

**DESIGN-BUILD CONTRACT**  
**PEORIA CROSSING**  
**Contract Number: 201309616**  
**CDOT Project No.: STU C010-108 (subaccount 18529)**

**TABLE OF CONTENTS - CONTRACT DOCUMENTS**

	<b><u>Pages</u></b>
Part 1 - Main Contract Form and Exhibits	20
Part 2 - General Contract Conditions (Index)   GCC-1 – GCC-4	
Part 3 - Special Contract Conditions	23
Part 4 - Federal Requirements	22
CDOT Forms	15

**TABLE OF CONTENTS – MAIN CONTRACT FORM**

**SECTION 1 – CONTRACT AUTHORITY; ENGAGEMENT; RELATIONSHIP OF THE PARTIES** ..... 1

    1.1 Line of Authority ..... 1

    1.2 Limitation on Delegation of Authority ..... 1

    1.3 Design-Build Team Selection ..... 2

    1.4 Engagement of Design-Build Team ..... 2

    1.5 Relationship of the Parties ..... 2

    1.6 Coordination and Cooperation ..... 3

**SECTION 2- CONTRACT DOCUMENT** ..... 3

    2.1 Contract Documents ..... 3

    2.2 Integration ..... 3

    2.3 List of Contract Documents ..... 3

    2.4 Order of Precedence ..... 4

    2.5 Documents complementary ..... 5

    2.6 Documents following Contract execution ..... 5

    2.7 Construction ..... 5

    2.8 Federal Requirements ..... 5

**SECTION 3 – SCOPE OF WORK** ..... 5

    3.1 Design Documents ..... 5

    3.2 Standard of Care for Professional Design Services ..... 6

    3.3 Ownership of Documents ..... 6

    3.4 Design-Build Services ..... 6

    3.5 Acts and Omissions ..... 7

    3.6 Conflict of Interests ..... 7

    3.7 Completion Obligation ..... 7

    3.8 Phases of Work ..... 7

    3.9 The Work ..... 8

    3.10 Acknowledgement of Scope of Work ..... 8

**SECTION 4 – CONTRACT TERM AND TIME OF COMMENCEMENT** ..... 9

    4.1 General ..... 9

    4.2 Contract Time and Substantial Completion ..... 9

    4.3 Liquidated Damages: ..... 9

**SECTION 5 – INSURANCE REQUIREMENTS** ..... 10

    5.1 General Conditions: ..... 10

    5.2 Proof of Insurance: ..... 11

    5.3 Additional Insureds: ..... 11

    5.4 Waiver of Subrogation: ..... 11

    5.5 Subcontractors and Subconsultants: ..... 11

    5.6 Workers’ Compensation/Employer’s Liability Insurance: ..... 11

    5.7 General Liability: ..... 11

    5.8 Business Automobile Liability: ..... 11

    5.9 Professional Liability: ..... 12

    5.10 Excess/Umbrella Liability: ..... 12

    5.11 Contractors Pollution Liability: ..... 12

    5.12 Builders Risk or Installation Floater: ..... 12

5.13	Additional Provisions: .....	12
<b>SECTION 6 – COMPENSATION.....</b>		<b>12</b>
<b>SECTION 7 – ADDITIONAL PROVISIONS.....</b>		<b>13</b>
7.1	Dispute resolution.....	13
7.2	Subcontractor Responsibility .....	13
7.3	No Discrimination in Employment.....	13
7.4	Title to the Work.....	13
7.5	Nondiscrimination; Compliance with DBE Requirements .....	13
7.6	Not Used .....	14
7.7	Compliance with Wage Rate Requirements .....	14
7.8	Applicable laws.....	14
7.9	Appropriation.....	15
7.10	City Council Approval.....	15
7.11	Assignment Strictly Prohibited.....	15
7.12	Conflict of Interest .....	15
7.13	Taxes, Charges and Penalties.....	15
7.14	Waiver of C.R.S. 13-20-802 <i>et. seq.</i> .....	15
7.15	Proprietary or Confidential Information .....	16
7.16	Status of Design-Build Team.....	16
7.17	Rights and Remedies Not Waived .....	16
7.18	Notices .....	16
7.19	Survival of Certain Provisions .....	17
7.20	Contract Binding.....	17
7.21	Paragraph Headings .....	17
7.22	Severability .....	17
7.23	Counterparts.....	17
<b>SIGNATURE PAGE .....</b>		<b>17</b>

**EXHIBITS:**

Exhibit A	Design/Build Criteria and Scope
Exhibit A-1	Proposal Betterments and Contract Clarifications
Exhibit B	SEMA Construction, Inc. Proposal (Technical and Price)
Exhibit C	Schedule of Values
Exhibit D	Payment and Performance Bond Form
Exhibit E	Insurance Certificates
Exhibit F	DBE Commitment Documents and Letters of Intent (Design) and DBE Compliance Plan (Construction)
Exhibit G	Prevailing Wage Rate Schedule
Exhibit H	City and County of Denver Equal Opportunity Provisions
Exhibit I	Union Pacific Railroad (UPRR) Contract Insurance Requirements
Exhibit J	Contract Drawings and Technical Specifications (incorporated herein by reference upon City acceptance)
Exhibit K	Technical Specifications (Incorporated by reference, as issued 9/25/12 in RFP package , including addenda as applicable.)
Exhibit L	Technical Requirements (Incorporated by reference, as issued 9/25/12 in RFP package , including addenda as applicable.)

