact: Austin Thore  
859-269-2386  
[Austin.Thore@amwater.com](mailto:Austin.Thore@amwater.com)

Columbia Gas of Kentucky, Inc.  
2001 Mercer Road  
P.O. Box 14241  
Lexington, KY 40512

Contact: David Lemons  
859-288-0249  
[dnlemons@nisource.com](mailto:dnlemons@nisource.com)

Columbia Gas Transmission  
1675 Muddy Creek Road  
Winchester, KY 40392

Contact: Nena Honeker  
859-745-6415

Metronet  
130 W. Tiverton Way  
Lexington, KY 40503

Contact: David Fritz  
[david.fritz@metronetinc.com](mailto:david.fritz@metronetinc.com)

Lexington-Fayette Urban County Government  
Division of Water Quality  
301 Lisle Industrial Avenue  
Lexington, KY 40511

Contact: Greg Lubeck, P.E.  
859-425-3446  
[rchervus@lfucg.com](mailto:rchervus@lfucg.com)

Lexington-Fayette Urban County Government  
Traffic Engineering  
101 E. Vine Street, Suite 300  
Lexington, KY 40507

Contact: Jeffery Neal  
859-258-3830  
[jneal@lfucg.com](mailto:jneal@lfucg.com)

Level 3 Communications  
11857 Commonwealth Drive  
Louisville, KY 402991

Contact : Mark Sewell  
502-295-0939  
[mark.sewell@centurylink.com](mailto:mark.sewell@centurylink.com)

### **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. 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  $\geq 0.10$  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.

**10. STANDARD SPECIAL PROVISIONS**

**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.

Superseded General Decision Number: KY20210038

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: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none"><li>. Executive Order 14026 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$15.00 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 2022.</li></ul>
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none"><li>. Executive Order 13658 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.</li></ul>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a



conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	02/11/2022
2	02/18/2022
3	02/25/2022
4	05/06/2022
5	06/10/2022
6	06/24/2022
7	07/01/2022
8	08/05/2022
9	08/12/2022
10	11/04/2022

BRIN0004-003 06/01/2021

BRECKENRIDGE COUNTY

	Rates	Fringes
BRICKLAYER.....	\$ 29.57	14.75

BRKY0001-005 06/01/2021

BULLITT, CARROLL, GRAYSON, HARDIN, HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, & TRIMBLE COUNTIES:

	Rates	Fringes
BRICKLAYER.....	\$ 29.57	15.10

BRKY0002-006 06/01/2021

BRACKEN, GALLATIN, GRANT, MASON & ROBERTSON COUNTIES:

	Rates	Fringes
BRICKLAYER.....	\$ 30.87	15.87

BRKY0007-004 06/01/2021

BOYD, CARTER, ELLIOT, FLEMING, GREENUP, LEWIS & ROWAN COUNTIES:

	Rates	Fringes
BRICKLAYER.....	\$ 36.19	19.54

BRKY0017-004 06/01/2021

ANDERSON, BATH, BOURBON, BOYLE, CLARK, FAYETTE, FRANKLIN, HARRISON, JESSAMINE, MADISON, MERCER, MONTGOMERY, NICHOLAS, OWEN, SCOTT, WASHINGTON & WOODFORD COUNTIES:

	Rates	Fringes
BRICKLAYER.....	\$ 30.87	15.87

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CARP0064-001 04/01/2022

	Rates	Fringes
CARPENTER.....	\$ 30.84	22.19
Diver.....	\$ 46.64	22.19
PILEDRIVERMAN.....	\$ 31.09	22.19

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ELEC0212-008 06/07/2022

BRACKEN, GALLATIN and GRANT COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 33.29	20.05

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ELEC0212-014 11/25/2019

BRACKEN, GALLATIN & GRANT COUNTIES:

	Rates	Fringes
Sound & Communication Technician.....	\$ 24.35	12.09

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ELEC0317-012 05/30/2022

BOYD, CARTER, ELLIOT & ROWAN COUNTIES:

	Rates	Fringes
ELECTRICIAN (Wiremen).....	\$ 35.85	28.25

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ELEC0369-007 06/01/2022

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.....	\$ 34.60	19.57

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\* ELEC0575-002 05/30/2022

FLEMING, GREENUP, LEWIS & MASON COUNTIES:

	Rates	Fringes
ELECTRICIAN.....	\$ 35.50	20.63

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ENGI0181-018 07/01/2021

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 1.....	\$ 34.80	17.85
GROUP 2.....	\$ 31.94	17.85
GROUP 3.....	\$ 32.39	17.85
GROUP 4.....	\$ 31.62	17.85

## OPERATING ENGINEER CLASSIFICATIONS

GROUP 1 - A-Frame Winch Truck; Auto Patrol; Backfiller; Batch 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.

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IRON0044-009 06/01/2022

BRACKEN, GALLATIN, GRANT, HARRISON, ROBERTSON,

BOURBON (Northern third, including Townships of Jackson, Millersburg, Ruddled 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.....	\$ 30.28	22.30
Structural.....	\$ 31.87	22.30

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 IRON0070-006 06/01/2022

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.....	\$ 31.79	24.30

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 IRON0769-007 06/01/2022

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, Pecksridge, 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.....	\$ 33.71	27.69
ZONE 2.....	\$ 34.11	27.69
ZONE 3.....	\$ 35.71	27.69

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.

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LAB00189-003 07/01/2022

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.....	\$ 23.76	17.12
GROUP 2.....	\$ 24.01	17.12
GROUP 3.....	\$ 24.06	17.12
GROUP 4.....	\$ 24.66	17.12

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

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LABO0189-008 07/01/2022

ANDERSON, BULLITT, CARROLL, HARDIN, HENRY, JEFFERSON, LARUE, MARION, MEADE, NELSON, OLDHAM, SHELBY, SPENCER, TRIMBLE & WASHINGTON COUNTIES

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 23.76	17.12
GROUP 2.....	\$ 24.01	17.12
GROUP 3.....	\$ 24.06	17.12
GROUP 4.....	\$ 24.66	17.12

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

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 LAB00189-009 07/01/2022

BRECKINRIDGE & GRAYSON COUNTIES

	Rates	Fringes
Laborers:		
GROUP 1.....	\$ 23.76	17.12
GROUP 2.....	\$ 24.01	17.12
GROUP 3.....	\$ 24.06	17.12
GROUP 4.....	\$ 24.66	17.12

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

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 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

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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

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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

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PAIN1072-003 12/01/2021

BOYD, CARTER, ELLIOTT, GREENUP, LEWIS and ROWAN COUNTIES

	Rates	Fringes
Painters:		
Bridges; Locks; Dams; Tension Towers & Energized Substations.....	\$ 35.06	21.15
Power Generating Facilities..	\$ 31.82	21.15

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PLUM0248-003 06/01/2022

BOYD, CARTER, ELLIOTT, GREENUP, LEWIS & ROWAN COUNTIES:

	Rates	Fringes
Plumber and Steamfitter.....	\$ 38.50	22.40



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\* PLUM0392-007 06/01/2022

BRACKEN, CARROLL (Eastern Half), GALLATIN, GRANT, MASON, OWEN & ROBERTSON COUNTIES:

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 36.81	27.35

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PLUM0502-003 08/01/2021

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.....	\$ 38.07	20.78

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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

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

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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 <https://www.dol.gov/agencies/whd/government-contracts>.

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

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

#### Union Rate Identifiers

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

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

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

#### Union Average Rate Identifiers

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

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

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

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

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has 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.

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END OF GENERAL DECISIO"

**Fringe benefit amounts are applicable for all hours worked except when otherwise noted.**

**No laborer, workman or mechanic shall be paid at a rate less than that of a Journeyman except those classified as bona fide apprentices.**

**Apprentices or trainees shall be permitted to work as such subject to Administrative Regulations adopted by the Commissioner of Workplace Standards. Copies of these regulations will be furnished upon request from any interested person.**

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

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

**TO: EMPLOYERS/EMPLOYEES**

**PREVAILING WAGE SCHEDULE:**

**The wages indicated on this wage schedule are the least permitted to be paid for the occupations indicated. When an employee works in more than one classification, the employer must record the number of hours worked in each classification at the prescribed hourly base rate.**

**OVERTIME:**

**Overtime is to be paid to an employee at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such work week. Wage violations or questions should be directed to the designated Engineer or the undersigned.**

**Director  
Division of Construction Procurement  
Frankfort, Kentucky 40622  
502-564-3500**

**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 **Prime AE** for the De Roode Street Manhole Project.

**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 **ninety (90)** 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 **SIX HUNDRED DOLLARS (\$600.00)** per day. 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**

<b>PART NO.</b>	<b>TITLE</b>
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	Addendum
IX	Technical Specifications
Appendix A	LPA Special Provisions
Appendix B	KYTC Approved Traffic Management Plan
Appendix C	KYTC Approved Right-Of-Way Certification
Appendix D	KYTC Approved Utility Impact Note
Appendix E	KYTC Change Order Form
Appendix F	Property Management Plan
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:

\_\_\_\_\_  
Clerk of the Urban County Council

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

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Title)

(Seal)

\_\_\_\_\_  
(Contractor)

\_\_\_\_\_  
(Secretary)\*

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

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(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.

END OF SECTION

CA-5

**PART VII**

**PERFORMANCE AND PAYMENT BONDS**

1. PERFORMANCE BOND
2. PAYMENT BOND

**PART VII**

**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, that

\_\_\_\_\_

(Name of CONTRACTOR)

\_\_\_\_\_

(Address of CONTRACTOR)

a \_\_\_\_\_,

hereinafter

(Corporation, Partnership, or Individual)

called Principal, and

\_\_\_\_\_

(Name of Surety)

\_\_\_\_\_

(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 \_\_\_\_\_ Dollars, (\$ \_\_\_\_\_), 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 **De Roode Manhole Project** in accordance with drawings and specifications prepared by: **Lexington-Fayette Urban County Government** 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 \_\_\_\_\_ each one of which shall be (number)

deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
(Principal) Secretary

\_\_\_\_\_  
Principal

BY: \_\_\_\_\_ (s)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Witness as to Principal

\_\_\_\_\_  
(Address)

ATTEST:

\_\_\_\_\_  
(Surety) Secretary

\_\_\_\_\_  
Surety

BY: \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Address)

(SEAL)

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)

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

Surety

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

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

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 PRESENTS, that

\_\_\_\_\_

(Name of CONTRACTOR)

\_\_\_\_\_

(Address of CONTRACTOR)

a \_\_\_\_\_,

hereinafter

(Corporation, Partnership, or Individual)

called Principal, and

\_\_\_\_\_

(Name of Surety)

\_\_\_\_\_

(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 \_\_\_\_\_ Dollars (\$\_\_\_\_\_) 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 **De Roode Manhole Project** in accordance with drawings and specifications prepared by: **Lexington-Fayette Urban County Government** 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 \_\_\_\_\_ counterparts,  
each one of (number)

which shall be deemed an original, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
(Principal)

\_\_\_\_\_  
(Principal) Secretary

(SEAL)

BY: \_\_\_\_\_ (s)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Witness to Principal)

\_\_\_\_\_  
(Address)

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

ATTEST:

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

(Attorney-in-Fact)

\_\_\_\_\_  
(Surety) Secretary

(SEAL)

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

NOTE: The number of executed counterparts of the bond shall coincide with the number of executed counterparts of the Contract.

END OF SECTION

**PART VIII**

**ADDENDA**

All addenda issued during the bidding of the Project will be reproduced in the signed Contract Documents, on the pages following this heading sheet.

<u>Addendum Number</u>	<u>Title</u>	<u>Date</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

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## **SECTION A - GENERAL PROVISIONS**

### **A.1 TECHNICAL SPECIFICATIONS WRITING STYLE**

These Technical Specifications are written to the bidder, before the award of the Contract, and to the Contractor after award. The sentences which direct the Contractor to perform work are written in active voice imperative mood. These directions to the Contractor are written as commands. For example, a requirement to provide cold weather protection would be expressed as, "Provide cold-weather protection for concrete," rather than "The Contractor shall provide cold weather protection for concrete." In the imperative mood, the subject "the bidder" or "the Contractor" is understood.

Requirements to be performed by others have been written in active voice. Sentences written in active voice identify the party responsible for performing the action. For example, "The Engineer will determine the density of the compacted material." Certain requirements of the Contractor may also be written in active voice, rather than active voice imperative mood.

### **A.2 INCORPORATION OF KENTUCKY TRANSPORTATION CABINET SPECIFICATIONS AND AASHTO LRFD BRIDGE DESIGN SPECIFICATIONS**

Except as otherwise indicated on the Plans, and in the Contract Documents and Specifications, all items of Work including materials, construction methods, method of measurement and basis of payment shall comply with the current edition of the *Kentucky Transportation Cabinet (KYTC) Standard Specifications for Road and Bridge Construction* and the *AASHTO LRFD Bridge Design Specifications*.

With regard to the incorporation *Standard Specifications of KYTC* and *AASHTO LRFD Bridge Design Specifications* 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 KYTC 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 KYTC* 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.)
- All references to AASHTO Specifications are to the 2017 edition of the AASHTO LRFD Bridge Design Specifications

### **A.3 INCIDENTAL ITEMS**

Any items not specifically listed for payment under an individual bid item shall be incorporated in the bid item *Incidental Construction Items*. The cost of all labor, materials, and equipment necessary to furnish a complete, fully operating work shall be included in the bid.

### **A.4 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.

## **SECTION B - MOBILIZATION AND DEMOBILIZATION**

### **B.1 MOBILIZATION**

Perform all preparatory work and operations necessary to move personnel, equipment, supplies, and incidentals to the project site; to establish offices, buildings, and other facilities that are necessary for performing the work; and to accomplish all other work or operations that must be performed, including costs that must be incurred, to begin work on the project.

Do not bid an amount for Mobilization that exceeds 5 percent of the sum of the total amounts bid for all other items in the Bid Proposal, excluding Mobilization, Demobilization, and contingent amounts established for adjustments and incentives, if applicable. The LFUCG will automatically adjust any bids in excess of this amount for bid comparisons. The LFUCG will base the award on the maximum allowable bid of 5 percent. If any errors in unit bid prices for other Contract items in a Contractor's Bid Proposal are discovered after bid opening and such errors reduce the total amount bid for all other items, excluding Mobilization, Demobilization, and contingent amounts established for adjustments and incentives, so that the percent bid for mobilization is larger than 5 percent, the LFUCG will adjust the amount bid for mobilization to 5 percent of the sum of the corrected total bid amounts.

### **B.2 DEMOBILIZATION**

Perform all work and operations necessary to accomplish final clean-up; to move personnel, equipment, supplies, and incidentals from the project site; to remove all offices, buildings, and other facilities that were necessary for performing the work; and to accomplish all other work that must be performed, including costs that must be incurred, after acceptable completion of construction operations on the project

Do not bid an amount for Demobilization that is less than 1.5 percent of the sum of the total amounts bid for all other items in the Bid Proposal, excluding Mobilization, Demobilization, and contingent amounts established for adjustments and incentives, if applicable. The LFUCG will automatically adjust any bids that are less than this amount up to 1.5 percent to compare Bid Proposals and award the Contract. The LFUCG will award a Contract for the actual amount bid when the amount bid for demobilization exceeds 1.5 percent, or the LFUCG will award the Contract for the adjusted bid amount when the amount bid for demobilization is less than 1.5 percent.

### **B.3 PAYMENT**

Mobilization is included in the Bid Proposal as a separate bid item and the LFUCG will make partial payment for Mobilization in two equal or approximately equal payments. The LFUCG will make the first payment on the first pay estimate on which the Contractor's total earned value on Contract items, other than Mobilization, exceeds \$1,000. The LFUCG will make the second payment on the first pay estimate on which the Contractor has earned 5 percent or more of the total Contract amount for Contract items, other than Mobilization. The LFUCG will make both payments simultaneously when these requirements are met at the same time.

Demobilization is included in the Bid Proposal as a separate bid item, the LFUCG will pay for Demobilization according to the following schedule:

- 1) 25 percent upon formal acceptance of the project.
- 2) 50 percent when the final estimate is submitted to the ENGINEER.
- 3) 25 percent when the final estimate is paid.

## **SECTION C - MAINTENANCE OF TRAFFIC**

### **C.1 SCOPE**

Maintain, control, and protect vehicular, bicycle, and pedestrian traffic adjacent to and within the construction area.

### **C.2 MATERIALS**

All work zone traffic control devices shall comply with KYTC Standard Specification 112.02.

### **C.3 CONSTRUCTION**

Designate an employee to be the Project Traffic Coordinator (PTC). Ensure the PTC inspects the project traffic controls at a minimum of once per shift and reports all incidents within the work zone to the Engineer.

Furnish, erect, and maintain traffic control devices in accordance with KYTC Standard Specification 112.03.

Obtain lane blockage permits from the LFUCG Division of Traffic Engineering as needed.

### **B.4 PAYMENT**

Traffic Control will be paid by lump sum.



## **SECTION D - QUALITY CONTROL SERVICES**

### **D.1 GENERAL**

Procure the services of an independent qualified testing firm to perform the testing outlined in this specification.

Submit the name of the testing firm to be used for approval by the Engineer. Firms must be certified to perform the required tests.

Coordinate with the testing agency to schedule times for inspections, tests, taking of samples and similar activities. Notify the testing agency sufficiently in advance of operations to permit assignment of personnel. Ensure the required testing can be performed with a minimum delay in the progress of the work.

Submit a certified written report of each inspection, test or similar service, directly to the Owner.

### **D.2 STRUCTURAL CONCRETE TESTING**

Structural concrete used in bridge construction and traffic signal pole bases shall be tested in accordance with the KYTC Standard Specifications, Kentucky Methods and KYTC Materials Field Sampling and Testing Manual.

Air Content Test, Slump Test, Temperature, and Compressive Strength (Cylinders - set of 2 for 6x12's or set of 3 for 4x8's) shall be conducted at the following frequency:

- Test the first production unit daily for each class (usually a truck load) and any one of the next four (4) for slump, air content, and temperature.
- After satisfactory control is established, one each for each 100 CY or fraction thereof per class daily.
- When the randomly selected production unit falls outside specification limits, the above listed start up frequency will be resumed until the required number of production units meet the specifications.
- Slump and air tests shall be performed on all batches from which concrete cylinders are cast.

### **D.3 PAYMENT**

Quality Control Services will be paid as part of the Incidental Construction Items Bid Item.

Retesting of materials that fail initial testing will be the responsibility of the contractor and performed at no additional cost to the owner.

## **SECTION E - EROSION AND SEDIMENT CONTROL**

### **18.1 SCOPE**

Construct, inspect, and maintain erosion and sediment control measures.

### **18.2 CONSTRUCTION**

Install the erosion control measures per the plans prior to disturbing the site.

Progressively incorporate additional erosion control measures as needed throughout the duration of the project.

Maintain erosion control measures until the area they are serving is permanently stabilized.

Construction, inspection, and maintenance of erosion control measures shall comply with Chapter 11 of the LFUCG Stormwater Manual.

### **18.3 PAYMENT**

Erosion Control will be paid by lump sum.

**APPENDIX A**

**LOCAL PUBLIC AGENCIES –**

**SPECIAL PROVISIONS FOR LPA ADMINISTERED PROJECTS**



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.
  
- Prime contractor payment to subcontractors and material suppliers must be made within a minimum of 30 days from receipt of payment from LFUCG.
  
- 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:
  - 102.13 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:

<b>GOALS FOR MINORITY PARTICIPATION IN EACH TRADE</b>	<b>GOALS FOR FEMALE PARTICIPATION EACH TRADE</b>
<b>10.8%</b>	<b>6.9%</b>

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 affirmative action obligations required by the specifications set forth in 41 CFR 60-4, 3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

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.

## **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 096 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 JPS*  
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
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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 statutes for the duration of the contract, 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.

# **RISK MANAGEMENT PROVISIONS INSURANCE AND INDEMNIFICATION**

## **1.0 DEFINITIONS.**

The CONTRACTOR understands and agrees that the Risk Management Provisions of this Contract define the responsibilities of the CONTRACTOR to the OWNER.

As used in these Risk Management Provisions, the terms "CONTRACTOR" and "OWNER" shall be defined as follows:

- a. "CONTRACTOR" means the contractor and its employees, agents, servants, owners, principals, licensees, assigns and subcontractors of any tier.
- b. "OWNER" means the Lexington-Fayette Urban County Government and its elected and appointed officials, employees, agents, boards, consultants, assigns, volunteers and successors in interest.

## **2.0. INDEMNIFICATION AND HOLD HARMLESS PROVISION**

CONTRACTOR shall defend, indemnify, and hold harmless OWNER from and against all liability, claims, losses, actions, costs, expenses, obligations, fines, and assessments of whatever kind, including defense costs and 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, in whole or in part, from or by: (a) CONTRACTOR's negligent acts or intentional misconduct, or errors or omissions, in connection with the performance of this contract, (b) CONTRACTOR's performance or breach of the contract provided the claim or loss is attributable to death, illness, personal injury, or property loss or damage or loss of use, and not caused by OWNER, or (c) the condition of any premises, equipment or other property being used or operated by the CONTRACTOR in connection with the performance of this contract. In the event OWNER is alleged to be liable based upon the actions or inactions of CONTRACTOR, CONTRACTOR shall defend such allegations and shall bear all costs, fees and expenses of such defense, including but not limited to, all attorneys' fees and expenses, court costs, and expert witness fees and expenses, using attorneys approved in writing by OWNER, which approval shall not be unreasonably withheld. This Indemnification and Hold Harmless Provision shall in no way be limited by any financial responsibility or insurance requirements, and shall survive the termination of this contract.

## **3.0 FINANCIAL RESPONSIBILITY**

The 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 Indemnity Agreement and other provisions of this Contract.

## **4.0 INSURANCE REQUIREMENTS**

BIDDERS' ATTENTION IS DIRECTED TO THE INSURANCE REQUIREMENTS BELOW, AS BIDDERS MUST CONFER WITH THEIR RESPECTIVE INSURANCE AGENTS, BROKERS, OR CARRIERS TO DETERMINE IN ADVANCE OF BID SUBMISSION THE AVAILABILITY OF THE INSURANCE COVERAGES AND ENDORSEMENTS REQUIRED HEREIN. IF AN APPARENT LOW BIDDER FAILS TO COMPLY STRICTLY WITH THE INSURANCE REQUIREMENTS BELOW, THAT BIDDER MAY BE DISQUALIFIED FROM AWARD OF THE CONTRACT.

### **4.1 Required Insurance Coverage**

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 subconsultants to maintain similar insurance with limits acceptable to OWNER in order to protect OWNER 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:

### Coverage Limits

General Liability            \$1 million per occurrence, \$2 million aggregate

(Insurance Services Office Form CG 00 01) or \$2 million combined single limit Commercial Automobile Liability combined single, \$1 million per occurrence (Insurance Services Office Form CA 0001)

Worker's Compensation    Statutory

Employer's Liability        \$1,000,000.00 each accident bodily injury; \$500,00.00 policy limit injury by disease; 100,000.00 each employee injury by disease

The policies above shall contain the following conditions:

- a. OWNER shall be named as an additional insured in the General Liability Policy and Commercial Automobile Liability Policy.
- b. The General Liability Policy shall be primary to any insurance or self-insurance retained by OWNER.
- c. The General Liability Policy shall include a Products and Completed Operations endorsement or Premises and Operations Liability endorsement unless it is deemed not to apply by OWNER.
- d. OWNER 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.
- e. Said coverage shall be written by insurers acceptable to OWNER and shall be in a form acceptable to OWNER.

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.

4.2. Additional insurance coverage and amounts required, if any, are stated below: NONE

#### 4.3. Renewals

After insurance has been approved by OWNER, evidence of renewal of an expiring policy must be submitted to OWNER, 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.

#### 4.4. Deductibles and Self-Insured Programs

**IF CONTRACTOR INTENDS TO SUBMIT SELF-INSURANCE PLAN FOR BID, THIS 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 BID OPENING 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 CONTRACTOR'S financial capacity to respond to claims. Any such programs or retentions must provide OWNER with at least the same protection from liability and defense of suits as would be afforded by first-dollar insurance coverage. If CONTRACTOR satisfies any portion of the insurance requirements through deductibles, self-insurance programs, or self-insured retentions, 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. CONTRACTOR'S 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. CONTRACTOR'S Risk Management Manual or a description of CONTRACTOR'S 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.
- 4.5. Verification of Coverage  
Prior to award of bid, CONTRACTOR agrees to furnish OWNER with all applicable Certificates of Insurance signed by a person authorized by the insurer to bind coverage on its behalf. If requested, CONTRACTOR shall provide OWNER copies of all insurance policies, including all endorsements.
- 4.6. Right to Review, Audit and Inspect

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

## **5.0 SAFETY AND LOSS CONTROL**

5.1. CONTRACTOR agrees to adhere to and comply with William-Steiger Act, enacted December 1970, and all other federal, state and local safety and environmental laws, regulations and ordinances. The CONTRACTOR shall provide all safeguards, safety devices and protective equipment, and take any other action necessary to protect the life, health and safety and property of all persons on the job site, the public and the owner.

5.2. The current Kentucky Occupational Safety and Health Standards of the Construction Industry 29 CFR Part 1926 adopted by 803 KAR 2:030 and the Kentucky Occupational Safety and Health Standard for General Industry 29 CFR Part 1910 as adopted by KAR 2:010, and as promulgated by the Kentucky Occupational Safety and Health Standards Board and as amended or modified, are hereby incorporated into and made an integral part of the Contract with full compliance the responsibility solely of the CONTRACTOR.

5.3. The CONTRACTOR understands and agrees that the OWNER shall be permitted, but not obligated, to inspect the work place, operations, machinery and equipment involved in this Contract and review and audit any and all CONTRACTOR'S records and documents as deemed necessary by the OWNER to assure compliance with any and all of the provisions of this Contract and maximize the protection of the OWNER. Safety on the job, however, remains solely the responsibility of the CONTRACTOR.

## **6.0 DEFINITION OF DEFAULT**

CONTRACTOR understands and agrees that the failure to comply with any of these insurance, safety, or loss control provisions shall constitute default under this Contract. CONTRACTOR also agrees that OWNER 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 CONTRACTOR for any such insurance premiums purchased, or suspending or terminating this Contract.

### **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.

[56 FR 37004, Aug. 2, 1991; 57 FR 10062, Mar. 23, 1992, as amended at 67 FR 75925, Dec. 10, 2002]



**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – CARGO PREFERENCE ACT (CPA).**

**(REV 12-17-15) (1-16)**

SECTION 7 is expanded by the following new Article:

**102.10 Cargo Preference Act – Use of United States-flag vessels.**

Pursuant to Title 46CFR Part 381, the Contractor agrees

- To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph 1 of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
- To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

## **Appendix B**

### **KYTC Approved Traffic Management Plan**



Kentucky Transportation Cabinet  
Division of Highway Design  
**TRAFFIC MANAGEMENT PLAN**

12/2010  
Page 1 of 6

County: Fayette Item No.: 7-593.2

Federal Project No.: 003 1001

**Project Description:**

De Roode Street Manhole Project – Project to construct manhole access to an existing box culvert on De Roode Street.

Roadway Classification:  Urban  Rural  
 Local  Collector  Arterial  Interstate

ADT (current) NA AM Peak Current NA PM Peak Current NA % Trucks NA

Project Designation:  Significant  Other: Local Street

**Traffic Control Plan Design:**

Taper and Diversion Design Speeds 25

Minimum Lane Width 9' Minimum Shoulder Width 1'

Minimum Bridge Width N/A

Minimum Radius 100' Maximum Grade 15

Minimum Taper Length 115' Minimum Intersection Level of Service N/A

Existing Traffic Queue Lengths N/A Projected Traffic Queue Lengths N/A

**Comments:**

Project shall adhere to the current edition of the Manual on Uniform Traffic Control Devices.



Kentucky Transportation Cabinet  
Division of Highway Design  
**TRAFFIC MANAGEMENT PLAN**

Item No. 7-593.2

**Discussion:**

**1) Public Information Plan**

a) Prepare with assistance from  KYTC or  Prime AE Group

b) Identify Trip Generators      Referenced

f) Railroad Involvement      N/A

c) Identify Types of Road Users      Referenced

g) Address Pedestrians, Bikes  
Mass Transit      N/A

d) Public Information Message      Referenced

h) Address Timing, Frequency, Updates,  
Effectiveness of Plan      Referenced

e) Public Information Strategies  
to be used      Referenced

i) Police & Other  
Emergency Services      Referenced



Kentucky Transportation Cabinet  
 Division of Highway Design  
**TRAFFIC MANAGEMENT PLAN**

**Item No. 7-593.2**

**2) Temporary Traffic Control Plan (For Each Phase of Construction)  
 Phase I**

<b>Exposure Control Measures</b>	<b>Positive Protection Measures</b>
a) Is Road Closure Allowed Type: Roadway Closure	Referenced
b) Detour Conditions	Referenced
c) Working Hour Restrictions	Referenced
d) Holiday or Special Event Work Restrictions	Referenced
e) Evaluation of Intersection LOS	N/A
f) Evaluation of Queue Lengths	N/A
g) Evaluation of User Costs and Incentives/Disincentives	Referenced
h) Address Pedestrians, Bikes, Mass Transit	Referenced
<b>Work Vehicles and Equipment</b>	Referenced
	a) Address Drop Off Protection Criteria      Referenced  b) Temporary Barrier Requirements      Referenced  c) Evaluation of Existing Guardrail Conditions      N/A  d) Address Temporary Drainage      Referenced  <b>Uniformed Law Enforcement Officers</b> N/A  <b>Payment for Traffic Control*</b>  a) Method of Project Bidding      Referenced  b) Special Notes      Referenced  *Payment for traffic control items shall be in accordance with the Kentucky Department of Highways Standard Specifications for Road and Bridge Construction

**Comments:**

The contractor shall request approval from LFUCG for a roadway closure prior to implementation and shall give LFUCG at least 2 weeks' notice prior to implementation.

Signage shall be installed per the Maintenance of Traffic plan provided. Any proposed changes to the Maintenance of Traffic Plan shall be submitted and approved by LFUCG prior to implementation.

Working hours are restricted to 9 AM – 4 PM. Any work outside of these times must be approved by LFUCG.

Liquidated Damages are detailed in the bid proposal.

Sidewalk and multi-use paths shall be maintained during construction.

Work vehicles and equipment shall not impede traffic. If required in the work area, the proper shoulder, lane, or roadway closure shall be implemented, and buffer space shall be provided to ensure the protection of the traffic and equipment.

Coordination with an adjacent park construction project may be required. If necessary, project details and contact information will be provided at the Pre-Construction Meeting.



Kentucky Transportation Cabinet  
Division of Highway Design  
**TRAFFIC MANAGEMENT PLAN**

Item No. 7-593.2

**APPROVAL:**

  
\_\_\_\_\_  
Project Manager 11/7/2022  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Project Delivery and Preservation Manager Date

\_\_\_\_\_  
Engineering Support Manager Date

\_\_\_\_\_  
FHWA Representative Date

**Revisions to the TMP require review/approval by the signatories.**

## **Item No. 7-593.20**

### **Lexington-Fayette Urban County Government**

#### **De Roode Street Manhole**

#### **Traffic Management Plan Overview & Public Information Plan**

##### **Project Goals and Objectives**

The purpose of this project is to construct manhole access to an existing box culvert on De Roode Street.

The following goals and objectives were used to balance community issues with transportation issues.

- **Right-Of-Way Impacts:** There are no right-of-way impacts as a result of this project. Residents adjacent to the project shall be notified of the impending project.
- **The impacts to utilities:** See Utility Impact Note.
- **Environmental impacts:** see NEPA document.
- **Drainage:** This project includes reconstruction of existing curb and gutter.
- **Construction period:** Being a simple project, it is expected that the project will be completed within two weeks.

##### **Public Information Plan**

The primary goal of the Public Information Plan (PIP) is to inform the motoring public and area stakeholders of the project information including Maintenance of Traffic (MOT) which includes lane closures. The Lexington-Fayette Urban County Government (LFUCG) will coordinate and disseminate to stakeholders and the KYTC District 7 Information Officer (PIO) will update the Road and District 6 social media channels.

De Roode Street is a local road. This road is primarily used to access residential housing and does service businesses on its south end. Further development is expected along this roadway.

##### **Utility Companies:**

- All utility companies identified in the area have been made aware of the project. Letters of no impact have been obtained from all companies based on review of the plans. The contractor is still responsible for any utility issues that may arise as a result of the project and shall notify the utility companies as needed.

**Residents:** Shall be notified by the LFUCG. No parking signs shall be installed by the contractor prior to construction to ensure that residents are not in the project limits.

When the contractor notifies LFUCG that they intend to implement a lane or roadway closure, LFUCG shall notify Emergency Services (Police, Fire, and EMS) of the type of closure and the anticipated timeframe of the closure.

## **Item No. 7-593.20**

### **Lexington-Fayette Urban County Government**

#### **De Roode Street Manhole**

##### **Traffic Control Notes**

1. When the normal function of the roadway is suspended through closure of any portion of the right-of-way, temporary construction work zone traffic control devices shall be installed to effectively guide the motoring public through the area. Consideration for road user safety, worker safety, and the efficiency of road user flow shall be an integral element of every traffic control zone. All traffic control devices shall be in accordance with the latest Manual on Uniform Traffic Control Devices (MUTCD).
2. Any traffic control plans not included in the engineering plan set must be submitted for review a minimum of seven (7) working days prior to the anticipated lane closure. Construction activity shall not begin until the traffic control plan is approved by the governing authority. Traffic control plans may be required on other roadways as determined by the governing authority or the designer. All traffic control plans must be prepared by an individual that is certified in their preparation. Any deviation from an approved traffic control plan must be reviewed by the governing authority or their designated representative.
3. The Contractor shall be responsible for maintaining all traffic control devices on an around-the-clock basis, whether or not work is active. Any deficiencies shall be corrected by the Contractor immediately, regardless of time of day.
4. All temporary traffic control devices shall be removed as soon as practical when they are no longer needed. When work is suspended for short periods of time at the end of the workday, temporary traffic control devices that are no longer appropriate shall be removed or covered.
5. Existing permanent signs removed by the contractor for construction purposes shall be reset according to the governing authority's standards immediately after construction. All stop, yield and street name signs removed shall be temporarily erected in the appropriate locations (no less than 7 feet vertical from grade) until permanent signing can be installed. Any temporary stop or yield sign locations to be left in place overnight will require prior approval from the governing authority.
6. Access must be maintained to all drives and side streets or as indicated in the traffic control plan.
7. The contractor shall be responsible for furnishing all labor, material, equipment, and incidental items needed to provide adequate construction signing, barricades, traffic control devices and other related items for the project, during all phases of construction.



## Appendix C

# KYTC Approved Right-Of-Way Certification



KENTUCKY TRANSPORTATION CABINET  
 Department of Highways  
 DIVISION OF RIGHT OF WAY & UTILITIES  
**RIGHT OF WAY CERTIFICATION**

TC 62-226  
 Rev. 01/2016  
 Page 1 of 1

<input checked="" type="checkbox"/>	<b>Original</b>	<input type="checkbox"/>	<b>Re-Certification</b>	<b>RIGHT OF WAY CERTIFICATION</b>
-------------------------------------	-----------------	--------------------------	-------------------------	-----------------------------------

ITEM #	COUNTY	PROJECT # (STATE)	PROJECT # (FEDERAL)
7-593.2	Fayette	12FO FD52 06968301-36D	STPE 003 1001

**PROJECT DESCRIPTION**

De Roode Manhole - Construction of manhole access to box culvert on De Roode Street.

**No Additional Right of Way Required**

Construction will be within the limits of the existing right of way. The right of way was acquired in accordance to FHWA regulations under the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, as amended. No additional right of way or relocation assistance were required for this project.

**Condition # 1 (Additional Right of Way Required and Cleared)**

All necessary right of way, including control of access rights when applicable, have been acquired including legal and physical possession. Trial or appeal of cases may be pending in court but legal possession has been obtained. There may be some improvements remaining on the right-of-way, but all occupants have vacated the lands and improvements, and KYTC has physical possession and the rights to remove, salvage, or demolish all improvements and enter on all land. Just Compensation has been paid or deposited with the court. All relocations have been relocated to decent, safe, and sanitary housing or that KYTC has made available to displaced persons adequate replacement housing in accordance with the provisions of the current FHWA directive.

**Condition # 2 (Additional Right of Way Required with Exception)**

The right of way has not been fully acquired, the right to occupy and to use all rights-of-way required for the proper execution of the project has been acquired. Some parcels may be pending in court and on other parcels full legal possession has not been obtained, but right of entry has been obtained, the occupants of all lands and improvements have vacated, and KYTC has physical possession and right to remove, salvage, or demolish all improvements. Just Compensation has been paid or deposited with the court for most parcels. Just Compensation for all pending parcels will be paid or deposited with the court prior to AWARD of construction contract

**Condition # 3 (Additional Right of Way Required with Exception)**

The acquisition or right of occupancy and use of a few remaining parcels are not complete and/or some parcels still have occupants. All remaining occupants have had replacement housing made available to them in accordance with 49 CFR 24.204. KYTC is hereby requesting authorization to advertise this project for bids and to proceed with bid letting even though the necessary right of way will not be fully acquired, and/or some occupants will not be relocated, and/or the just compensation will not be paid or deposited with the court for some parcels until after bid letting. KYTC will fully meet all the requirements outlined in 23 CFR 635.309(c)(3) and 49 CFR 24.102(j) and will expedite completion of all acquisitions, relocations, and full payments after bid letting and prior to AWARD of the construction contract or force account construction.

Total Number of Parcels on Project	0	EXCEPTION (S) Parcel #	ANTICIPATED DATE OF POSSESSION WITH EXPLANATION
<b>Number of Parcels That Have Been Acquired</b>			
Signed Deed	0		
Condemnation	0		
Signed ROE	0		

**Notes/ Comments (Text is limited. Use additional sheet if necessary.)**  
 LPA is the Lexington-Fayette Urban County Government.

LPA RW Project Manager		Right of Way Supervisor	
Printed Name	Nikki Hill	Printed Name	
Signature		Signature	
Date	11/07/2022	Date	
Right of Way Director		FHWA	
Printed Name		Printed Name	
Signature		Signature	
Date		Date	

## Appendix D

### KYTC Utilities and Rail Certification Form

## UTILITIES AND RAIL CERTIFICATION NOTE

**City of Lexington | Fayette | Federal Number 003 1001**  
**Authorization Number 69683-36**  
**De Roode Street (CS 4240) Manhole**  
**7-593.20**

*Utility coordination efforts conducted by the project sponsor have determined that no significant 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 Kentucky Transportation Cabinet. The contractor will be responsible for any coordination or adjustments that are discussed or quantified in the proposal.*

### THE FOLLOWING RAIL COMPANIES HAVE FACILITIES IN CONJUNCTION WITH THIS PROJECT AS NOTED

No Rail Involved     Minimal Rail Involved (See Below)     Rail Involved (See Below)

### UNDERGROUND FACILITY DAMAGE PROTECTION – BEFORE YOU DIG

The contractor shall make every effort to protect underground facilities from damage as prescribed in the Underground Facility Damage Protection Act of 1994, Kentucky Revised Statute KRS 367.4901 to 367.4917. It is the contractor's responsibility to determine and take steps necessary to be in compliance with federal and state damage prevention directives. The contractor is instructed to contact KY 811 for the location of existing underground utilities. Contact shall be made a minimum of two (2) and no more than ten (10) business days prior to excavation.

The contractor shall submit Excavation Locate Requests to the Kentucky Contact Center (KY 811) via web ticket entry. The submission of this request does not relieve the contractor from the responsibility of contacting non-member facility owners, whom are to be contacted through their individual Protection Notification Center. It may be necessary for the contractor to contact the County Court Clerk to determine what utility companies have facilities in the area. Non-compliance with these directives can result in the enforcement of penalties.

### 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, it is unlikely to conflict with the existing utilities beyond minor facility adjustments. Where conflicts with utility facilities are unavoidable, the contractor will coordinate any necessary relocation work with the facility owner and Resident Engineer. The

Kentucky Transportation Cabinet maintains the right to remove or alter portions of this contract if a utility conflict occurs.

## UTILITIES AND RAIL CERTIFICATION NOTE

**City of Lexington | Fayette | Federal Number 003 1001  
Authorization Number 69683-36  
De Roode Street (CS 4240) Manhole  
7-593.20**

The utility facilities as noted in the previous section(s) have been determined using data garnered by varied means and with varying degrees of accuracy: from the facility owners, a result of S.U.E., field inspections, and/or reviews of record drawings. The facilities defined may not be inclusive of all utilities in the project scope and are not Level A quality, unless specified as such. It is the contractor's responsibility to verify all utilities and their respective locations before excavating.