## DESIGN-BUILD CONTRACT

### MAIN CONTRACT FORM

**THIS DESIGN-BUILD CONTRACT (Agreement)** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **SEMA CONSTRUCTION, INC.** a Colorado corporation, with an address of, 7353 South Eagle Street, Centennial, Colorado, 80112 (the “Design-Build Team” or “Contractor”).

### RECITALS

1. The City has implemented and completed a competitive selection process and has selected a Design-Build (D-B) Team to design, construct, and deliver to the City the Peoria Crossing in Denver, Colorado (the “Project”).

2. The Project shall consist of the design and construction of a grade crossing for the Department of Public Works.

3. The City is relying upon the qualifications and information presented in the Design-Build Team’s response to the Request for Qualifications and Request for Proposal dated respectively July 20, 2012, and December 7, 2012, in entering into this Agreement.

4. The Design-Build Team was selected after a determination that its Statement of Qualifications and Proposal were the most advantageous to the City.

5. The Project’s Design-Build Criteria and Scope is attached hereto and incorporated herein as **Exhibit A**.

6. The Design-Build Team warrants and represents that it is ready, willing and able to design, build and deliver a fully functional and approved (per all applicable laws, requirements and standards set forth in the Contract Documents) Project in accordance with the terms and conditions of this Agreement and as hereinafter set forth.

### AGREEMENTS

In consideration of the mutual promises and covenants contained herein, the parties agree as follows:

#### **SECTION 1 – CONTRACT AUTHORITY; ENGAGEMENT; RELATIONSHIP OF THE PARTIES**

##### **1.1 Line of Authority**

The City’s Manager of Public Works, his designee or successor in function (hereinafter referred to as the “Manager”) authorizes all work performed under this Agreement. The Manager hereby delegates his authority over the work described herein to the City Engineer as the Manager’s authorized representative for the purpose of overseeing the work under this Agreement. The Manager’s authorized representative for the day-to-day administration of the Design-Build Team’s services under this Agreement is the Project Manager. The Design-Build Team shall submit its reports, memoranda, correspondence and submittals to the Project Manager. The Manager may rescind or amend any such designation of representatives or delegation of authority and the Manager may, from time to time, designate a different Project Manager, upon written notice to the Design-Build Team.

##### **1.2 Limitation on Delegation of Authority**

It is expressly understood that although the Project Manager may gather information about proposed changes in the contract time and contract price from the Design-Build Team, only the Manager or his

designated representative has the authority to legally bind the City to changes in contract time and contract price through a validly executed change order in accordance with the General Conditions.

### **1.3 Design-Build Team Selection**

In accordance with the requirements of Section 20-56 of the Denver Revised Municipal Code (the “DRMC”), the City implemented and completed a competitive selection process to identify qualified Design-Build Teams to perform both design and construction services for the Project. The Design-Build Team was selected as best value proposer to perform such services for the City as set forth in the City’s Request for Proposals (RFP) dated September 25, 2012; and the Design-Build Team’s Proposal dated December 7, 2012.

### **1.4 Engagement of Design-Build Team**

The Design-Build Team shall provide and furnish all services and work items necessary to perform the Work for the Project as defined in the Design-Build Criteria and Scope and all other terms and conditions of this Agreement, including but not limited to the following: all professional services, materials, parts, labor, supervision, coordination, administration, equipment, tools, temporary utilities, shop drawings, studies, reports, permitting documents, preliminary engineering drawings, specifications, design development drawings, construction drawings, material testing, inspection, as-built drawings and all other submittals required by the Contract Documents and desirable for the full completion of the Work and Project, described, or specified in this Agreement. The terms “Project” and “Work” are synonymous. The Design-Build Team’s Project cost proposal shall include all costs relating to, or associated with, the foregoing, including, but not limited to, material costs, equipment costs, personnel costs, overhead and profit and all other costs associated with the Design-Build Team’s performance, including all of the Design-Build Team’s errors, omissions and negligence with respect to such performance.