*Please Note: The information presented in this Utility Note is informational in nature and the information contained herein is not guaranteed.*

### AREA UTILITIES CONTACT LIST AS PROVIDED BY KY 811

<u>Utility Company/Agency</u>	<u>Contact Name</u>	<u>Contact Information</u>
<b>Kentucky Utilities Company</b>	<b>Richard Compton</b>	<b>859-367-4308</b> <b>Richard.Compton@lge-ku.com</b>
<b>Columbia Gas of Kentucky</b>	<b>David Lemons</b>	<b>859-288-0253</b> <b>DNLemons@nisource.com</b>
<b>Kentucky American Water</b>	<b>Krista Citron</b>	<b>859-268-6352</b> <b>Krista.Citron@amwater.com</b>
<b>Division of Water Quality</b>	<b>Rod Chervus</b>	<b>859-425-2558</b> <b>RChervus@lexingtonky.gov</b>

## Appendix E

### KYTC Change Order Form



## Appendix F

### Property Management Plan



# PROPERTY MANAGEMENT PLAN AMENDMENT 2



## **Lexington Community Land Trust Southend Park Neighborhood – Section 1 Unit 1A & 1B Lexington, Fayette County, Kentucky Agency Interest No. 121245**

*Prepared for:*

Lexington Community Land Trust  
P.O. Box 171  
Lexington, Kentucky 40588

*Prepared by:*

 **SHIELD**  
ENVIRONMENTAL ASSOCIATES, INC.  
948 Floyd Drive  
Lexington, Kentucky 40505  
Project No. 113-1462

October 2017

C. Dow Porter  
Principal, Sr. Project Manager

Michael E. Morris, P.G.  
Senior Professional Geologist

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## 1.0 PROFESSIONAL CERTIFICATION

---

*By my signature below I, Michael E. Morris am licensed in Kentucky to practice as a Professional Geologist and confirm that I have reviewed the February 2014 Phase I ESA of the Southend Park Neighborhood Section 1, Unit 1A and the February 2015 Phase I ESA of the Southend Park Neighborhood Section 1, Unit 1B, this Property Management Plan – Amendment 2 and other relevant documents made available to me for the Southend Park Neighborhood located in Lexington, Kentucky. The assessment(s) were conducted prior to LCLT acquiring the property(s) and the findings are true and complete. The assessment(s) were conducted in accordance with generally accepted practices for conducting due diligence and in conformance with ASTM E1527-13, a consensus document and guide for conducting Environmental Site Assessments under 40 CFR Part 312 related to All Appropriate Inquiries (AAI).*

*Given the corrective action measures performed on the site, the intended future use and proposed institutional or engineering controls, will not interfere with remediation of the release of petroleum, hazardous substances, pollutants or contaminants, increase the impacts of the release on human health and the environment, or expose the public and environment to unacceptable harm.*

BY: 

---

Michael E. Morris, Professional Geologist (Kentucky Registration #2225)

## 2.0 INTRODUCTION

---

### 2.1 Background

In March 2014, the Lexington Community Land Trust (LCLT) submitted a Brownfield Liability Relief Eligibility Form (DEP 6056) and required documentation of performing an *All Appropriate Inquiries* Phase I Environmental Site Assessment (ESA) to the Kentucky Division of Waste Management (KDWM) related to subject property identified as Southend Park Neighborhood Section 1 Unit 1A located in Lexington, Fayette County, Kentucky. At the same time, LCLT submitted a Property Management Plan (PMP) for the subject property in accordance with KRS 224.1-415 and in fulfillment of the requirements found in 401 KAR 102:020. On March 25, 2014 the KDWM submitted a Notice of Eligibility to LCLT informing LCLT that their application was deemed administratively complete and that the conditions of KRS 224.1-415(2)(a) had been certified to be true. Upon receipt of documentation that LCLT had taken legal title to the subject property, the KDWM issued a Notification of Concurrence on May 16, 2014 formally acknowledging LCLT's participation in Kentucky's Brownfield Redevelopment Program.

As explained in Section 2.2 of the aforementioned PMP, the plan was intentionally prepared and submitted as a "living" document, which would be revised accordingly over time to incorporate the future acquisition of land contained within the Southend Park Neighborhood development. Therefore, the purpose of this amended PMP is to document and incorporate the addition of the property identified as Section 1 Unit 1B and more specifically identified as lots 7 thru 19. Upon completion of the planned development, these lots will have the following street addresses: 758, 754, 750, 746, 742, 738, 734, 730, and 716 De Roode Street; and 401, 405, 408, and 409 Nathaniel Court. In addition, recommendations were made by the KDWM following a Brownfield Program audit conducted on July 27, 2017 and these recommendations have been incorporated into this amended PMP. A topographic location map is shown on Figure 1 and a Site Map depicting Section 1 Unit 1A and Unit 1B along with the entire Southend Park Neighborhood is shown on Figure 2.

The Southend Park Neighborhood resides in a section of Lexington, Kentucky that has historically been known as Davistown or Davis Bottom and is one component of the comprehensive redevelopment project known as the Newtown Pike Extension (NPE), which is part of the Southend Park Urban Village Plan. These projects are collectively



being implemented by the Kentucky Transportation Cabinet (KYTC) and Lexington-Fayette Urban County Government (LFUCG).

The NPE project consists of the construction of a 1.5 mile road connection between West Main Street (US 431/US 25) at Newtown Pike (KY 922) and South Limestone Street (US 27) at Scott Street along with the relocation and reconstruction of De Roode Street and associated local streets within the development. Upon completion, the NPE will consist of a combination of a boulevard varying from two to four lanes as well as bicycle lanes, sidewalks, and on-street parking. The NPE project is expected to improve downtown Lexington traffic flow, improve access to the University of Kentucky and improve the overall attractiveness of downtown Lexington.

An agreement signed in February 2003 between the Lexington-Fayette Urban County Government, the KY Transportation Cabinet, and the Federal Highway Administration expanded the land acquisition footprint for the NPE project to include all of Davistown (Southend Park Neighborhood). The entire footprint of the Southend Park Neighborhood measures approximately 26 acres and includes the properties known as the former Harry Gordon Steel Parcel and the Former Norman Hodge Wrecking Parcel. As with the remainder of the Southend Park Neighborhood, the Harry Gordon and Norman Hodge properties will be addressed independently and are specifically excluded from this PMP, which has been prepared to address Section 1 Unit 1A and Unit 1B of the Southend Park Neighborhood.

Construction of eleven new homes within Section 1 Unit 1A (now known as Davis Park View) began in 2014 subsequently, five new homes within Section 1 Unit 1B have now been constructed. Upon completion, Section 1 Unit 1B will comprise of 13 single family homes within the new Davis Park Neighborhood. Ultimately, LCLT plans to develop high quality, affordable housing options for individuals and families of low to moderate incomes. Part of LCLT's mission is to practice and teach wise stewardship through the offering of permanent housing options to those in the community who may not otherwise be able to afford the opportunity and through the responsible and sustainable use of public subsidies and land.

A comprehensive Corrective Action Plan (CAP) for the entire Southend Park Neighborhood (including the subject property, the Harry Gordon Steel Parcel, and the Former Norman Hodge Wrecking Parcel) was submitted by KYTC to the Kentucky Department of



Environmental Protection (KDEP) in November 2007. The CAP was conditionally approved by KDEP in March 2008.

In 2013 the KYTC administered the corrective action measures (KYTC Item 7-593.12) for the redevelopment of the Southend Park Neighborhood. Along with soil removal from the proposed residential areas, the project included grading and construction, and installation of the development's infrastructure (sanitary and storm sewer systems, streets, sidewalks, and new utilities). The final grading plan required the placement of a minimum of three feet of clean soil as a protective barrier prior to the construction of permanent housing.

As part of the CAP implementation, the KYTC authorized the preparation of a Site Management Plan (SMP) for the entire Southend Park Neighborhood (excluding the Harry Gordon and Norman Hodge properties) which was prepared and submitted to KDEP in November 2013. As with Section 1 Unit 1A, an Institutional Control consisting of an Environmental Covenant was executed pursuant to KRS 224.80-100 to KRS 224.80-210 for Section 1 Unit 1B.

## **2.2 Purpose**

The purpose of this PMP is to outline the measures that will be taken by LCLT to manage the known historical soil impacts on the subject property and to protect human health and the environment, including the general public, residents of the neighborhood and site construction/maintenance workers.

This PMP has been prepared in conformance with KRS 224.1-415 Brownfield Redevelopment Program – Conditions under which property owner not liable for corrective action – Administrative Regulations, and 401 KAR 102:020 General Requirements for a Property Management Plan for Brownfield Redevelopment Program. This PMP and supporting documentation is based upon currently available information and data for the subject site; however, it is intended to be a “living” document and will be revised to include future additional phases of the Southend Park Neighborhood development project. Proper notification shall be provided to the Kentucky Division of Waste Management (KDWM) if new site information is discovered or if the land use intentions change. This PMP details control measures that will require both short-term and long-term implementation by LCLT to protect the environment, to protect the residents and general public, and to reduce site workers from exposure to potential hazardous constituents.

## 3.0 SITE DESCRIPTION AND CONDITION

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### 3.1 Site Location

Section 1 Unit 1A and Unit 1B is comprised of approximately 6.9 acres and located at the northwest corner of the West High Street viaduct and De Roode Street in Fayette County, Lexington, Kentucky. As referenced previously, Section 1 Unit 1A and Unit 1B is a subsection of the entire 26 acre Southend Park Neighborhood. Construction of residential structures within Section 1 Unit 1A (Davis Park View) is now complete. Upon completion of construction Section 1 Unit 1B will consist of 13 single family residences.

The KYTC has installed a sound barrier wall along the western border between the subject property and Norfolk Southern rail system. The newly aligned De Roode Street and West High Street viaduct are located to the east and north of the property. Vacant, undeveloped tracts (future phases of Southend Park Neighborhood development) are located south of the site.

Section 1 Unit 1A originally consisted of five separate parcels located on the west side of De Roode Street and included numerous houses and two commercial buildings. These properties were acquired by KYTC and the structures were demolished as part of the NPE project. The historical individual parcels for Section 1 Unit 1A include the following:

- 810 De Roode Street
- 824/826 De Roode Street
- 836 De Roode Street
- 848 De Roode Street
- 856/860/870 De Roode Street

Residential parcels within Section 1 Unit 1A now have the following street addresses: 798, 800, 804, 808, 812-816, 820-824, and 830 De Roode Street.

The Section 1 Unit 1B property is dually owned by KYTC and LFUCG with LFUCG owning the former De Roode Street roadway and KYTC owning the remaining parcels. The portions of the property owned by KYTC will be transferred to LFUCG, and the entire property will be replatted. LFUCG will then transfer these parcels to LCLT. The historic individual parcels for Section 1 Unit 1B include the following:



- 770 De Roode Street
- 750 De Roode Street
- 732 De Roode Street
- 730 De Roode Street
- 728 De Roode Street
- 716 De Roode Street
- 714 De Roode Street
- 710 De Roode Street
- 708 De Roode Street
- 706 De Roode Street
- 704 De Roode Street
- 714 De Short Street
- 718 De Short Street
- 726 De Short Street

Residential parcels within Section 1 Unit 1B will have the following addresses: 758, 754, 750, 746, 742, 738, 734, 730, and 716 De Roode Street; and 401, 405, 408, and 409 Nathaniel Court.

## **3.2 Physical Setting**

### **3.2.1 Topography**

The subject property is positioned in central Fayette County and can be viewed on the United States Geological Survey's (USGS) Lexington West 7.5 minute quadrangle map. Based upon this map, along with historic assessments and surveys, the general elevation of the site is approximately 940-950 feet above mean sea level (MSL) and slopes to the east toward the newly realigned De Roode Street.

### **3.2.2 Geology**

According to the USGS's geologic map of the Lexington West Quadrangle, the bedrock is comprised of the Grier Limestone Member of the Ordovician Lexington Limestone Formation. The Grier Member ranges from 20 to 40 feet in thickness and consists of crystalline, bioclastic limestone interbedded with shale partings. The member is generally competent, but discrete fractures and sinkholes are common. Overall the bedrock slopes toward the northwest.

### **3.2.3 Soils**

Shield reviewed the United States Department of Agriculture (USDA) Natural Resource Conservation Service's Web Soil Survey regarding the subsurface soil conditions at the site. A detailed soil survey has not been completed of the downtown areas of Lexington. However, a review of past assessments reveals that a large portion of the property is covered by an urban fill mixture containing silty clay and bricks, concrete, and wood debris.

### **3.2.4 Hydrology**

Groundwater has not been encountered at the site during previous investigations performed by others; however, shallow groundwater movement tends to follow topography and during wet seasons would likely be found intermittently at the soil/bedrock interface and springs may exist between sections of limestone and interbedded shale. Although the historic assessments demonstrate there is no homogenous groundwater producing zone above bedrock at the site, any groundwater movement would be expected to discharge into an unnamed tributary to Town Branch, located approximately one-half mile to the north of the property.

## **3.3 Previous Environmental Studies**

The need for an extension to Newtown Pike is a topic that has been discussed for over 50 years. In 1997, the idea re-emerged as a possible solution to traffic flow and to improve the pedestrian environment in downtown Lexington. Since then, KYTC has conducted many environmental studies of the entire NPE footprint as part of their planning process. The following sections provide a summary of the previous environmental studies that included the subject property.

### **3.3.1 Underground Storage Tank/Hazardous Materials Baseline Report**

Third Rock Consultants, on behalf of American Consulting Engineers, prepared an Underground Storage Tank/Hazardous Materials Baseline Report in 2001/2002 of properties found within the entire NPE footprint. The study evaluated 18 separate suspect properties and concluded that only six of the properties warranted further investigation. The study included only one property (805 De Roode Street) within close proximity to the subject

property; however, this property was excluded from further evaluation. This property was identified as the Arthur W. Francis site and is located due east of the subject property. A review of historical sources reveals that Underground Storage Tanks (USTs) utilized for storing diesel fuel and waste oil were removed from the property in 1993. The removal activity received formal closure from the Underground Storage Tank Branch (USTB) in 1994.

### **3.3.2 Phase I Environmental Site Assessment (2003)**

In support of the NPE project and the Southend Park Revitalization Plan, Third Rock Consultants, on behalf of American Consulting Engineers, prepared a Phase I Environmental Site Assessment of the Southend Park Neighborhood in June 2003. This study was conducted in conformance with ASTM 1527-00 and concluded that six properties within the study area warranted additional assessment. Of the six properties, three were identified as being located on or in close proximity to the subject property including:

- 810 De Roode Street, Auto Repair
- 870 De Roode Street, Former Oil House
- No Address, Former Indian Refinery

### **3.3.3 Phase II Environmental Screening Investigation**

Based upon the findings of the Phase I Environmental Site Assessment, Third Rock Consultants, on behalf of American Consulting Engineers, conducted a limited site investigation in February 2004 of select properties within the Southend Park Neighborhood. Of the properties investigated, three were identified as being located on or in close proximity to the subject property. The report states that the intent of the study was to determine if historical practices had resulted in actionable levels of contamination and was not designed to delineate or fully characterize the extent of contamination. Sample collection methodologies included the use of both direct-push technology and hand auger tools for the collection of discreet and composite soil samples. The laboratory results were evaluated in comparison to the 2003 U.S. EPA Region IX Preliminary Remediation Goals (PRGs) for Residential Soil.

The following section provides a summary of the study results for the properties located on or in close proximity to the subject site.

### 810 De Roode Street, Auto Repair

Two borings identified as SB-11, and SB-12 were advanced on this property to a depth of two feet below ground surface, and were placed in locations deemed to have most likely been impacted by historic auto repair operations. One sample from each boring was collected and analyzed for volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), and lead. VOCs were not detected in any of the samples analyzed. Lead was detected in all samples analyzed; however, the results were below the PRG value for Residential Soil. There were no PAH compounds detected in the sample collected from SB-12; however, five PAH compounds exceeding their respective PRG values were detected in the sample collected from SB-11. The concentrations ranged from 0.365 mg/Kg to 1.4 mg/Kg were detected in the sample collected from SB-11. The report concluded that localized impacts were present on the south side of the property and recommended additional sampling activities to fully define the extent of contamination. A map depicting the location of the soil borings and sample results is depicted on Figure 3.

### 870 De Roode Street, Former Oil House

According to information reviewed by Third Rock Consultants and described within the 2003 Phase I Environmental Site Assessment, historical Sanborn maps indicated the presence of a historic structure identified as an Oil House on this property. The structure was built in the 1920's and utilized for the storage of 55-gallon drums of oil for resale at retail outlets. Reportedly, drums were delivered to the site via rail and off-loaded to a concrete retaining wall prior to storage in the Oil House. As such, two borings identified as SB-2, and SB-3 were advanced to a depth of 1-3 feet below ground surface and were located down gradient around the accessible sides of an onsite retaining wall. One sample from each boring was collected and analyzed for PAH and lead compounds. Lead was detected in all samples analyzed; however, the results were below the PRG value for Residential Soil. There were no PAH compounds detected in the samples collected from SB-3; however, four PAH compounds exceeding their respective PRG values were detected in the sample collected from SB-2. The concentrations ranged from 0.278 mg/Kg to 0.767 mg/Kg. The report recommended additional sampling activities around SB-2 to fully define the extent of contamination. A map depicting the location of the soil borings and sample results is depicted on Figure 4.

### No Address, Former Indian Refinery

According to the Third Rock Phase I Environmental Site Assessment, historical Sanborn maps identified a facility as the Indian Refinery adjacent to the Norfolk Southern railroad. According to the Third Rock Phase I Environmental Site Assessment, the facility did not refine crude oil, but rather served as a bulk fuel storage facility. Based upon historical information, the facility was located east of the Norfolk Southern railroad and west of the 870 De Roode Street property.

Due to the proximity of the West High Street viaduct, one soil sample identified as SB-1 was collected from a depth of 0 to 2 feet below ground surface on the 870 De Roode Street property. The sample was analyzed for PAH and lead compounds. There were no PAH compounds detected in the sample analyzed. Lead was detected in the sample analyzed; however, the results were below the PRG value for Residential Soil.

A second sample identified as SB-10 was collected from a depth of 0 to 2 feet below ground surface on the 810 De Roode Street property. The boring was placed in an area believed to be down gradient and in close proximity to the former tank farm associated with the Indian Refinery. The sample was analyzed for VOCs, PAHs, and lead. There were no VOC or PAH compounds detected in the sample analyzed. Lead was detected in the sample analyzed; however, the results were below the PRG value for Residential Soil. The report concluded that there did not appear to be significant residual contamination in soil down gradient of the Former Indian Refinery. Figures 3 and 4 depict the location of the soil borings and sample results.

## **3.4 Phase I Environmental Site Assessment (2014)**

On behalf of LCLT, Shield prepared a Phase I Environmental Site Assessment of Section 1 Unit 1A in February 2014 prior to ownership transferal to LCLT. This study was performed in conformance with ASTM E1527-13 and a copy of this report was submitted to KDWM as part of LCLT's original Brownfield Redevelopment Program application package. The assessment revealed evidence of the following CREC and REC in connection with the property:

- Known PAH contamination present on the property. Through the various environmental assessments that have been conducted on the property, the

presence of PAH contamination was identified. Although the contamination is being managed through a combination of Engineering Controls and Institutional Controls, this finding represents both a CREC and a current REC.

### **3.5 Phase I Environmental Site Assessment (February 2015)**

On behalf of LCLT, Shield prepared a Phase I Environmental Site Assessment of Section 1 Unit 1B in February 2015 prior to ownership transferal to LCLT. This study was performed in conformance with ASTM E1527-13 and a copy of this report has been submitted along with this Amended PMP. The assessment revealed evidence of the following CREC and REC in connection with the property:

- Known PAH contamination present on the Southend Park Neighborhood property, which encompasses the Site. Through the various environmental assessments that have been conducted on the SPN property, the presence of PAH contamination was identified. Although the contamination is being managed through a combination of Engineering Controls and Institutional Controls, this finding represents both a CREC and a current REC.
- Given the known impacts on the Southend Park Neighborhood property and the planned future residential development, vapor intrusion is possible. Therefore, a vapor encroachment condition (VEC) exists and is also a REC associated with the Property.

### **3.6 Corrective Action Measures**

A comprehensive Corrective Action Plan (CAP) for the entire Southend Park Neighborhood (including the subject property, the Harry Gordon Steel Parcel, and the Former Norman Hodge Wrecking Parcel) was prepared by Third Rock Consultants, on behalf of ENTRAN PLC, and submitted by KYTC to the Kentucky Department of Environmental Protection (KDEP) in November 2007. The CAP was conditionally approved by KDEP in March 2008.

According to publicly available documents, KYTC administered the corrective action measures (KYTC Item 7-593.12) for the redevelopment of the Southend Park Neighborhood. The general contractor retained for this work was ATS Construction and corrective action measures were performed from January to February 2013. Along with



soil removal from the proposed residential areas, the project included grading and construction and installation of the development's infrastructure (sanitary and storm sewer systems, streets, sidewalks, and new utilities).

The approved CAP recommended removal of the top two feet of soil from the residential area of the Southend Park Neighborhood (excluding the Harry Gordon Steel Parcel and the Former Norman Hodge Wrecking Parcel). Reportedly, only the top 12 inches of soil was removed resulting in approximately 7,550 tons of soil transported for disposal at Republic Service's Benson Valley Landfill in Frankfort, Kentucky. This decision was made based upon the final grading plan which required the placement of a minimum of three feet of clean soil as a protective barrier prior to the construction of permanent housing.

The protective barrier fill material reportedly came from a variety of sources, including onsite grading activities below the noise barrier wall and material excavated for the new box culvert. Fill also came from other KYTC projects including the Newtown Pike and Georgetown Road/4<sup>th</sup> Street intersection project, and from ATS's blacktop plant facility at Forbes Road and Manchester Street. In October 2013, a Technical Memorandum was submitted to KDEP documenting analytical results from sampling activities performed of the barrier fill material. The Memorandum states that the sampling results reveal that all parameters were below the Residential PRG or ambient background levels for Central Kentucky and thus was acceptable material for the top three feet of fill in the residential areas.

## 4.0 INTENDED FUTURE USE

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As referenced in Section 2.1, the Southend Park Neighborhood development will be implemented in multiple phases over time with Section 1 Unit 1A (0.9799-acre subsection of the entire development) being the first developed area and now consists of a 14-unit rental housing development. Subsequently, five homes have been constructed in Section 1 Unit 1B (Davis Park Neighborhood) since the summer of 2015. Upon completion, Section 1 Unit 1B will consist of 16 single family ownership residences. Ultimately, LCLT plans to develop over 100 high quality, affordable housing options for individuals and families of low to moderate incomes.

AU Associates, Inc., the developer for Section 1 Unit 1A (Davis Park View), has an award winning track record in combining sophisticated financing including historic tax credits with housing tax credits, new markets tax credits along with conventional and preferential rate debt. The developer takes pride in envisioning, creating and developing residential and commercial projects in a range of large urban and small rural communities. Davis Park View consists of a 14-unit rental housing development located in the Southend Park Neighborhood on the new De Roode Street. These units were constructed with concrete slab foundations laid on top of a passive vapor intrusion barrier.

Section 1 Unit 1B is a 2.22-acre subsection of the entire development planned for housing construction and is set aside for sixteen permanently affordable single-family ownership homes through the Community Land Trust. The homes will all be built using two by six construction, heat pump hot water heaters, heat pump HVAC systems, and energy-efficient appliances. The first five (5) homes were built to re-house original Davis Bottom residents. LCLT partnered with the Habitat for Humanity Lexington on the first single-family home, and selected a Fayette County, Kentucky builder (James Monroe Homes, Inc.) to build the next four homes. The Habitat for Humanity partnership home was built to Energy Star standards. James Monroe Homes has won awards for building and energy efficiency, and works with a RESNET home energy rater. The four James Monroe homes have average RESNET HERS scores of 60, which translates as 40% more energy efficient than the average new construction home. LCLT re-opened the RFQ and bid process to obtain a second builder, and selected MA Conley Construction, a Madison County, Kentucky builder for the sixth and subsequent single-family homes. MA Conley Construction specializes in custom home construction. The company team is highly skilled and detail oriented and is experienced in the construction of handicap accessible homes, Energy Star homes, and HERS-rated homes.





As with Section 1 Unit 1A, homes within this section have been and will continue to be constructed with concrete slab foundations laid on top of passive vapor intrusion barriers. A map depicting the Preliminary Development Plan for Section 1 Unit 1 of the Southend Park Neighborhood development is found in Figure 5.

Portions of this development (Davis Park View) have been funded with Low Income Housing Tax Credits and HOME funds from the U.S. Department of Housing and Urban Development, as these rental homes serve families earning less than 60% of the area median income in Fayette County, Kentucky. Some of the units were reserved for families that were relocated due to the extension and expansion of the Newtown Pike Transportation Corridor. The affordability of the entire project will be protected via deed restrictions and long term land leases containing resale restrictions.

Partners in the project currently include the Kentucky Housing Corporation, the Lexington Community Land Trust, the Federal Highway Administration, the Kentucky Department of Transportation, the City of Lexington, Central Bank, and Community Affordable Housing Equity Corporation.

## **5.0 PLANNED VOLUNTARY ASSESSMENT OR REMEDATION**

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Section 3.3 summarized numerous investigations and corrective action measures conducted at the Southend Park Neighborhood site. Based on these activities it is assumed a managed closure will be granted under authority of KRS 224.01-400 (18)(b). Therefore, LCLT has no plans for additional voluntary assessment or remedial work to be performed at the subject site.

## **6.0 EXPOSURE PATHWAY EVALUATION**

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Exposure pathways are means by which hazardous substances move through the environment from a source to a point of contact with people. A complete exposure pathway must have four parts: (1) a source of contamination, (2) a mechanism for transport of a substance from the source to the air, surface water, groundwater and/or soil, (3) a point where people come in contact with contaminated air, surface water, groundwater or soil, and (4) a route of entry into the body.

The purpose of this evaluation is to identify and assess potential environmental risks at the site, and to provide a basis for establishing short and long-term actions to ensure exposure pathways remain incomplete in the future. The following narrative provides an evaluation of the exposure pathways and receptors associated with potential exposure to humans whom may be living or working at the site.

### **6.1 Soil**

The historical assessments conducted indicate that while some of constituents of concern (PAHs and lead) located at the property result from historical activities, the majority of the constituents are predominantly associated with the background presence of urban fill at the property. Based upon risk-based screening levels utilized by the U.S. EPA and the KDEP, the constituent detection levels pose a complete exposure pathway. Dermal contact, and to a lesser extent ingestion, are the primary pathways through direct exposure scenarios. Exposure scenarios will be managed through the implementation of a Soil Handling Health and Safety Plan, as included in Appendix B of the SMP prepared for the Southend Park Neighborhood.

### **6.2 Groundwater**

Groundwater has not been encountered at the site during previous investigations, therefore, there is no complete exposure pathway to groundwater. Groundwater is likely only present during wet seasons and would only be found intermittently at the soil/bedrock interface, which is approximately 10 feet below ground surface. The site is located within a highly developed section of Lexington and is served by municipal water lines with no domestic or industrial production wells located at the property.

## **6.3 Air**

Since the property has been filled with a minimum of three feet of clean fill material, air does not constitute as a significant exposure pathway. In addition, the constituents of concern located at the site are nominally volatile, if at all. However, a passive vapor intrusion barrier will be installed under the concrete slab of all residential structures as a precautionary measure. Section 8.2 contains additional information related to the planned vapor intrusion barrier. During site redevelopment, wind dispersal of dust should be controlled by standard dust-suppression measures, as needed.

## **6.4 Surface Water/Sediment**

Currently, the site is partially developed and undeveloped lots are covered with vegetation. The residential units will have gutter systems connecting to downspouts, which in addition to surface runoff, will be collected in storm sewers under De Roode Street and Nathaniel Court. Storm water runoff will ultimately discharge into an unnamed tributary to Town Branch, located approximately one-half mile to the north of the property. The surface water/sediment exposure pathway is considered incomplete.

## **7.0 CONSTRUCTION MANAGEMENT**

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As discussed in Section 6.0, nominal but complete exposure pathways exist through the exposure to PAHs and lead constituents within the shallow soil at the site, located beneath the installed engineered barrier material. The predominant pathway to construction workers involved with excavation activities below the installed engineered barrier material, will be short-term in nature and would exist through direct dermal contact and unintentional ingestion of soil during site development activities. Secondly, under certain atmospheric conditions, construction workers could also be exposed to constituents of concern through windblown dust. During site redevelopment, wind dispersal of dust should be controlled by standard dust-suppression measures, as needed.

### **7.1 Administration/Documentation**

In accordance with the SMP prepared for the Southend Park Neighborhood, a Field Site Coordinator (FSC) was established to perform oversight of cut and fill work to be conducted during redevelopment. In addition, the FSC will be the primary onsite contact person responsible for documenting that the provisions of the SMP (including the Soil Handling Health and Safety Plan) and this PMP are followed during construction activities involving the subsurface.

### **7.2 Exposure Prevention for Construction Workers**

LCLT will ensure the developer and all contractors involved with work below the installed engineered barrier are provided a copy of this PMP, along with a complete copy of the SMP (including Appendix B, Soil Handling Health and Safety Plan), in advance of work initiation. All contractors involved with work conducted below the installed engineered barrier material, will be responsible for preparing and following their own Health and Safety Plan (HASP), which shall comply with OSHA 1910.120 HAZWOPER and incorporate the information contained within this PMP and the SMP. As part of the site contractor's HASP, the proper personal protective equipment (PPE) required to prevent contact with the potential constituents of concern should be noted and the equipment should be provided by the contractor. Proper PPE may include, but is not limited to, respirators, monitoring for organic vapors and particulates, dust masks, Tyvek® suits, nitrile gloves and safety glasses.

### **7.3 Unanticipated Discoveries**

During construction activities, there will be a potential for unanticipated discoveries. Such a discovery may include buried drums, storage tanks, transformers, odiferous soil, or a dangerous condition encountered during excavation activities at the site. In the event of such discovery, the FSC (or Owner's representative) will have the responsibility of ensuring the contractors cease work activities, follow all HASP procedures, contain the discovery in the most effective way possible (i.e., containerize, dike, encapsulate, etc.) to prevent risk exposure scenarios or runoff and to not exacerbate the situation. The FSC (or Owner's representative) will also have the responsibility of notifying the proper regulatory agency personnel and LCLT decision-makers. A complete list of emergency contacts is included in Section 9.0.

### **7.4 Risk Reduction for Excess Soil Generation**

During site development work or during routine repair work, there is a potential for soil to be generated from beneath the installed engineered barrier three-foot cap. To the extent practical, any excess soil should be buried beneath the installed engineered barrier material. In the event excess soil cannot be maintained onsite, the following methodology will be followed to provide compliant off-site disposal.

- Soils identified for off-site disposal will be sampled for constituents required by the disposal facility and will likely include Toxicity Characteristic Leachate Procedure (TCLP) PAHs and metals. Soil samples will be placed in 8-oz jars, placed on ice, logged on a chain of custody and delivered to a qualified laboratory facility that complies with all Quality Assurance/Quality Control requirements set forth by KDEP.
- In the case of concrete or other inert construction materials that require off-site disposal, composite samples may be collected to determine if the material requires disposal at a Subtitle D landfill or can be hauled to a less restrictive construction and demolition waste (C&D) landfill.
- Upon completion of the work, previously excavated site soils may be backfilled provided that the backfilled soils maintain the necessary geotechnical characteristics to support the intended overlying end-use. The backfill area shall be restored in a



manner consistent with the original capping condition (i.e., asphalt or concrete surface, building, clean fill material in green areas).

- The contractor performing the work shall be informed of the content of this PMP and the SMP by the property owner or owner's representative. The contractor shall then prepare their own health and safety procedures appropriate for the work being performed. The contractor's health and safety procedures should incorporate the information provided in this PMP and the SMP.
- A brief memorandum or report will be prepared by the property owner or owner's representative describing the disposal work performed, identifying the person(s) conducting the work and the date of the work, and confirming that the PMP and SMP were followed in completion of the work. Manifests and bills-of-lading documenting removal and disposal will be maintained. A copy of the report will be maintained in the property owner's files, kept with the PMP and provided to KDWM within thirty days of completion of the activity.

## **8.0 LONG-TERM MANAGEMENT**

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As discussed in Section 6.0, nominal but complete exposure pathways exist through the exposure to PAHs and lead constituents within the shallow soil at the site, located below the installed engineered barrier material. The predominant pathway to future residents and or maintenance employees working at the site would exist through direct dermal contact and unintentional ingestion of soil and would only exist in the event of excavation activities being conducted below the installed engineered barrier material. Secondly, future residents and or maintenance employees working at the site could also be exposed to constituents of concern through windblown dust, under certain atmospheric conditions and only in the event of excavation activities being conducted below the installed engineered barrier material. During maintenance or repair activities requiring exposure to soil beneath the engineered barrier material, dust should be controlled by standard dust-suppression measures, as needed.

### **8.1 Administration/Documentation**

In accordance with the SMP prepared for the Southend Park Neighborhood, a Field Site Coordinator (FSC) was established to perform oversight of cut and fill work to be conducted during redevelopment. In addition, the FSC will be the primary onsite contact person responsible for documenting that the provisions of the SMP (including the Soil Handling Health and Safety Plan) and this PMP are followed throughout the existence of the development.

### **8.2 Exposure Prevention to Future Residents**

#### **8.2.1 Engineering Controls**

In 2013, the KYTC administered the corrective action measures (KYTC Item 7-593.12) for the redevelopment of the Southend Park Neighborhood. After soil removal from the proposed residential areas, a minimum of three feet of clean soil was placed to serve as a protective barrier prior to the construction of permanent housing.

As discussed in Section 6.0, the constituents of concern located at the site are nominally volatile, if at all. Therefore, the intrusion of vapors emanating from residual constituents of concern remaining in the soil through concrete floor slabs is remote. However, as an extra



precautionary measure the decision was made to include passive vapor intrusion measures as a component of the residential structures. Shield reviewed the construction Contract Documents and associated Project Manual for Section 1 Unit 1A, which call for four inches of dense grade aggregate placed on top of soil; followed by two inches of sand; followed by a 20-millimeter thick, seven-layered, co-extruded polyethylene film; followed by an additional two inches of sand; then a four inch concrete floor slab. In addition, sheaths, boots, or tape coverings are to be installed around all items penetrating the floor slab such as pipes, utility chases and conduits. The builders selected for Section 1 Unit 1B, will be required to install similar vapor intrusion measures for all residential structures built in this section.

### **8.2.2 Institutional Control**

In accordance with the approved CAP, an Environmental Covenant with restrictions that run with the land, was placed on the entire footprint of the Southend Park Neighborhood property. The Covenant was placed by KYTC and LFUCG prior to the transfer of the KYTC-owned parcels to LFUCG, whom in turn transferred the Section Unit 1B development parcels to LCLT.

### **8.3 Exposure Prevention to Maintenance Workers**

LCLT will ensure the developer and all maintenance workers or contractors involved with work below the installed engineered three-foot barrier cap are provided a copy of this PMP, along with a complete copy of the SMP (including Appendix B, Soil Handling Health and Safety Plan), in advance of work initiation. All contractors involved with work conducted below the installed engineered barrier material, will be responsible for preparing and following their own Health and Safety Plan (HASP), which shall comply with OSHA 1910.120 HAZWOPER and incorporate the information contained within this PMP and the SMP. As part of the site contractor's HASP, the proper personal protective equipment (PPE) required to prevent contact with the potential constituents of concern should be noted and the equipment should be provided by the contractor. Proper PPE may include, but is not limited to, respirators, monitoring for organic vapors and particulates, dust masks, Tyvek® suits, nitrile gloves and safety glasses.

Following the completion of any repair work beneath the installed engineered barrier three-foot cap, a brief memorandum or report will be prepared by the property owner or owner's

representative describing the performed, identifying the person(s) conducting the work and the date of the work, and confirming that the PMP and SMP were followed in completion of the work. Manifests and bills-of-lading documenting removal and disposal will be maintained. A copy of the report will be maintained in the property owner's files, kept with the PMP and provided to KDWM within thirty days of completion of the activity.

## **8.4 Risk Reduction for Excess Soil Generation**

During maintenance work that involves activities conducted below the three-foot installed engineered barrier material, there is a potential for excess soil to be generated. To the extent practical, any excess soil should be buried beneath the installed engineered barrier material. In the event excess soil cannot be maintained onsite, the following methodology will be followed to provide compliant off-site disposal.

- Soils identified for off-site disposal will be sampled for constituents required by the disposal facility and will likely include Toxicity Characteristic Leachate Procedure (TCLP) PAHs and metals. Soil samples will be placed in 8-oz jars, placed on ice, logged on a chain of custody and delivered to a qualified laboratory facility that complies with all Quality Assurance/Quality Control requirements set forth by KDEP.
- In the case of concrete or other inert construction materials that require off-site disposal, composite samples may be collected to determine if the material requires disposal at a Subtitle D landfill or can be hauled to a less restrictive construction and demolition waste (C&D) landfill.
- Upon completion of the work, previously excavated site soils may be backfilled and restored in a manner consistent with the original capping condition (i.e., asphalt or concrete surface, building, clean fill material in green areas).
- The contractor performing the work shall be informed of the content of this PMP and the SMP by the property owner or owner's representative. The contractor shall then prepare their own health and safety procedures appropriate for the work being performed. The contractor's health and safety procedures should incorporate the information provided in this PMP and the SMP.

- A brief memorandum or report will be prepared by the property owner or owner's representative describing the work performed, identifying the person(s) conducting the work and the date of the work, and confirming that the PMP and SMP were followed in completion of the work. Manifests and bills-of-lading documenting removal and disposal will be maintained. A copy of the report will be maintained in the property owner's files, kept with the PMP and provided to KDWM within thirty days of completion of the activity.

## **8.5 Post Construction Monitoring and Maintenance**

Post construction monitoring and site inspections will be conducted routinely as conditions warrant, but at a minimum will be conducted on an annual basis and documented through the submittal of the Environmental Covenant compliance certifications. Copies of the compliance certifications shall be maintained within this Plan and kept on file within LCLT's office. The purpose of the monitoring will be to verify the ongoing integrity of the Engineering Controls (i.e., asphalt/concrete surfaces, building foundations, and minimum of a six-inch gravel or one-foot clean cover in green areas). Prompt repairs and restoration to original condition will be made to any damaged engineered barriers.

## **8.6 Periodic Reviews**

As with the SMP, a periodic review of the PMP will be conducted every five years. The purpose of the Five-Year Review is to determine whether the plan continues to be protective of human health and the environment. Any changes to on-site conditions as they relate to the PMP will be addressed in the review.



## 10.0 REFERENCES

---

Third Rock Consultants, December 20, 2001. *Underground Storage Tank/Hazardous Materials Baseline Report – Newtown Pike Extension*. Revised February 22, 2002.

Third Rock Consultants, February 12, 2004. *Southend Park Neighborhood Phase II Environmental Screening Investigation – Newtown Pike Extension*.

Third Rock Consultants, November 14, 2007. *Corrective Action Plan, Newtown Pike Extension*.

Linebach Funkhouser, Inc., September 3, 2013. *Letter to Mr. Mark Strevels, State Superfund Section, Re: Site Status summary Letter Report, Newtown Pike Extension. From Russell H. Brooks, P.G. & R. William Johnston, P.G.*

Linebach Funkhouser, Inc., November 6, 2013. *Site Management Plan, Lexington Community Land Trust Property of The Newtown Pike Extension Project Southend Park Neighborhood*.

U.S. Geological Survey. 1993 (revised from 1965). *7.5 minute Topographic Map, Lexington West, KY, Quadrangle*.

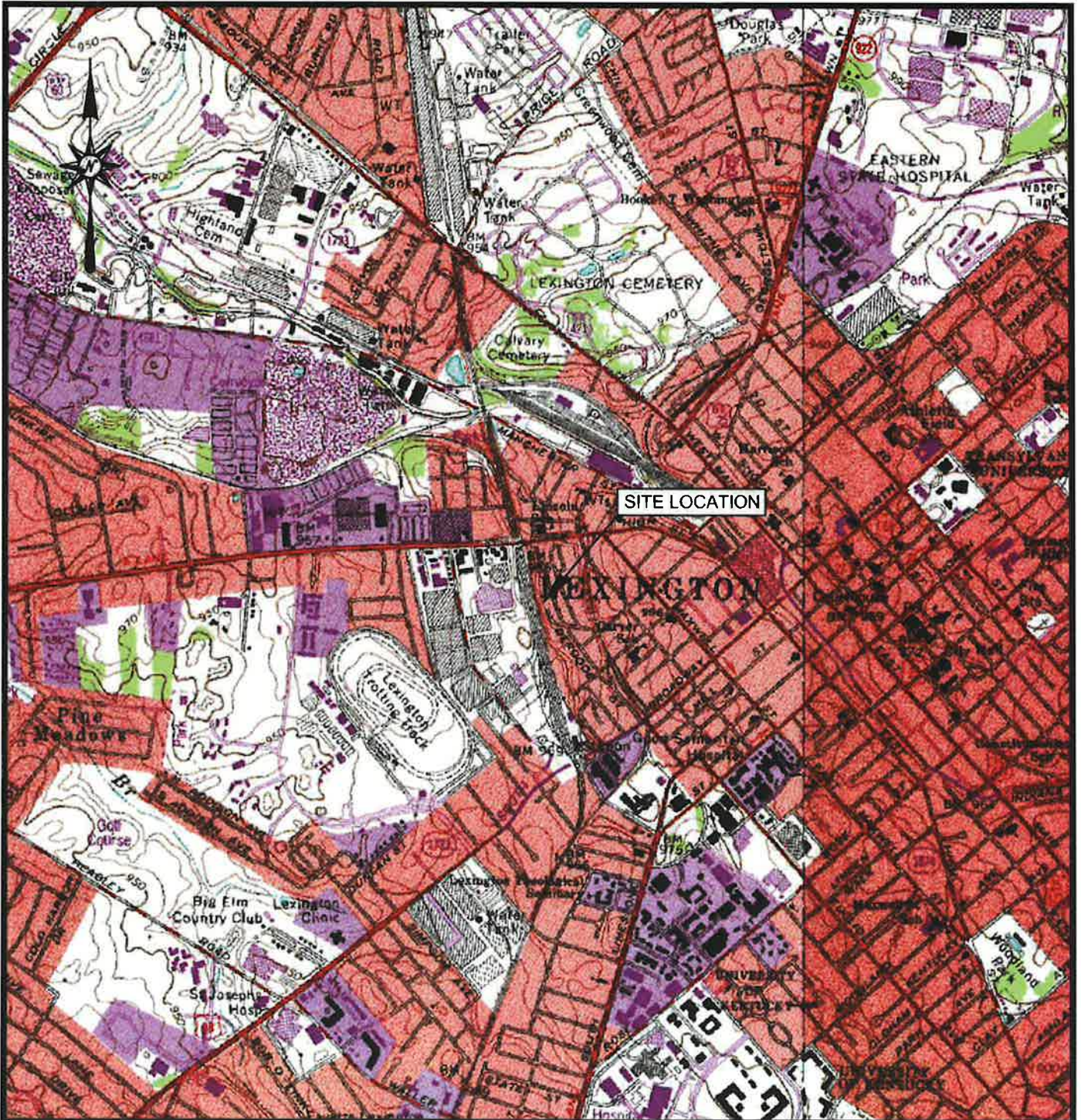
Kentucky Department of Environmental Protection, June 2013. *Property Management Plan – Interim Guidance Outline*.

Shield Environmental Associates, Inc. February 2014. *Phase I Environmental Site Assessment Report, Southend Park Neighborhood – Section 1 Unit 1A*.

Shield Environmental Associates, Inc. February 2015. *Phase I Environmental Site Assessment Report, Southend Park Neighborhood – Section 1 Unit 1B*.

## **FIGURES**


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SOURCE: USGS 7.5' TOPOGRAPHIC QUADRANGLE MAP  
LEXINGTON WEST QUADRANGLE



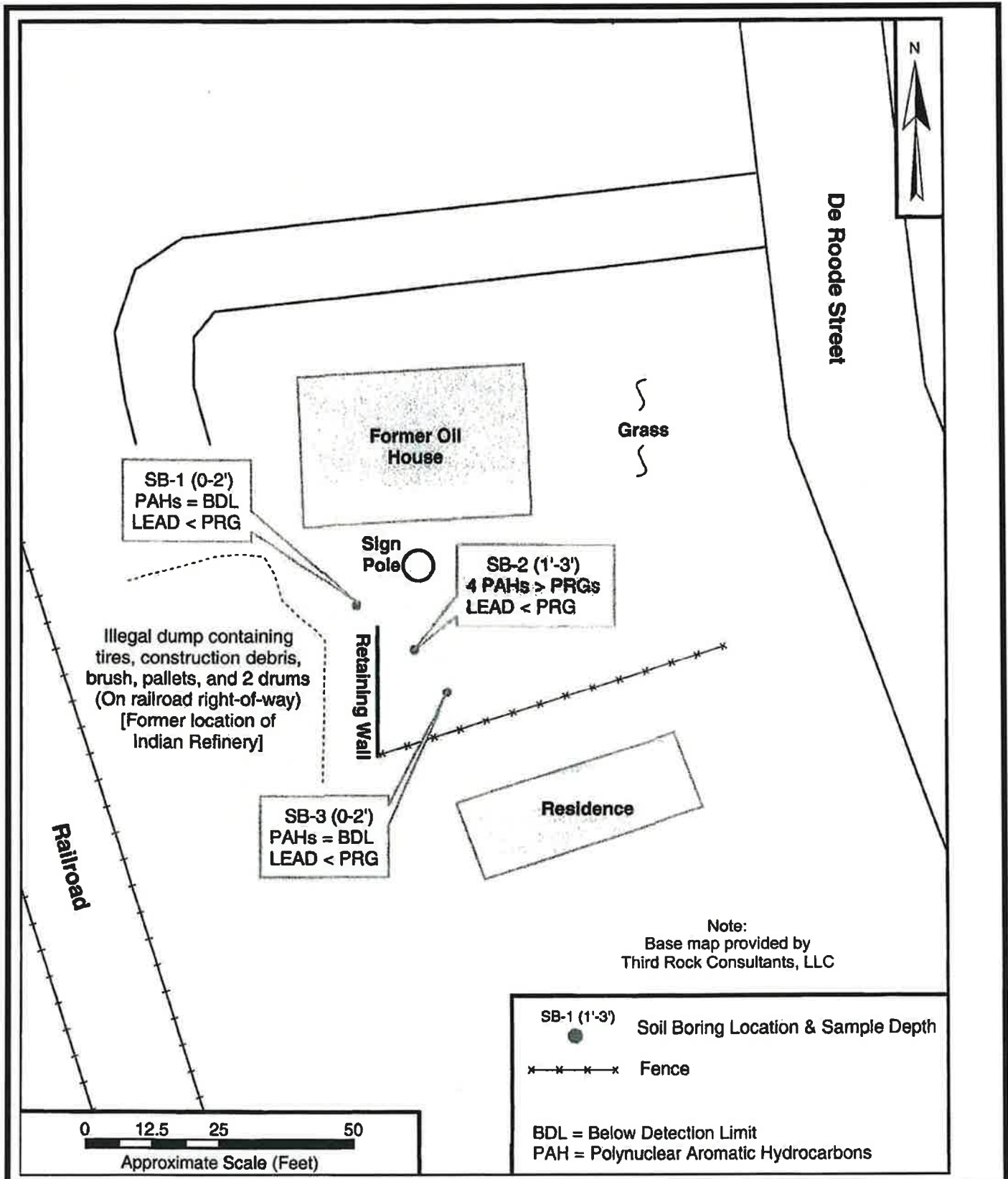
LATITUDE: 38° 02' 58"  
LONGITUDE: -84° 30' 44"

<p>OCTOBER 2017</p> <p>PROJECT NO: 113-1462 DRAWN BY: SW APPROVED BY: CDP</p>	<p><b>Figure 1</b></p> <p>USGS TOPOGRAPHIC QUADRANGLE MAP Southend Park Neighborhood - Section 1 Unit 1 De Rode Street Lexington, Fayette County, Kentucky</p>	 <p>948 Floyd Drive Lexington, KY 40505 (859) 294-5155</p>
---	--	---









OCTOBER 2017

PROJECT NO: 113-1462  
DRAWN BY: SW  
APPROVED BY: CDP

**Figure 4**  
870 De Roode Street - Former Oil House & Indian Refinery Site  
Soil Analytical Results  
Southend Park Neighborhood - Section 1 Unit 1A  
De Roode Street  
Lexington, Fayette County, Kentucky

**SHIELD**  
ENVIRONMENTAL ASSOCIATES, INC.

948 Floyd Drive  
Lexington, KY 40505  
(859) 294-5155



948 Floyd Drive  
Lexington, KY 40505  
(959) 294-5155

Figure 5  
PRELIMINARY DEVELOPMENT PLAN  
Southend Park Neighborhood - Section 1 Unit 1A/B  
Lexington, Fayette County, Kentucky

OCTOBER 2017  
PROJECT NO: 113-1462  
DRAWN BY: SW  
APPROVED BY: CDP

# PRELIMINARY DEVELOPMENT PLAN



VICINITY MAP  
N.T.S.

Symbol	Description	Area (sq. ft.)	Volume (cu. ft.)	Notes
[Green Box]	Green Area	1,100,000	1,100,000	100% Green
[Purple Box]	Purple Area	1,100,000	1,100,000	100% Purple
[Red Box]	Red Area	1,100,000	1,100,000	100% Red
[Yellow Box]	Yellow Area	1,100,000	1,100,000	100% Yellow
[Blue Box]	Blue Area	1,100,000	1,100,000	100% Blue



Note:  
Base map provided by  
Hall - Harmon Engineers, Inc.





# ANALYTICAL REPORT

May 18, 2022

<sup>1</sup> Cp

<sup>2</sup> Tc

<sup>3</sup> Ss

<sup>4</sup> Cn

<sup>5</sup> Sr

<sup>6</sup> Qc

<sup>7</sup> Gl

<sup>8</sup> Al

<sup>9</sup> Sc

## Shield Env. - Lexington, KY

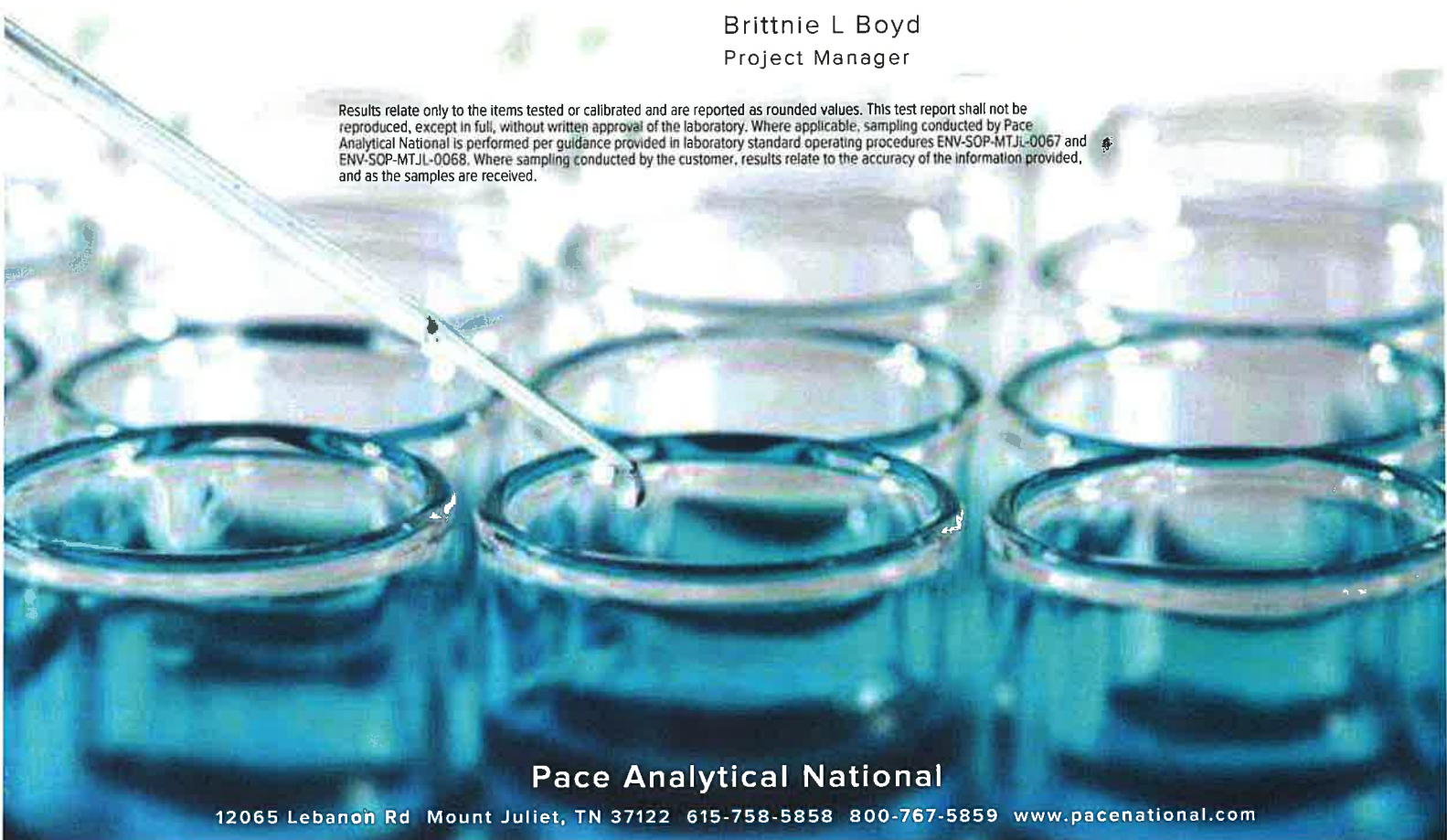
Sample Delivery Group: L1490222  
 Samples Received: 05/05/2022  
 Project Number: 122-1510  
 Description: DeRoode St. Manhole Project

Report To: Chad Von Gruenigen  
 948 Floyd Drive  
 Lexington, KY 40505

Entire Report Reviewed By:

Brittnie L Boyd  
Project Manager

Results relate only to the items tested or calibrated and are reported as rounded values. This test report shall not be reproduced, except in full, without written approval of the laboratory. Where applicable, sampling conducted by Pace Analytical National is performed per guidance provided in laboratory standard operating procedures ENV-SOP-MTJL-0067 and ENV-SOP-MTJL-0068. Where sampling conducted by the customer, results relate to the accuracy of the information provided, and as the samples are received.



**Pace Analytical National**

12065 Lebanon Rd Mount Juliet, TN 37122 615-758-5858 800-767-5859 [www.pacenational.com](http://www.pacenational.com)

ACCOUNT:  
Shield Env. - Lexington, KY

PROJECT:  
122-1510

SDG:  
L1490222

DATE/TIME:  
05/18/22 14:19

PAGE:  
1 of 39

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# SAMPLE SUMMARY

SB-1 0-4 L1490222-01 Solid Collected by: Chad Kelley  
Collected date/time: 05/03/22 11:42  
Received date/time: 05/05/22 08:00

Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 18:51	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863666	1	05/16/22 12:17	05/16/22 23:18	AMG	Mt. Juliet, TN

1 Cp

2 Tc

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

SB-1 0-4 L1490222-02 Waste Collected by: Chad Kelley  
Collected date/time: 05/03/22 11:42  
Received date/time: 05/05/22 08:00

Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863495	1	05/13/22 12:47	05/15/22 23:32	CCE	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 16:11	AGW	Mt. Juliet, TN

SB-1 8-10 L1490222-03 Solid Collected by: Chad Kelley  
Collected date/time: 05/03/22 11:49  
Received date/time: 05/05/22 08:00

Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 18:54	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863545	1	05/16/22 12:22	05/17/22 19:39	ADF	Mt. Juliet, TN

SB-1 8-10 L1490222-04 Waste Collected by: Chad Kelley  
Collected date/time: 05/03/22 11:49  
Received date/time: 05/05/22 08:00

Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863493	1	05/13/22 12:42	05/13/22 21:37	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 16:33	AGW	Mt. Juliet, TN

SB-2 0-5 L1490222-05 Solid Collected by: Chad Kelley  
Collected date/time: 05/03/22 10:10  
Received date/time: 05/05/22 08:00

Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 18:57	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863545	1	05/16/22 12:22	05/17/22 19:59	ADF	Mt. Juliet, TN

SB-2 0-5 L1490222-06 Waste Collected by: Chad Kelley  
Collected date/time: 05/03/22 10:10  
Received date/time: 05/05/22 08:00

Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863495	1	05/13/22 12:47	05/15/22 23:35	CCE	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 16:55	AGW	Mt. Juliet, TN

SB-2 5-8 L1490222-07 Solid Collected by: Chad Kelley  
Collected date/time: 05/03/22 10:13  
Received date/time: 05/05/22 08:00

Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 19:00	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863545	1	05/16/22 12:22	05/17/22 20:19	ADF	Mt. Juliet, TN

# SAMPLE SUMMARY

SB-2 5-8 L1490222-08 Waste			Collected by	Collected date/time	Received date/time	
			Chad Kelley	05/03/22 10:13	05/05/22 08:00	
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863495	1	05/13/22 12:47	05/15/22 23:37	CCE	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 17:17	AGW	Mt. Juliet, TN

1 Cp

2 Tc

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

SB-3 0-5 L1490222-09 Solid			Collected by	Collected date/time	Received date/time	
			Chad Kelley	05/03/22 09:40	05/05/22 08:00	
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860586	1	05/10/22 16:33	05/11/22 23:47	CCE	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863666	1	05/16/22 12:17	05/17/22 00:18	AMG	Mt. Juliet, TN

SB-3 0-5 L1490222-10 Waste			Collected by	Collected date/time	Received date/time	
			Chad Kelley	05/03/22 09:40	05/05/22 08:00	
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863493	1	05/13/22 12:42	05/13/22 21:51	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 17:39	AGW	Mt. Juliet, TN

SB-3 5-10 L1490222-11 Solid			Collected by	Collected date/time	Received date/time	
			Chad Kelley	05/03/22 09:47	05/05/22 08:00	
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 19:08	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863666	1	05/16/22 12:17	05/16/22 23:58	AMG	Mt. Juliet, TN

SB-3 5-10 L1490222-12 Waste			Collected by	Collected date/time	Received date/time	
			Chad Kelley	05/03/22 09:47	05/05/22 08:00	
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863495	1	05/13/22 12:47	05/15/22 23:40	CCE	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 18:01	AGW	Mt. Juliet, TN

SB-4 0-5 L1490222-13 Solid			Collected by	Collected date/time	Received date/time	
			Chad Kelley	05/03/22 11:11	05/05/22 08:00	
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 19:11	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863666	1	05/16/22 12:17	05/16/22 22:38	AMG	Mt. Juliet, TN

SB-4 0-5 L1490222-14 Waste			Collected by	Collected date/time	Received date/time	
			Chad Kelley	05/03/22 11:11	05/05/22 08:00	
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863493	1	05/13/22 12:42	05/13/22 21:54	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 18:23	AGW	Mt. Juliet, TN

ACCOUNT:

Shield Env. - Lexington, KY

PROJECT:

122-1510

SDG:

L1490222

DATE/TIME:

05/18/22 14:19

PAGE:

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# SAMPLE SUMMARY

				Collected by	Collected date/time	Received date/time
SB-4 5-10 L1490222-15 Solid				Chad Kelley	05/03/22 11:24	05/05/22 08:00
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 19:14	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863666	1	05/16/22 12:17	05/17/22 00:37	AMG	Mt. Juliet, TN

- 1 Cp
- 2 Tc
- 3 Ss
- 4 Cn
- 5 Sr
- 6 Qc
- 7 Gl
- 8 Al
- 9 Sc

				Collected by	Collected date/time	Received date/time
SB-4 5-10 L1490222-16 Waste				Chad Kelley	05/03/22 11:24	05/05/22 08:00
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863493	1	05/13/22 12:42	05/13/22 21:57	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 20:57	AGW	Mt. Juliet, TN

				Collected by	Collected date/time	Received date/time
SB-5 0-5 L1490222-17 Solid				Chad Kelley	05/03/22 10:36	05/05/22 08:00
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 19:17	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863666	1	05/16/22 12:17	05/16/22 23:38	AMG	Mt. Juliet, TN

				Collected by	Collected date/time	Received date/time
SB-5 0-5 L1490222-18 Waste				Chad Kelley	05/03/22 10:36	05/05/22 08:00
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863495	1	05/13/22 12:47	05/15/22 23:48	CCE	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 18:45	AGW	Mt. Juliet, TN

				Collected by	Collected date/time	Received date/time
SB-5 5-8 L1490222-19 Solid				Chad Kelley	05/03/22 10:43	05/05/22 08:00
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Metals (ICP) by Method 6010B	WG1860583	1	05/11/22 17:08	05/15/22 19:20	ZSA	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM	WG1863666	1	05/16/22 12:17	05/17/22 00:57	AMG	Mt. Juliet, TN

				Collected by	Collected date/time	Received date/time
SB-5 5-8 L1490222-20 Waste				Chad Kelley	05/03/22 10:43	05/05/22 08:00
Method	Batch	Dilution	Preparation date/time	Analysis date/time	Analyst	Location
Preparation by Method 1311	WG1861430	1	05/11/22 10:37	05/11/22 10:37	JDG	Mt. Juliet, TN
Metals (ICP) by Method 6010B	WG1863495	1	05/13/22 12:47	05/15/22 23:51	CCE	Mt. Juliet, TN
Semi Volatile Organic Compounds (GC/MS) by Method 8270C	WG1863494	1	05/14/22 05:41	05/14/22 19:07	AGW	Mt. Juliet, TN



# CASE NARRATIVE

All sample aliquots were received at the correct temperature, in the proper containers, with the appropriate preservatives, and within method specified holding times, unless qualified or notated within the report. Where applicable, all MDL (LOD) and RDL (LOQ) values reported for environmental samples have been corrected for the dilution factor used in the analysis. All Method and Batch Quality Control are within established criteria except where addressed in this case narrative, a non-conformance form or properly qualified within the sample results. By my digital signature below, I affirm to the best of my knowledge, all problems/anomalies observed by the laboratory as having the potential to affect the quality of the data have been identified by the laboratory, and no information or data have been knowingly withheld that would affect the quality of the data.



Brittnie L Boyd  
Project Manager

<sup>1</sup> Cp

<sup>2</sup> Tc

<sup>3</sup> Ss

<sup>4</sup> Cn

<sup>5</sup> Sr

<sup>6</sup> Qc

<sup>7</sup> Gl

<sup>8</sup> Al

<sup>9</sup> Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	38.5		0.500	1	05/15/2022 18:51	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	ND		0.00600	1	05/16/2022 23:18	WG1863666
Acenaphthene	ND		0.00600	1	05/16/2022 23:18	WG1863666
Acenaphthylene	ND		0.00600	1	05/16/2022 23:18	WG1863666
Benzo(a)anthracene	0.0102		0.00600	1	05/16/2022 23:18	WG1863666
Benzo(a)pyrene	0.0109		0.00600	1	05/16/2022 23:18	WG1863666
Benzo(b)fluoranthene	0.0159		0.00600	1	05/16/2022 23:18	WG1863666
Benzo(g,h,i)perylene	0.0119		0.00600	1	05/16/2022 23:18	WG1863666
Benzo(k)fluoranthene	0.00633		0.00600	1	05/16/2022 23:18	WG1863666
Chrysene	0.0104		0.00600	1	05/16/2022 23:18	WG1863666
Dibenz(a,h)anthracene	ND		0.00600	1	05/16/2022 23:18	WG1863666
Fluoranthene	0.0247		0.00600	1	05/16/2022 23:18	WG1863666
Fluorene	ND		0.00600	1	05/16/2022 23:18	WG1863666
Indeno(1,2,3-cd)pyrene	0.0104		0.00600	1	05/16/2022 23:18	WG1863666
Naphthalene	ND		0.0200	1	05/16/2022 23:18	WG1863666
Phenanthrene	0.0123		0.00600	1	05/16/2022 23:18	WG1863666
Pyrene	0.0199		0.00600	1	05/16/2022 23:18	WG1863666
(S) Nitrobenzene-d5	82.4		14.0-149		05/16/2022 23:18	WG1863666
(S) 2-Fluorobiphenyl	68.5		34.0-125		05/16/2022 23:18	WG1863666
(S) p-Terphenyl-d14	85.4		23.0-120		05/16/2022 23:18	WG1863666

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	1		5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.35		5/11/2022 10:37:31 AM	WG1861430
Final pH	6.10		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

4 Cn

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/15/2022 23:32	WG1863495

5 Sr

6 Qc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 16:11	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 16:11	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 16:11	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 16:11	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 16:11	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 16:11	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 16:11	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 16:11	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 16:11	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 16:11	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 16:11	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 16:11	WG1863494
(S) 2-Fluorophenol	24.8		10.0-120			05/14/2022 16:11	WG1863494
(S) Phenol-d5	16.3		10.0-120			05/14/2022 16:11	WG1863494
(S) Nitrobenzene-d5	43.7		10.0-127			05/14/2022 16:11	WG1863494
(S) 2-Fluorobiphenyl	59.3		10.0-130			05/14/2022 16:11	WG1863494
(S) 2,4,6-Tribromophenol	60.5		10.0-155			05/14/2022 16:11	WG1863494
(S) p-Terphenyl-d14	67.3		10.0-128			05/14/2022 16:11	WG1863494

7 Gl

8 Al

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	4.47		0.500	1	05/15/2022 18:54	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	0.00671		0.00600	1	05/17/2022 19:39	WG1863545
Acenaphthene	ND		0.00600	1	05/17/2022 19:39	WG1863545
Acenaphthylene	0.0123		0.00600	1	05/17/2022 19:39	WG1863545
Benzo(a)anthracene	0.0460		0.00600	1	05/17/2022 19:39	WG1863545
Benzo(a)pyrene	0.0500		0.00600	1	05/17/2022 19:39	WG1863545
Benzo(b)fluoranthene	0.0760		0.00600	1	05/17/2022 19:39	WG1863545
Benzo(g,h,i)perylene	0.0515		0.00600	1	05/17/2022 19:39	WG1863545
Benzo(k)fluoranthene	0.0282		0.00600	1	05/17/2022 19:39	WG1863545
Chrysene	0.0476		0.00600	1	05/17/2022 19:39	WG1863545
Dibenz(a,h)anthracene	0.00945		0.00600	1	05/17/2022 19:39	WG1863545
Fluoranthene	0.0838		0.00600	1	05/17/2022 19:39	WG1863545
Fluorene	ND		0.00600	1	05/17/2022 19:39	WG1863545
Indeno(1,2,3-cd)pyrene	0.0477		0.00600	1	05/17/2022 19:39	WG1863545
Naphthalene	ND		0.0200	1	05/17/2022 19:39	WG1863545
Phenanthrene	0.0385		0.00600	1	05/17/2022 19:39	WG1863545
Pyrene	0.0847		0.00600	1	05/17/2022 19:39	WG1863545
(S) Nitrobenzene-d5	60.0		14.0-149		05/17/2022 19:39	WG1863545
(S) 2-Fluorobiphenyl	70.8		34.0-125		05/17/2022 19:39	WG1863545
(S) p-Terphenyl-d14	92.1		23.0-120		05/17/2022 19:39	WG1863545

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	2		5/11/2022 10:37:31 AM	WG1861430
Initial pH	9.07		5/11/2022 10:37:31 AM	WG1861430
Final pH	5.51		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

4 Cn

5 Sr

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/13/2022 21:37	WG1863493

6 Qc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 16:33	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 16:33	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 16:33	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 16:33	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 16:33	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 16:33	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 16:33	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 16:33	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 16:33	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 16:33	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 16:33	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 16:33	WG1863494
(S) 2-Fluorophenol	31.6		10.0-120			05/14/2022 16:33	WG1863494
(S) Phenol-d5	19.6		10.0-120			05/14/2022 16:33	WG1863494
(S) Nitrobenzene-d5	50.5		10.0-127			05/14/2022 16:33	WG1863494
(S) 2-Fluorobiphenyl	68.1		10.0-130			05/14/2022 16:33	WG1863494
(S) 2,4,6-Tribromophenol	74.0		10.0-155			05/14/2022 16:33	WG1863494
(S) p-Terphenyl-d14	76.4		10.0-128			05/14/2022 16:33	WG1863494

7 Gl

8 Al

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result	Qualifier	RDL	Dilution	Analysis	Batch
	mg/kg		mg/kg		date / time	
Lead	44.5		0.500	1	05/15/2022 18:57	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result	Qualifier	RDL	Dilution	Analysis	Batch
	mg/kg		mg/kg		date / time	
Anthracene	0.00674		0.00600	1	05/17/2022 19:59	WG1863545
Acenaphthene	ND		0.00600	1	05/17/2022 19:59	WG1863545
Acenaphthylene	ND		0.00600	1	05/17/2022 19:59	WG1863545
Benzo(a)anthracene	0.0332		0.00600	1	05/17/2022 19:59	WG1863545
Benzo(a)pyrene	0.0379		0.00600	1	05/17/2022 19:59	WG1863545
Benzo(b)fluoranthene	0.0600		0.00600	1	05/17/2022 19:59	WG1863545
Benzo(g,h,i)perylene	0.0435		0.00600	1	05/17/2022 19:59	WG1863545
Benzo(k)fluoranthene	0.0209		0.00600	1	05/17/2022 19:59	WG1863545
Chrysene	0.0368		0.00600	1	05/17/2022 19:59	WG1863545
Dibenz(a,h)anthracene	0.00793		0.00600	1	05/17/2022 19:59	WG1863545
Fluoranthene	0.0747		0.00600	1	05/17/2022 19:59	WG1863545
Fluorene	ND		0.00600	1	05/17/2022 19:59	WG1863545
Indeno(1,2,3-cd)pyrene	0.0391		0.00600	1	05/17/2022 19:59	WG1863545
Naphthalene	ND		0.0200	1	05/17/2022 19:59	WG1863545
Phenanthrene	0.0356		0.00600	1	05/17/2022 19:59	WG1863545
Pyrene	0.0665		0.00600	1	05/17/2022 19:59	WG1863545
(S) Nitrobenzene-d5	69.0		14.0-149		05/17/2022 19:59	WG1863545
(S) 2-Fluorobiphenyl	70.9		34.0-125		05/17/2022 19:59	WG1863545
(S) p-Terphenyl-d14	90.6		23.0-120		05/17/2022 19:59	WG1863545

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

SB-2 0-5

Collected date/time: 05/03/22 10:10

SAMPLE RESULTS - 06

L1490222

Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	1		5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.58		5/11/2022 10:37:31 AM	WG1861430
Final pH	6.16		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

4 Cn

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/15/2022 23:35	WG1863495

5 Sr

6 Qc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 16:55	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 16:55	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 16:55	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 16:55	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 16:55	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 16:55	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 16:55	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 16:55	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 16:55	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 16:55	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 16:55	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 16:55	WG1863494
(S) 2-Fluorophenol	27.2		10.0-120			05/14/2022 16:55	WG1863494
(S) Phenol-d5	17.3		10.0-120			05/14/2022 16:55	WG1863494
(S) Nitrobenzene-d5	47.2		10.0-127			05/14/2022 16:55	WG1863494
(S) 2-Fluorobiphenyl	65.1		10.0-130			05/14/2022 16:55	WG1863494
(S) 2,4,6-Tribromophenol	68.5		10.0-155			05/14/2022 16:55	WG1863494
(S) p-Terphenyl-d14	77.0		10.0-128			05/14/2022 16:55	WG1863494

7 Gl

8 Al

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	171		0.500	1	05/15/2022 19:00	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	0.0760		0.00600	1	05/17/2022 20:19	WG1863545
Acenaphthene	0.00780		0.00600	1	05/17/2022 20:19	WG1863545
Acenaphthylene	0.111		0.00600	1	05/17/2022 20:19	WG1863545
Benzo(a)anthracene	0.425		0.00600	1	05/17/2022 20:19	WG1863545
Benzo(a)pyrene	0.502		0.00600	1	05/17/2022 20:19	WG1863545
Benzo(b)fluoranthene	0.914		0.00600	1	05/17/2022 20:19	WG1863545
Benzo(g,h,i)perylene	0.349		0.00600	1	05/17/2022 20:19	WG1863545
Benzo(k)fluoranthene	0.300		0.00600	1	05/17/2022 20:19	WG1863545
Chrysene	0.343		0.00600	1	05/17/2022 20:19	WG1863545
Dibenz(a,h)anthracene	0.0887		0.00600	1	05/17/2022 20:19	WG1863545
Fluoranthene	0.497		0.00600	1	05/17/2022 20:19	WG1863545
Fluorene	0.00924		0.00600	1	05/17/2022 20:19	WG1863545
Indeno(1,2,3-cd)pyrene	0.399		0.00600	1	05/17/2022 20:19	WG1863545
Naphthalene	0.0591		0.0200	1	05/17/2022 20:19	WG1863545
Phenanthrene	0.158		0.00600	1	05/17/2022 20:19	WG1863545
Pyrene	0.554		0.00600	1	05/17/2022 20:19	WG1863545
(S) Nitrobenzene-d5	70.1		14.0-149		05/17/2022 20:19	WG1863545
(S) 2-Fluorobiphenyl	71.7		34.0-125		05/17/2022 20:19	WG1863545
(S) p-Terphenyl-d14	88.8		23.0-120		05/17/2022 20:19	WG1863545

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc



Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	1		5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.14		5/11/2022 10:37:31 AM	WG1861430
Final pH	6.05		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

4 Cn

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/15/2022 23:37	WG1863495

5 Sr

6 Qc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 17:17	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 17:17	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 17:17	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 17:17	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 17:17	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 17:17	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 17:17	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 17:17	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 17:17	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 17:17	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 17:17	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 17:17	WG1863494
(S) 2-Fluorophenol	27.8		10.0-120			05/14/2022 17:17	WG1863494
(S) Phenol-d5	17.7		10.0-120			05/14/2022 17:17	WG1863494
(S) Nitrobenzene-d5	49.6		10.0-127			05/14/2022 17:17	WG1863494
(S) 2-Fluorobiphenyl	64.9		10.0-130			05/14/2022 17:17	WG1863494
(S) 2,4,6-Tribromophenol	61.5		10.0-155			05/14/2022 17:17	WG1863494
(S) p-Terphenyl-d14	73.5		10.0-128			05/14/2022 17:17	WG1863494

7 GI

8 AI

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	25.9		0.500	1	05/11/2022 23:47	WG1860586

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	ND		0.00600	1	05/17/2022 00:18	WG1863666
Acenaphthene	ND		0.00600	1	05/17/2022 00:18	WG1863666
Acenaphthylene	ND		0.00600	1	05/17/2022 00:18	WG1863666
Benzo(a)anthracene	0.0199		0.00600	1	05/17/2022 00:18	WG1863666
Benzo(a)pyrene	0.0198		0.00600	1	05/17/2022 00:18	WG1863666
Benzo(b)fluoranthene	0.0318		0.00600	1	05/17/2022 00:18	WG1863666
Benzo(g,h,i)perylene	0.0205		0.00600	1	05/17/2022 00:18	WG1863666
Benzo(k)fluoranthene	0.0101		0.00600	1	05/17/2022 00:18	WG1863666
Chrysene	0.0202		0.00600	1	05/17/2022 00:18	WG1863666
Dibenz(a,h)anthracene	ND		0.00600	1	05/17/2022 00:18	WG1863666
Fluoranthene	0.0447		0.00600	1	05/17/2022 00:18	WG1863666
Fluorene	ND		0.00600	1	05/17/2022 00:18	WG1863666
Indeno(1,2,3-cd)pyrene	0.0191		0.00600	1	05/17/2022 00:18	WG1863666
Naphthalene	ND		0.0200	1	05/17/2022 00:18	WG1863666
Phenanthrene	0.0205		0.00600	1	05/17/2022 00:18	WG1863666
Pyrene	0.0398		0.00600	1	05/17/2022 00:18	WG1863666
(S) Nitrobenzene-d5	78.5		14.0-149		05/17/2022 00:18	WG1863666
(S) 2-Fluorobiphenyl	68.6		34.0-125		05/17/2022 00:18	WG1863666
(S) p-Terphenyl-d14	88.5		23.0-120		05/17/2022 00:18	WG1863666

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	2		5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.87		5/11/2022 10:37:31 AM	WG1861430
Final pH	5.62		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/13/2022 21:51	WG1863493

4 Cn

5 Sr

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 17:39	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 17:39	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 17:39	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 17:39	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 17:39	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 17:39	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 17:39	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 17:39	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 17:39	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 17:39	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 17:39	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 17:39	WG1863494
(S) 2-Fluorophenol	28.3		10.0-120			05/14/2022 17:39	WG1863494
(S) Phenol-d5	18.7		10.0-120			05/14/2022 17:39	WG1863494
(S) Nitrobenzene-d5	48.8		10.0-127			05/14/2022 17:39	WG1863494
(S) 2-Fluorobiphenyl	61.8		10.0-130			05/14/2022 17:39	WG1863494
(S) 2,4,6-Tribromophenol	66.0		10.0-155			05/14/2022 17:39	WG1863494
(S) p-Terphenyl-d14	71.7		10.0-128			05/14/2022 17:39	WG1863494

6 Qc

7 Gl

8 Al

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	90.3		0.500	1	05/15/2022 19:08	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	0.0696		0.00600	1	05/16/2022 23:58	WG1863666
Acenaphthene	ND		0.00600	1	05/16/2022 23:58	WG1863666
Acenaphthylene	0.142		0.00600	1	05/16/2022 23:58	WG1863666
Benzo(a)anthracene	0.548		0.00600	1	05/16/2022 23:58	WG1863666
Benzo(a)pyrene	0.808		0.00600	1	05/16/2022 23:58	WG1863666
Benzo(b)fluoranthene	1.37		0.00600	1	05/16/2022 23:58	WG1863666
Benzo(g,h,i)perylene	0.464		0.00600	1	05/16/2022 23:58	WG1863666
Benzo(k)fluoranthene	0.412		0.00600	1	05/16/2022 23:58	WG1863666
Chrysene	0.394		0.00600	1	05/16/2022 23:58	WG1863666
Dibenz(a,h)anthracene	0.129		0.00600	1	05/16/2022 23:58	WG1863666
Fluoranthene	0.400		0.00600	1	05/16/2022 23:58	WG1863666
Fluorene	0.00640		0.00600	1	05/16/2022 23:58	WG1863666
Indeno(1,2,3-cd)pyrene	0.581		0.00600	1	05/16/2022 23:58	WG1863666
Naphthalene	0.0301		0.0200	1	05/16/2022 23:58	WG1863666
Phenanthrene	0.0405		0.00600	1	05/16/2022 23:58	WG1863666
Pyrene	0.575		0.00600	1	05/16/2022 23:58	WG1863666
(S) Nitrobenzene-d5	74.7		14.0-149		05/16/2022 23:58	WG1863666
(S) 2-Fluorobiphenyl	63.5		34.0-125		05/16/2022 23:58	WG1863666
(S) p-Terphenyl-d14	77.6		23.0-120		05/16/2022 23:58	WG1863666

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	1		5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.56		5/11/2022 10:37:31 AM	WG1861430
Final pH	6.16		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/15/2022 23:40	WG1863495

4 Cn

5 Sr

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 18:01	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 18:01	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 18:01	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 18:01	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 18:01	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 18:01	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 18:01	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 18:01	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 18:01	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 18:01	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 18:01	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 18:01	WG1863494
(S) 2-Fluorophenol	29.1		10.0-120			05/14/2022 18:01	WG1863494
(S) Phenol-d5	18.7		10.0-120			05/14/2022 18:01	WG1863494
(S) Nitrobenzene-d5	50.6		10.0-127			05/14/2022 18:01	WG1863494
(S) 2-Fluorobiphenyl	66.0		10.0-130			05/14/2022 18:01	WG1863494
(S) 2,4,6-Tribromophenol	66.5		10.0-155			05/14/2022 18:01	WG1863494
(S) p-Terphenyl-d14	73.8		10.0-128			05/14/2022 18:01	WG1863494

6 Qc

7 Gl

8 Al

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	58.7		0.500	1	05/15/2022 19:11	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	ND		0.00600	1	05/16/2022 22:38	WG1863666
Acenaphthene	ND		0.00600	1	05/16/2022 22:38	WG1863666
Acenaphthylene	ND		0.00600	1	05/16/2022 22:38	WG1863666
Benzo(a)anthracene	0.0111		0.00600	1	05/16/2022 22:38	WG1863666
Benzo(a)pyrene	0.00972		0.00600	1	05/16/2022 22:38	WG1863666
Benzo(b)fluoranthene	0.0153		0.00600	1	05/16/2022 22:38	WG1863666
Benzo(g,h,i)perylene	0.00822		0.00600	1	05/16/2022 22:38	WG1863666
Benzo(k)fluoranthene	0.00617		0.00600	1	05/16/2022 22:38	WG1863666
Chrysene	0.0112		0.00600	1	05/16/2022 22:38	WG1863666
Dibenz(a,h)anthracene	ND		0.00600	1	05/16/2022 22:38	WG1863666
Fluoranthene	0.0259		0.00600	1	05/16/2022 22:38	WG1863666
Fluorene	ND		0.00600	1	05/16/2022 22:38	WG1863666
Indeno(1,2,3-cd)pyrene	0.00842		0.00600	1	05/16/2022 22:38	WG1863666
Naphthalene	ND		0.0200	1	05/16/2022 22:38	WG1863666
Phenanthrene	0.00681		0.00600	1	05/16/2022 22:38	WG1863666
Pyrene	0.0237		0.00600	1	05/16/2022 22:38	WG1863666
(S) Nitrobenzene-d5	77.4		14.0-149		05/16/2022 22:38	WG1863666
(S) 2-Fluorobiphenyl	68.3		34.0-125		05/16/2022 22:38	WG1863666
(S) p-Terphenyl-d14	88.3		23.0-120		05/16/2022 22:38	WG1863666

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	2		5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.44		5/11/2022 10:37:31 AM	WG1861430
Final pH	3.57		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/13/2022 21:54	WG1863493

4 Cn

5 Sr

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 18:23	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 18:23	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 18:23	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 18:23	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 18:23	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 18:23	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 18:23	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 18:23	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 18:23	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 18:23	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 18:23	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 18:23	WG1863494
(S) 2-Fluorophenol	25.5		10.0-120			05/14/2022 18:23	WG1863494
(S) Phenol-d5	16.8		10.0-120			05/14/2022 18:23	WG1863494
(S) Nitrobenzene-d5	48.6		10.0-127			05/14/2022 18:23	WG1863494
(S) 2-Fluorobiphenyl	65.1		10.0-130			05/14/2022 18:23	WG1863494
(S) 2,4,6-Tribromophenol	62.0		10.0-155			05/14/2022 18:23	WG1863494
(S) p-Terphenyl-d14	72.1		10.0-128			05/14/2022 18:23	WG1863494

6 Qc

7 GI

8 Al

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	17.3		0.500	1	05/15/2022 19:14	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	0.0598		0.00600	1	05/17/2022 00:37	WG1863666
Acenaphthene	ND		0.00600	1	05/17/2022 00:37	WG1863666
Acenaphthylene	0.117		0.00600	1	05/17/2022 00:37	WG1863666
Benzo(a)anthracene	0.454		0.00600	1	05/17/2022 00:37	WG1863666
Benzo(a)pyrene	0.572		0.00600	1	05/17/2022 00:37	WG1863666
Benzo(b)fluoranthene	0.887		0.00600	1	05/17/2022 00:37	WG1863666
Benzo(g,h,i)perylene	0.579		0.00600	1	05/17/2022 00:37	WG1863666
Benzo(k)fluoranthene	0.268		0.00600	1	05/17/2022 00:37	WG1863666
Chrysene	0.343		0.00600	1	05/17/2022 00:37	WG1863666
Dibenz(a,h)anthracene	0.0978		0.00600	1	05/17/2022 00:37	WG1863666
Fluoranthene	0.436		0.00600	1	05/17/2022 00:37	WG1863666
Fluorene	0.00856		0.00600	1	05/17/2022 00:37	WG1863666
Indeno(1,2,3-cd)pyrene	0.443		0.00600	1	05/17/2022 00:37	WG1863666
Naphthalene	ND		0.0200	1	05/17/2022 00:37	WG1863666
Phenanthrene	0.104		0.00600	1	05/17/2022 00:37	WG1863666
Pyrene	0.447		0.00600	1	05/17/2022 00:37	WG1863666
(S) Nitrobenzene-d5	86.9		14.0-149		05/17/2022 00:37	WG1863666
(S) 2-Fluorobiphenyl	73.6		34.0-125		05/17/2022 00:37	WG1863666
(S) p-Terphenyl-d14	89.1		23.0-120		05/17/2022 00:37	WG1863666

3 Ss

4 Cn

5 Sr

6 Qc

7 GI

8 AI

9 Sc



Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-	-	5/11/2022 10:37:31 AM	WG1861430
Fluid	2	-	5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.73	-	5/11/2022 10:37:31 AM	WG1861430
Final pH	3.23	-	5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND	-	0.100	5	1	05/13/2022 21:57	WG1863493

4 Cn

5 Sr

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND	-	0.100	7.50	1	05/14/2022 20:57	WG1863494
2,4-Dinitrotoluene	ND	-	0.100	0.13	1	05/14/2022 20:57	WG1863494
Hexachlorobenzene	ND	-	0.100	0.13	1	05/14/2022 20:57	WG1863494
Hexachloro-1,3-butadiene	ND	-	0.100	0.50	1	05/14/2022 20:57	WG1863494
Hexachloroethane	ND	-	0.100	3	1	05/14/2022 20:57	WG1863494
Nitrobenzene	ND	-	0.100	2	1	05/14/2022 20:57	WG1863494
Pyridine	ND	-	0.100	5	1	05/14/2022 20:57	WG1863494
3&4-Methyl Phenol	ND	-	0.100	400	1	05/14/2022 20:57	WG1863494
2-Methylphenol	ND	-	0.100	200	1	05/14/2022 20:57	WG1863494
Pentachlorophenol	ND	-	0.100	100	1	05/14/2022 20:57	WG1863494
2,4,5-Trichlorophenol	ND	-	0.100	400	1	05/14/2022 20:57	WG1863494
2,4,6-Trichlorophenol	ND	-	0.100	2	1	05/14/2022 20:57	WG1863494
(S) 2-Fluorophenol	33.9	-	10.0-120			05/14/2022 20:57	WG1863494
(S) Phenol-d5	20.3	-	10.0-120			05/14/2022 20:57	WG1863494
(S) Nitrobenzene-d5	53.1	-	10.0-127			05/14/2022 20:57	WG1863494
(S) 2-Fluorobiphenyl	71.3	-	10.0-130			05/14/2022 20:57	WG1863494
(S) 2,4,6-Tribromophenol	77.0	-	10.0-155			05/14/2022 20:57	WG1863494
(S) p-Terphenyl-d14	78.1	-	10.0-128			05/14/2022 20:57	WG1863494

6 Qc

7 Gl

8 Al

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	37.8		0.500	1	05/15/2022 19:17	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	ND		0.00600	1	05/16/2022 23:38	WG1863666
Acenaphthene	ND		0.00600	1	05/16/2022 23:38	WG1863666
Acenaphthylene	ND		0.00600	1	05/16/2022 23:38	WG1863666
Benzo(a)anthracene	0.0137		0.00600	1	05/16/2022 23:38	WG1863666
Benzo(a)pyrene	0.0158		0.00600	1	05/16/2022 23:38	WG1863666
Benzo(b)fluoranthene	0.0224		0.00600	1	05/16/2022 23:38	WG1863666
Benzo(g,h,i)perylene	0.0168		0.00600	1	05/16/2022 23:38	WG1863666
Benzo(k)fluoranthene	0.00812		0.00600	1	05/16/2022 23:38	WG1863666
Chrysene	0.0131		0.00600	1	05/16/2022 23:38	WG1863666
Dibenz(a,h)anthracene	ND		0.00600	1	05/16/2022 23:38	WG1863666
Fluoranthene	0.0314		0.00600	1	05/16/2022 23:38	WG1863666
Fluorene	ND		0.00600	1	05/16/2022 23:38	WG1863666
Indeno(1,2,3-cd)pyrene	0.0152		0.00600	1	05/16/2022 23:38	WG1863666
Naphthalene	ND		0.0200	1	05/16/2022 23:38	WG1863666
Phenanthrene	0.0115		0.00600	1	05/16/2022 23:38	WG1863666
Pyrene	0.0266		0.00600	1	05/16/2022 23:38	WG1863666
(S) Nitrobenzene-d5	91.0		14.0-149		05/16/2022 23:38	WG1863666
(S) 2-Fluorobiphenyl	79.2		34.0-125		05/16/2022 23:38	WG1863666
(S) p-Terphenyl-d14	101		23.0-120		05/16/2022 23:38	WG1863666

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	1		5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.60		5/11/2022 10:37:31 AM	WG1861430
Final pH	6.10		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/15/2022 23:48	WG1863495

4 Cn

5 Sr

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 18:45	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 18:45	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 18:45	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 18:45	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 18:45	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 18:45	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 18:45	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 18:45	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 18:45	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 18:45	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 18:45	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 18:45	WG1863494
(S) 2-Fluorophenol	32.1		10.0-120			05/14/2022 18:45	WG1863494
(S) Phenol-d5	19.2		10.0-120			05/14/2022 18:45	WG1863494
(S) Nitrobenzene-d5	49.7		10.0-127			05/14/2022 18:45	WG1863494
(S) 2-Fluorobiphenyl	67.5		10.0-130			05/14/2022 18:45	WG1863494
(S) 2,4,6-Tribromophenol	72.5		10.0-155			05/14/2022 18:45	WG1863494
(S) p-Terphenyl-d14	74.2		10.0-128			05/14/2022 18:45	WG1863494

6 Qc

7 Gl

8 Al

9 Sc

Metals (ICP) by Method 6010B

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Lead	50.8		0.500	1	05/15/2022 19:20	WG1860583

1 Cp

2 Tc

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

Analyte	Result mg/kg	Qualifier	RDL mg/kg	Dilution	Analysis date / time	Batch
Anthracene	0.00872		0.00600	1	05/17/2022 00:57	WG1863666
Acenaphthene	ND		0.00600	1	05/17/2022 00:57	WG1863666
Acenaphthylene	0.0123		0.00600	1	05/17/2022 00:57	WG1863666
Benzo(a)anthracene	0.0583		0.00600	1	05/17/2022 00:57	WG1863666
Benzo(a)pyrene	0.0697		0.00600	1	05/17/2022 00:57	WG1863666
Benzo(b)fluoranthene	0.105		0.00600	1	05/17/2022 00:57	WG1863666
Benzo(g,h,i)perylene	0.0648		0.00600	1	05/17/2022 00:57	WG1863666
Benzo(k)fluoranthene	0.0312		0.00600	1	05/17/2022 00:57	WG1863666
Chrysene	0.0507		0.00600	1	05/17/2022 00:57	WG1863666
Dibenz(a,h)anthracene	0.0141		0.00600	1	05/17/2022 00:57	WG1863666
Fluoranthene	0.0803		0.00600	1	05/17/2022 00:57	WG1863666
Fluorene	ND		0.00600	1	05/17/2022 00:57	WG1863666
Indeno(1,2,3-cd)pyrene	0.0584		0.00600	1	05/17/2022 00:57	WG1863666
Naphthalene	ND		0.0200	1	05/17/2022 00:57	WG1863666
Phenanthrene	0.0265		0.00600	1	05/17/2022 00:57	WG1863666
Pyrene	0.0754		0.00600	1	05/17/2022 00:57	WG1863666
(S) Nitrobenzene-d5	96.7		14.0-149		05/17/2022 00:57	WG1863666
(S) 2-Fluorobiphenyl	76.7		34.0-125		05/17/2022 00:57	WG1863666
(S) p-Terphenyl-d14	95.7		23.0-120		05/17/2022 00:57	WG1863666

3 Ss

4 Cn

5 Sr

6 Qc

7 Gl

8 Al

9 Sc

Preparation by Method 1311

Analyte	Result	Qualifier	Prep date / time	Batch
TCLP Extraction	-		5/11/2022 10:37:31 AM	WG1861430
Fluid	1		5/11/2022 10:37:31 AM	WG1861430
Initial pH	8.30		5/11/2022 10:37:31 AM	WG1861430
Final pH	5.93		5/11/2022 10:37:31 AM	WG1861430

1 Cp

2 Tc

3 Ss

Metals (ICP) by Method 6010B

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
Lead	ND		0.100	5	1	05/15/2022 23:51	WG1863495

4 Cn

5 Sr

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

Analyte	Result mg/l	Qualifier	RDL mg/l	Limit mg/l	Dilution	Analysis date / time	Batch
1,4-Dichlorobenzene	ND		0.100	7.50	1	05/14/2022 19:07	WG1863494
2,4-Dinitrotoluene	ND		0.100	0.13	1	05/14/2022 19:07	WG1863494
Hexachlorobenzene	ND		0.100	0.13	1	05/14/2022 19:07	WG1863494
Hexachloro-1,3-butadiene	ND		0.100	0.50	1	05/14/2022 19:07	WG1863494
Hexachloroethane	ND		0.100	3	1	05/14/2022 19:07	WG1863494
Nitrobenzene	ND		0.100	2	1	05/14/2022 19:07	WG1863494
Pyridine	ND		0.100	5	1	05/14/2022 19:07	WG1863494
3&4-Methyl Phenol	ND		0.100	400	1	05/14/2022 19:07	WG1863494
2-Methylphenol	ND		0.100	200	1	05/14/2022 19:07	WG1863494
Pentachlorophenol	ND		0.100	100	1	05/14/2022 19:07	WG1863494
2,4,5-Trichlorophenol	ND		0.100	400	1	05/14/2022 19:07	WG1863494
2,4,6-Trichlorophenol	ND		0.100	2	1	05/14/2022 19:07	WG1863494
(S) 2-Fluorophenol	31.1		10.0-120			05/14/2022 19:07	WG1863494
(S) Phenol-d5	19.8		10.0-120			05/14/2022 19:07	WG1863494
(S) Nitrobenzene-d5	49.7		10.0-127			05/14/2022 19:07	WG1863494
(S) 2-Fluorobiphenyl	67.7		10.0-130			05/14/2022 19:07	WG1863494
(S) 2,4,6-Tribromophenol	67.5		10.0-155			05/14/2022 19:07	WG1863494
(S) p-Terphenyl-d14	72.7		10.0-128			05/14/2022 19:07	WG1863494

6 Qc

7 Gl

8 Al

9 Sc

# WG1860583

Metals (ICP) by Method 6010B

# QUALITY CONTROL SUMMARY

L1490222-01,03,05,07,11,13,15,17,19

## Method Blank (MB)

(MB) R3792004-1 05/15/22 18:02

Analyte	MB Result mg/kg	MB Qualifier	MB MDL mg/kg	MB RDL mg/kg
Lead	U		0.208	0.500

## Laboratory Control Sample (LCS)

(LCS) R3792004-2 05/15/22 18:04

Analyte	Spike Amount mg/kg	LCS Result mg/kg	LCS Rec. %	Rec. Limits %	LCS Qualifier
Lead	100	96.5	96.5	80.0-120	

## L1490011-01 Original Sample (OS) • Matrix Spike (MS) • Matrix Spike Duplicate (MSD)

(OS) L1490011-01 05/15/22 18:07 • (MS) R3792004-5 05/15/22 18:15 • (MSD) R3792004-6 05/15/22 18:18

Analyte	Spike Amount mg/kg	Original Result mg/kg	MS Result mg/kg	MS Rec. %	MSD Result mg/kg	MSD Rec. %	Dilution	Rec. Limits %	MS Qualifier	MSD Qualifier	RPD %	RPD Limits %
Lead	100	9.78	108	97.8	105	95.4	1	75.0-125			2.26	20

1 Cp	2 Tc	3 Ss	4 Cn	5 Sr	6 Qc	7 Gl	8 Al	9 Sc
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# WG1860586

Metals (ICP) by Method 6010B

# QUALITY CONTROL SUMMARY

L1490222-09

## Method Blank (MB)

(MB) R3790873-1 05/11/22 23:42

Analyte	MB Result mg/kg	MB Qualifier	MB MDL mg/kg	MB RDL mg/kg
Lead	U		0.208	0.500

## Laboratory Control Sample (LCS)

(LCS) R3790873-2 05/11/22 23:44

Analyte	Spike Amount mg/kg	LCS Result mg/kg	LCS Rec. %	Rec. Limits %	LCS Qualifier
Lead	100	94.1	94.1	80.0-120	

## L1490222-09 Original Sample (OS) • Matrix Spike (MS) • Matrix Spike Duplicate (MSD)

(OS) L1490222-09 05/11/22 23:47 • (MS) R3790873-5 05/11/22 23:56 • (MSD) R3790873-6 05/11/22 23:58

Analyte	Spike Amount mg/kg	Original Result mg/kg	MS Result mg/kg	MSD Result mg/kg	Dilution	Rec. Limits %	MS Qualifier	MSD Qualifier	RPD %	RPD Limits %
Lead	100	25.9	133	143	1	75.0-125			7.57	20

1 Cp	2 Tc	3 Ss	4 Cn	5 Sr	6 Qc	7 Gl	8 Al	9 Sc
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# WG1863493

Metals (ICP) by Method 6010B

# QUALITY CONTROL SUMMARY

L1490222-04,10,14,16

## Method Blank (MB)

(MB) R3791948-1 05/13/22 21:32

Analyte	MB Result mg/l	MB MDL mg/l	MB RDL mg/l
Lead	U	0.0330	0.100

## Laboratory Control Sample (LCS)

(LCS) R3791948-2 05/13/22 21:35

Analyte	Spike Amount mg/l	LCS Result mg/l	LCS Rec. %	Rec. Limits mg/l	LCS Qualifier
Lead	10.0	9.28	92.8	80.0-120	

## L1490222-04 Original Sample (OS) • Matrix Spike (MS) • Matrix Spike Duplicate (MSD)

(OS) L1490222-04 05/13/22 21:37 • (MS) R3791948-4 05/13/22 21:43 • (MSD) R3791948-5 05/13/22 21:45

Analyte	Spike Amount mg/l	Original Result mg/l	MS Result mg/l	MS Rec. %	MSD Result mg/l	MSD Rec. %	Dilution	Rec. Limits %	MS Qualifier	MSD Qualifier	RPD %	RPD Limits %
Lead	10.0	ND	9.43	94.3	9.51	95.1	1	75.0-125		0.837	0.837	20

1 Cp	2 Tc	3 Ss	4 Cn	5 Sr	6 Qc	7 Gl	8 Al	9 Sc
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# WG1863495

Metals (ICP) by Method 6010B

# QUALITY CONTROL SUMMARY

L1490222-02,06,08,12,18,20

## Method Blank (MB)

(MB) R3792048-1 05/15/22 23:16

Analyte	MB Result mg/l	MB Qualifier mg/l	MB MDL mg/l	MB RDL mg/l
Lead	U	0.0330	0.0330	0.100

## Laboratory Control Sample (LCS)

(LCS) R3792048-2 05/15/22 23:19

Analyte	Spike Amount mg/l	LCS Result mg/l	LCS Rec. %	Rec. Limits %	LCS Qualifier
Lead	10.0	9.62	96.2	80.0-120	

## L1490220-01 Original Sample (OS) • Matrix Spike (MS) • Matrix Spike Duplicate (MSD)

(OS) L1490220-01 05/15/22 23:21 • (MS) R3792048-4 05/15/22 23:27 • (MSD) R3792048-5 05/15/22 23:29

Analyte	Spike Amount mg/l	Original Result mg/l	MS Result mg/l	MS Rec. %	MSD Result mg/l	MSD Rec. %	Dilution	Rec. Limits %	MS Qualifier	MSD Qualifier	RPD %	RPD Limits %
Lead	10.0	ND	9.64	96.4	9.63	96.3	1	75.0-125			0.101	20

1 Cp	2 Tc	3 Ss	4 Cn	5 Sr	6 Oc	7 Gl	8 Al	9 Sc
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# WG1863494

Semi Volatile Organic Compounds (GC/MS) by Method 8270C

## QUALITY CONTROL SUMMARY

L1490222-02,04,06,08,10,12,14,16,18,20

### Method Blank (MB)

(MB) R3791901-2 05/14/22 12:32

Analyte	MB Result mg/l	MB Qualifier	MB MDL mg/l	MB RDL mg/l
1,4-Dichlorobenzene	U		0.0333	0.100
2,4-Dinitrotoluene	U		0.0333	0.100
Hexachlorobenzene	U		0.0333	0.100
Hexachloro-1,3-butadiene	U		0.0333	0.100
Hexachloroethane	U		0.0333	0.100
Nitrobenzene	U		0.0333	0.100
Pyridine	U		0.0333	0.100
3&4-Methyl Phenol	U		0.0333	0.100
2-Methylphenol	U		0.0333	0.100
Pentachlorophenol	U		0.0333	0.100
2,4,5-Trichlorophenol	U		0.0333	0.100
2,4,6-Trichlorophenol	U		0.0333	0.100
(S) 2-Fluorophenol	33.9		0.0333	0.100
(S) Phenol-d5	19.9			10.0-120
(S) Nitrobenzene-d5	56.6			10.0-120
(S) 2-Fluorobiphenyl	74.2			10.0-127
(S) 2,4,6-Tribromophenol	72.5			10.0-130
(S) p-Terphenyl-d14	76.0			10.0-155
				10.0-128

### Laboratory Control Sample (LCS)

(LCS) R3791901-1 05/14/22 12:10

Analyte	Spike Amount mg/l	LCS Result mg/l	LCS Rec. %	Rec. Limits %	LCS Qualifier
1,4-Dichlorobenzene	0.500	0.335	67.0	18.0-120	
2,4-Dinitrotoluene	0.500	0.490	98.0	49.0-124	
Hexachlorobenzene	0.500	0.417	83.4	44.0-120	
Hexachloro-1,3-butadiene	0.500	0.318	63.6	19.0-120	
Hexachloroethane	0.500	0.326	65.2	15.0-120	
Nitrobenzene	0.500	0.291	58.2	27.0-120	
Pyridine	0.500	0.0856	17.1	10.0-120	
3&4-Methyl Phenol	0.500	0.256	51.2	31.0-120	
2-Methylphenol	0.500	0.245	49.0	28.0-120	
Pentachlorophenol	0.500	0.452	90.4	23.0-120	
2,4,5-Trichlorophenol	0.500	0.403	80.6	44.0-120	
2,4,6-Trichlorophenol	0.500	0.402	80.4	42.0-120	
(S) 2-Fluorophenol			31.6	10.0-120	
(S) Phenol-d5			20.3	10.0-120	
(S) Nitrobenzene-d5			48.9	10.0-127	

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Semi Volatile Organic Compounds (GC/MS) by Method 8270C

# QUALITY CONTROL SUMMARY

L1490222-0-2,04,06,08,10,12,14,16,18,20

## Laboratory Control Sample (LCS)

(LCS) R3791901-1 05/14/22 12:10

Analyte	Spike Amount mg/l	LCS Result mg/l	LCS Rec. %	Rec. Limits %	LCS Qualifier
(S) 2-Fluorobiphenyl	74.1	74.1	100.0	10.0-130	
(S) 2,4,6-Tribromophenol	84.5	84.5	100.0	10.0-155	
(S) p-Terphenyl-d14	80.7	80.7	100.0	10.0-128	

## L1490220-01 Original Sample (OS) • Matrix Spike (MS) • Matrix Spike Duplicate (MSD)

(OS) L1490220-01 05/14/22 15:05 • (MS) R3791901-3 05/14/22 15:27 • (MSD) R3791901-4 05/14/22 15:49

Analyte	Spike Amount mg/l	Original Result mg/l	MS Result mg/l	MSD Result mg/l	MS Rec. %	MSD Rec. %	Dilution	Rec. Limits %	MS Qualifier	MSD Qualifier	RPD %	RPD Limits %
1,4-Dichlorobenzene	0.500	ND	0.301	0.288	60.2	57.6	1	17.0-120			4.41	40
2,4-Dinitrotoluene	0.500	ND	0.438	0.388	87.6	77.6	1	39.0-125			12.1	25
Hexachlorobenzene	0.500	ND	0.381	0.340	76.2	68.0	1	35.0-122			11.4	24
Hexachloro-1,3-butadiene	0.500	ND	0.304	0.284	60.8	56.8	1	12.0-120			6.80	34
Hexachloroethane	0.500	ND	0.310	0.291	62.0	58.2	1	10.0-120			6.32	40
Nitrobenzene	0.500	ND	0.275	0.253	55.0	50.6	1	12.0-120	J6	J3	8.33	30
Pyridine	0.500	ND	ND	0.115	9.16	23.0	1	10.0-120			86.1	37
3&4-Methyl Phenol	0.500	ND	0.226	0.203	45.2	40.6	1	10.0-120			10.7	36
2-Methylphenol	0.500	ND	0.214	0.194	42.8	38.8	1	10.0-120			9.80	30
Pentachlorophenol	0.500	ND	0.404	0.352	80.8	70.4	1	10.0-128			13.8	37
2,4,5-Trichlorophenol	0.500	ND	0.366	0.318	73.2	63.6	1	33.0-120			14.0	31
2,4,6-Trichlorophenol	0.500	ND	0.372	0.323	74.4	64.6	1	26.0-120			14.1	31
(S) 2-Fluorophenol		ND			27.9	26.1		10.0-120				
(S) Phenol-d5		ND			18.7	16.7		10.0-120				
(S) Nitrobenzene-d5		ND			46.6	42.8		10.0-127				
(S) 2-Fluorobiphenyl		ND			73.7	63.5		10.0-130				
(S) 2,4,6-Tribromophenol		ND			79.5	70.0		10.0-155				
(S) p-Terphenyl-d14		ND			76.0	65.6		10.0-128				

1 Cp
2 Tc
3 Ss
4 Cn
5 Sr
6 Qc
7 Gl
8 Al
9 Sc

# WG1863545

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

## QUALITY CONTROL SUMMARY

L1490222-03.05.07

### Method Blank (MB)

(MB) R3793132-2 05/17/22 13:05

Analyte	MB Result mg/kg	MB Qualifier	MB MDL mg/kg	MB RDL mg/kg
Anthracene	U		0.00230	0.00600
Acenaphthene	U		0.00209	0.00600
Acenaphthylene	U		0.00216	0.00600
Benzo(a)anthracene	U		0.00173	0.00600
Benzo(a)pyrene	U		0.00179	0.00600
Benzo(b)fluoranthene	U		0.00153	0.00600
Benzo(g,h,i)perylene	U		0.00177	0.00600
Benzo(k)fluoranthene	U		0.00215	0.00600
Chrysene	U		0.00232	0.00600
Dibenz(a,h)anthracene	U		0.00172	0.00600
Fluoranthene	U		0.00227	0.00600
Fluorene	U		0.00205	0.00600
Indeno(1,2,3-cd)pyrene	U		0.00181	0.00600
Naphthalene	U		0.00408	0.0200
Phenanthrene	U		0.00231	0.00600
Pyrene	U		0.00200	0.00600
(S) Nitrobenzene-d5	69.7			14.0-149
(S) 2-Fluorobiphenyl	74.5			34.0-125
(S) p-Terphenyl-d14	98.2			23.0-120

### Laboratory Control Sample (LCS)

(LCS) R3793132-1 05/17/22 12:45

Analyte	Spike Amount mg/kg	LCS Result mg/kg	LCS Rec. %	Rec. Limits %	LCS Qualifier
Anthracene	0.0800	0.0526	65.8	50.0-126	
Acenaphthene	0.0800	0.0525	65.6	50.0-120	
Acenaphthylene	0.0800	0.0557	69.6	50.0-120	
Benzo(a)anthracene	0.0800	0.0552	69.0	45.0-120	
Benzo(a)pyrene	0.0800	0.0424	53.0	42.0-120	
Benzo(b)fluoranthene	0.0800	0.0531	66.4	42.0-121	
Benzo(g,h,i)perylene	0.0800	0.0517	64.6	45.0-125	
Benzo(k)fluoranthene	0.0800	0.0534	66.8	49.0-125	
Chrysene	0.0800	0.0562	70.3	49.0-122	
Dibenz(a,h)anthracene	0.0800	0.0520	65.0	47.0-125	
Fluoranthene	0.0800	0.0538	67.3	49.0-129	
Fluorene	0.0800	0.0548	68.5	49.0-120	
Indeno(1,2,3-cd)pyrene	0.0800	0.0539	67.4	46.0-125	
Naphthalene	0.0800	0.0513	64.1	50.0-120	

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Shield Env. - Lexington, KY

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Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

## QUALITY CONTROL SUMMARY

L1490222-03.05.07

### Laboratory Control Sample (LCS)

(LCS) R3793132-1 05/17/22 12:45

Analyte	Spike Amount mg/kg	LCS Result mg/kg	LCS Rec. %	Rec. Limits %	LCS Qualifier
Phenanthrene	0.0800	0.0539	67.4	47.0-120	
Pyrene	0.0800	0.0590	73.8	43.0-123	
(S) Nitrobenzene-d5			75.2	14.0-149	
(S) 2-Fluorobiphenyl			78.8	34.0-125	
(S) p-Terphenyl-d14			103	23.0-120	

### L1489795-02 Original Sample (OS) • Matrix Spike (MS) • Matrix Spike Duplicate (MSD)

(OS) L1489795-02 05/17/22 13:44 • (MS) R3793132-3 05/17/22 14:04 • (MSD) R3793132-4 05/17/22 14:24

Analyte	Spike Amount mg/kg	Original Result mg/kg	MS Result mg/kg	MSD Result mg/kg	MS Rec. %	MSD Rec. %	Dilution	Rec. Limits %	MS Qualifier	MSD Qualifier	RPD %	RPD Limits %
Anthracene	0.0796	ND	0.0513	0.0486	64.4	61.1	1	10.0-145			5.41	30
Acenaphthene	0.0796	ND	0.0520	0.0506	65.3	63.6	1	14.0-127			2.73	27
Acenaphthylene	0.0796	ND	0.0529	0.0518	66.5	65.1	1	21.0-124			2.10	25
Benzofluoranthene	0.0796	ND	0.0535	0.0517	67.2	64.9	1	10.0-139			3.42	30
Benzofluoranthene	0.0796	ND	0.0508	0.0490	63.8	61.6	1	10.0-141			3.61	31
Benzofluoranthene	0.0796	ND	0.0513	0.0501	64.4	62.9	1	10.0-140			2.37	36
Benzofluoranthene	0.0796	ND	0.0520	0.0502	65.3	63.1	1	10.0-140			3.52	33
Benzofluoranthene	0.0796	ND	0.0531	0.0517	66.7	64.9	1	10.0-137			2.67	31
Benzofluoranthene	0.0796	ND	0.0544	0.0534	68.3	67.1	1	10.0-145			1.86	30
Chrysene	0.0796	ND	0.0509	0.0498	63.9	62.6	1	10.0-132			2.18	31
Dibenz(a,h)anthracene	0.0796	ND	0.0532	0.0509	66.8	63.9	1	10.0-153			4.42	33
Fluoranthene	0.0796	ND	0.0554	0.0538	69.6	67.6	1	11.0-130			2.93	29
Fluorene	0.0796	ND	0.0517	0.0505	64.9	63.4	1	10.0-137			2.35	32
Indeno(1,2,3-cd)pyrene	0.0796	ND	0.0506	0.0491	63.6	61.7	1	10.0-135			3.01	27
Naphthalene	0.0796	ND	0.0537	0.0511	67.5	64.2	1	10.0-144			4.96	31
Phenanthrene	0.0796	ND	0.0575	0.0561	72.2	70.5	1	10.0-148			2.46	35
Pyrene	0.0796	ND	0.0575	0.0561	72.2	70.2	1	14.0-149				
(S) Nitrobenzene-d5					79.5	78.8		34.0-125				
(S) 2-Fluorobiphenyl					103	99.8		23.0-120				
(S) p-Terphenyl-d14												

# WG1863666

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

## QUALITY CONTROL SUMMARY

L1490222-01.09.11.13.15.17.19

### Method Blank (MB)

(MB) R3792548-2 05/16/22 17:40

Analyte	MB Result mg/kg	MB Qualifier	MB MDL mg/kg	MB RDL mg/kg
Anthracene	U		0.00230	0.00600
Acenaphthene	U		0.00209	0.00600
Acenaphthylene	U		0.00216	0.00600
Benzo(a)anthracene	U		0.00173	0.00600
Benzo(a)pyrene	U		0.00179	0.00600
Benzo(b)fluoranthene	U		0.00153	0.00600
Benzo(g,h,i)perylene	U		0.00177	0.00600
Benzo(k)fluoranthene	U		0.00215	0.00600
Chrysene	U		0.00232	0.00600
Dibenz(a,h)anthracene	U		0.00172	0.00600
Fluoranthene	U		0.00227	0.00600
Fluorene	U		0.00205	0.00600
Indeno(1,2,3-cd)pyrene	U		0.00181	0.00600
Naphthalene	U		0.00408	0.0200
Phenanthrene	U		0.00231	0.00600
Pyrene	U		0.00200	0.00600
(S) Nitrobenzene-d5	86.9			14.0-149
(S) 2-Fluorobiphenyl	76.3			34.0-125
(S) p-Terphenyl-d14	99.9			23.0-120

### Laboratory Control Sample (LCS)

(LCS) R3792548-1 05/16/22 17:20

Analyte	Spike Amount mg/kg	LCS Result mg/kg	LCS Rec. %	Rec. Limits %	LCS Qualifier
Anthracene	0.0800	0.0530	66.3	50.0-126	
Acenaphthene	0.0800	0.0520	65.0	50.0-120	
Acenaphthylene	0.0800	0.0553	69.1	50.0-120	
Benzo(a)anthracene	0.0800	0.0552	69.0	45.0-120	
Benzo(a)pyrene	0.0800	0.0460	57.5	42.0-120	
Benzo(b)fluoranthene	0.0800	0.0518	64.8	42.0-121	
Benzo(g,h,i)perylene	0.0800	0.0518	64.8	45.0-125	
Benzo(k)fluoranthene	0.0800	0.0519	64.9	49.0-125	
Chrysene	0.0800	0.0543	67.9	49.0-122	
Dibenz(a,h)anthracene	0.0800	0.0547	68.4	47.0-125	
Fluoranthene	0.0800	0.0541	67.6	49.0-129	
Fluorene	0.0800	0.0507	63.4	49.0-120	
Indeno(1,2,3-cd)pyrene	0.0800	0.0546	68.3	46.0-125	
Naphthalene	0.0800	0.0545	68.1	50.0-120	

ACCOUNT:  
Shield Env. - Lexington, KY

PROJECT:  
122-1510

SDG:  
L1490222

DATE/TIME:  
05/18/22 14:19

PAGE:  
35 of 39

# WG1863666

Semi Volatile Organic Compounds (GC/MS) by Method 8270C-SIM

## QUALITY CONTROL SUMMARY

L1490222-01,09,11,13,15,17,19

### Laboratory Control Sample (LCS)

(LCS) R3792548-1 05/16/22 17:20

Analyte	Spike Amount mg/kg	LCS Result mg/kg	LCS Rec. %	Rec. Limits %	LCS Qualifier
Phenanthrene	0.0800	0.0521	65.1	47.0-120	
Pyrene	0.0800	0.0534	66.8	43.0-123	
(S) Nitrobenzene-d5		88.1	88.1	14.0-149	
(S) 2-Fluorobiphenyl		77.0	77.0	34.0-125	
(S) p-Terphenyl-d14		101	101	23.0-120	

### L1490349-01 Original Sample (OS) • Matrix Spike (MS) • Matrix Spike Duplicate (MSD)

(OS) L1490349-01 05/16/22 18:40 • (MS) R3792548-3 05/16/22 19:00 • (MSD) R3792548-4 05/16/22 19:19

Analyte	Spike Amount mg/kg	Original Result mg/kg	MS Result mg/kg	MSD Result mg/kg	MS Rec. %	MSD Rec. %	Dilution	Rec. Limits %	MS Qualifier	MSD Qualifier	RPD %	RPD Limits %
Anthracene	0.0780	ND	0.0510	0.0507	65.4	65.0	1	10.0-145		0.590	0.590	30
Acenaphthene	0.0780	ND	0.0504	0.0510	64.6	65.4	1	14.0-127		2.58	2.58	25
Acenaphthylene	0.0780	ND	0.0536	0.0550	68.7	70.5	1	21.0-124		13.4	13.4	30
Benzo(a)anthracene	0.0780	ND	0.0524	0.0599	67.2	76.8	1	10.0-139		15.7	15.7	31
Benzo(a)pyrene	0.0780	ND	0.0505	0.0591	64.7	75.8	1	10.0-141		31.0	31.0	36
Benzo(b)fluoranthene	0.0780	ND	0.0491	0.0671	62.9	86.0	1	10.0-140		11.3	11.3	33
Benzo(g,h,i)perylene	0.0780	ND	0.0516	0.0578	66.2	74.1	1	10.0-140		11.6	11.6	31
Benzo(k)fluoranthene	0.0780	ND	0.0518	0.0582	66.4	74.6	1	10.0-137		11.6	11.6	30
Chrysene	0.0780	ND	0.0535	0.0601	68.6	77.1	1	10.0-145		4.03	4.03	31
Dibenz(a,h)anthracene	0.0780	ND	0.0535	0.0557	68.6	71.4	1	10.0-132		9.70	9.70	33
Fluoranthene	0.0780	ND	0.0510	0.0562	65.4	72.1	1	10.0-153		1.81	1.81	29
Fluorene	0.0780	ND	0.0492	0.0501	63.1	64.2	1	11.0-130		12.7	12.7	32
Indeno(1,2,3-cd)pyrene	0.0780	ND	0.0530	0.0602	67.9	77.2	1	10.0-137		1.29	1.29	27
Naphthalene	0.0780	ND	0.0538	0.0545	69.0	69.9	1	10.0-135		4.13	4.13	31
Phenanthrene	0.0780	ND	0.0498	0.0519	63.8	66.5	1	10.0-144		15.0	15.0	35
Pyrene	0.0780	ND	0.0506	0.0588	64.9	75.4	1	10.0-148				
(S) Nitrobenzene-d5				85.7	90.4	90.4		14.0-149				
(S) 2-Fluorobiphenyl				77.9	80.1	80.1		34.0-125				
(S) p-Terphenyl-d14				101	102	102		23.0-120				

# GLOSSARY OF TERMS

## Guide to Reading and Understanding Your Laboratory Report

The information below is designed to better explain the various terms used in your report of analytical results from the Laboratory. This is not intended as a comprehensive explanation, and if you have additional questions please contact your project representative.

Results Disclaimer - Information that may be provided by the customer, and contained within this report, include Permit Limits, Project Name, Sample ID, Sample Matrix, Sample Preservation, Field Blanks, Field Spikes, Field Duplicates, On-Site Data, Sampling Collection Dates/Times, and Sampling Location. Results relate to the accuracy of this information provided, and as the samples are received.

### Abbreviations and Definitions

MDL	Method Detection Limit.
ND	Not detected at the Reporting Limit (or MDL where applicable).
RDL	Reported Detection Limit.
Rec.	Recovery.
RPD	Relative Percent Difference.
SDG	Sample Delivery Group.
(S)	Surrogate (Surrogate Standard) - Analytes added to every blank, sample, Laboratory Control Sample/Duplicate and Matrix Spike/Duplicate; used to evaluate analytical efficiency by measuring recovery. Surrogates are not expected to be detected in all environmental media.
U	Not detected at the Reporting Limit (or MDL where applicable).
Analyte	The name of the particular compound or analysis performed. Some Analyses and Methods will have multiple analytes reported.
Dilution	If the sample matrix contains an interfering material, the sample preparation volume or weight values differ from the standard, or if concentrations of analytes in the sample are higher than the highest limit of concentration that the laboratory can accurately report, the sample may be diluted for analysis. If a value different than 1 is used in this field, the result reported has already been corrected for this factor.
Limits	These are the target % recovery ranges or % difference value that the laboratory has historically determined as normal for the method and analyte being reported. Successful QC Sample analysis will target all analytes recovered or duplicated within these ranges.
Original Sample	The non-spiked sample in the prep batch used to determine the Relative Percent Difference (RPD) from a quality control sample. The Original Sample may not be included within the reported SDG.
Qualifier	This column provides a letter and/or number designation that corresponds to additional information concerning the result reported. If a Qualifier is present, a definition per Qualifier is provided within the Glossary and Definitions page and potentially a discussion of possible implications of the Qualifier in the Case Narrative if applicable.
Result	The actual analytical final result (corrected for any sample specific characteristics) reported for your sample. If there was no measurable result returned for a specific analyte, the result in this column may state "ND" (Not Detected) or "BDL" (Below Detectable Levels). The information in the results column should always be accompanied by either an MDL (Method Detection Limit) or RDL (Reporting Detection Limit) that defines the lowest value that the laboratory could detect or report for this analyte.
Uncertainty (Radiochemistry)	Confidence level of 2 sigma.
Case Narrative (Cn)	A brief discussion about the included sample results, including a discussion of any non-conformances to protocol observed either at sample receipt by the laboratory from the field or during the analytical process. If present, there will be a section in the Case Narrative to discuss the meaning of any data qualifiers used in the report.
Quality Control Summary (Qc)	This section of the report includes the results of the laboratory quality control analyses required by procedure or analytical methods to assist in evaluating the validity of the results reported for your samples. These analyses are not being performed on your samples typically, but on laboratory generated material.
Sample Chain of Custody (Sc)	This is the document created in the field when your samples were initially collected. This is used to verify the time and date of collection, the person collecting the samples, and the analyses that the laboratory is requested to perform. This chain of custody also documents all persons (excluding commercial shippers) that have had control or possession of the samples from the time of collection until delivery to the laboratory for analysis.
Sample Results (Sr)	This section of your report will provide the results of all testing performed on your samples. These results are provided by sample ID and are separated by the analyses performed on each sample. The header line of each analysis section for each sample will provide the name and method number for the analysis reported.
Sample Summary (Ss)	This section of the Analytical Report defines the specific analyses performed for each sample ID, including the dates and times of preparation and/or analysis.

### Qualifier Description

J3	The associated batch QC was outside the established quality control range for precision.
J6	The sample matrix interfered with the ability to make any accurate determination; spike value is low.



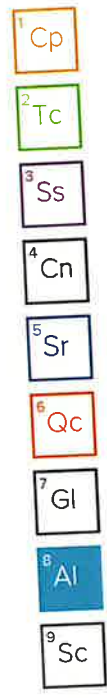


# ACCREDITATIONS & LOCATIONS

Pace Analytical National 12065 Lebanon Rd Mount Juliet, TN 37122

Alabama	40660	Nebraska	NE-OS-15-05
Alaska	17-026	Nevada	TN000032021-1
Arizona	AZ0612	New Hampshire	2975
Arkansas	88-0469	New Jersey-NELAP	TN002
California	2932	New Mexico <sup>1</sup>	TN00003
Colorado	TN00003	New York	1742
Connecticut	PH-0197	North Carolina	Env375
Florida	E87487	North Carolina <sup>1</sup>	DW21704
Georgia	NELAP	North Carolina <sup>3</sup>	41
Georgia <sup>1</sup>	923	North Dakota	R-140
Idaho	TN00003	Ohio-VAP	CL0069
Illinois	200008	Oklahoma	9915
Indiana	C-TN-01	Oregon	TN200002
Iowa	364	Pennsylvania	68-02979
Kansas	E-10277	Rhode Island	LA000356
Kentucky <sup>1,4</sup>	KY90010	South Carolina	84004002
Kentucky <sup>2</sup>	16	South Dakota	n/a
Louisiana	AI30792	Tennessee <sup>1,4</sup>	2006
Louisiana	LA018	Texas	T104704245-20-18
Louisiana	TN00003	Texas <sup>5</sup>	LAB0152
Maine	324	Utah	TN000032021-11
Maryland	M-TN003	Vermont	VT2006
Massachusetts	9958	Virginia	110033
Michigan	047-999-395	Washington	C847
Minnesota	TN00003	West Virginia	233
Mississippi	340	Wisconsin	998093910
Missouri	CERT0086	Wyoming	A2LA
Montana	1461.01	AIHA-LAP,LLC EMLAP	100789
A2LA - ISO 17025	1461.02	DOD	1461.01
A2LA - ISO 17025 <sup>5</sup>	1461.01	USDA	P330-15-00234
Canada	TN00003		
EPA-Crypto			

<sup>1</sup> Drinking Water <sup>2</sup> Underground Storage Tanks <sup>3</sup> Aquatic Toxicity <sup>4</sup> Chemical/Microbiological <sup>5</sup> Mold <sup>6</sup> Wastewater n/a Accreditation not applicable  
 • Not all certifications held by the laboratory are applicable to the results reported in the attached report.  
 • Accreditation is only applicable to the test methods specified on each scope of accreditation held by Pace Analytical.





12055 Lebanon Rd  
Mount Juliet, TN 37122  
Phone: 615-754-5558  
Phone: 800-765-5859  
Fax: 615-758-5859

L# 4490111  
A193

Actnum: **See Above**  
Template:  
Prelog(n):  
TSR:  
PB:

Shipped Via:  
Remarks

Sample # (lab only)	Remarks
-01,07	
-03,01	
-05,06	
-07,08	
-09,10	
-11,12	
-13,14	
-15,16	
-17,18	
-19,20	

Sample Receipt Checklist  
COC Seal Present/Intact:      N  
COC Signed/Accurate:      N  
Bottles arrive intact:      N  
Correct bottles used:      N  
Sufficient volume sent:      N  
IL Applicable:      N  
VQA Zero Readspace:      N  
Preservation Complete/Checked:      N

If preservation required by Login: Date/Time  
Held:  
Condition: NCF / Ok

Analysis / Container / Preservative	Pres Chk
PAH-870 402 cl/r	
Lead-6010 402 cl/r	
TCLP-PAH 402 cl/r	
TCLP-Lead 402 cl/r	

Billing Information: (Circle one)  
**SHIELD- Fund**  
**SHIELDKY - Regular**  
**SHIELDKY2 - KPDES**  
Email To: Dow - Porter @shieldmw.com

Project Description: De Roode St. Manhole Project  
City/State Collected: Lexington, KY  
Lab Project #  
P.O. #  
Quote #

Rush? (Lab MUST Be Notified)  
 Same Day  Five Day  
 Next Day  5 Day (Rad Only)  
 Two Day  10 Day (Rad Only)  
 Three Day  
 Date Results Needed

Sample ID	Comp/Grab	Matrix	Depth	Date	Time	No. of Cnts
SB-1		SS	0-4	5-3-22	1142	4
SB-1			8-10		1145	1
SB-2			0-5		1010	1
SB-2			5-8		1013	1
SB-3			0-5		0940	1
SB-3			5-10		0947	1
SB-4			0-5		1111	1
SB-4			5-10		1124	1
SB-5			0-5		1036	1
SB-5			5-8		1043	1

Remarks:  
 \* Matrix: SS - Soil, AIR - Air, F - Filter, GW - Groundwater, B - Bioassay, WW - Waste Water, DW - Drinking Water, OT - Other  
 Samples returned via:  UPS  FedEx  Courier Cosstan  
 Trip Blank Received: Yes (No)       
 HCL / Misch TBR  
 Temp. 23.10 °C Bottles Received: 2.3 40  
 Date: 5/5/22 Time: 0800

Received by: (Signature) Chad Kelley  
 Received by: (Signature) Chad Kelley  
 Received by lab by: (Signature) Chad Kelley