### **1.5 Relationship of the Parties**

- (a) By entering into this Agreement, the Design-Build Team accepts the relationship of trust and confidence between it and the City. The Design-Build Team shall furnish its reasonable professional skill and judgment and shall cooperate with the officials, employees and agents of the City, including the Project Manager, in furthering the interests of the City. The Design-Build Team will furnish efficient business administration and superintendence and will use reasonable efforts to perform the Work in an expeditious and economical manner consistent with the interests of the City. In no event shall the Design-Build Team be considered a fiduciary of the City by reason of this paragraph.
- (b) The parties intend herein to establish a relationship wherein the City relies upon the integrity and fidelity of the Design-Build Team to complete the Project within the time and budget constraints set forth in this Agreement and in a manner which satisfies the City’s longstanding commitment to quality, efficiency, value, innovation, partnering, responsiveness to agency and community needs and compliance with all applicable regulatory requirements in the performance of general public improvements.
- (c) The Design-Build Team accepts the relationship of trust and confidence established by this Agreement with the City. The Design-Build Team further agrees to utilize the Design-Build Team’s reasonable skills, efforts, and judgment in furthering the interests of the City regarding the Project; to furnish at all times an adequate supply of qualified and competent workers and quality materials; and to perform the work in the best, most expeditious, and economical manner. Further, the Design-Build Team agrees to furnish efficient business administration, construction management and superintendence and to use its reasonable efforts to complete the Work in an expeditious and economical manner, consistent with the interests of the City.
- (d) The Design-Build Team shall accept the designated and authorized representatives of the City identified in the Contract Documents and perform its obligations toward and in response to

such representatives in the same manner it would toward and in response to the City, pursuant to such designation and authorization.

## **1.6 Coordination and Cooperation**

- (a) The Design-Build Team agrees to cooperate and coordinate fully with the City in its performance of the Work to meet or exceed the City’s time and budgetary objectives and limitations, while maintaining the City’s longstanding commitment to quality, efficiency, value, innovation, partnering, responsiveness to agency and community needs and compliance with all applicable regulatory requirements in the construction of general public improvements.
- (b) The Design-Build Team shall, as a continuing work item under this Agreement, facilitate coordination, communication and cooperation regarding its performance hereunder between the City’s Department of Public Works (“Public Works”), the Project Manager, other City consultants and any affiliated entities. In addition, the Design-Build Team shall coordinate its efforts under this Agreement with all involved governmental and regulatory entities.
- (c) The Design-Build Team shall be responsible for taking accurate and comprehensive minutes at all Design and Construction Phase meetings attended by the Design-Build Team regarding the Project. Those minutes shall be prepared in a format approved by the Project Manager and issued to all attendees, as well as those other parties designated by the City, no later than three working days after the meeting. Unless approved in advance in writing by the Project Manager and to the greatest extent practicable, Project meetings with the City shall be conducted in the City and County of Denver, Colorado.

## **SECTION 2 – CONTRACT DOCUMENTS**

### **2.1 Contract Documents**

The following lists (Section 2.3) of instruments, drawings and documents which are attached hereto, bound herewith or incorporated herein by reference constitute and shall be referred to as the “Contract Documents.” All such instruments, drawings and documents taken together as a whole constitute the Agreement between the parties hereto, and they are as fully a part of this Agreement as if they were set out verbatim and in full herein.

### **2.2 Integration**

The Contract Documents represent the entire and complete integration of all understandings between the City and the Design-Build Team as to the subject matter hereof, and supersede all prior negotiations, representations or agreements. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement or change order properly executed by the parties. When the Contract Drawings and Technical Specifications are complete, they will be incorporated by written directive of the Manager of Public Works or the Manager’s designee.

### **2.3 List of Contract Documents**

- (a) The Main Contract Form (consisting of pages 1 through the signature page).
- (b) The following exhibits to the Main Contract Form:

Exhibit A	Design-Build Criteria and Scope
Exhibit A-1	Proposal Betterments and Contract Clarifications

Exhibit B	SEMA Construction, Inc. Proposal (Technical and Price)
Exhibit C	Schedule of Values
Exhibit D	Payment and Performance Bond Form
Exhibit E	Insurance Certificates
Exhibit F	DBE Commitment Documents and Letters of Intent (Design) and DBE Compliance Plan (Construction)
Exhibit G	Prevailing Wage Rate Schedule
Exhibit H	City and County of Denver Equal Employment Opportunity Provisions
Exhibit I	Union Pacific Railroad (UPRR) Contract Insurance Requirements
Exhibit J	Contract Drawings and Technical Specifications (Incorporated by reference, as issued 9/25/12 in RFP package, including addenda as applicable.)
Exhibit K	Technical Specifications (Incorporated by reference, as issued 9/25/12 in RFP package, including addenda as applicable.)
Exhibit L	Technical Requirements

- (c) Request for Qualifications(RFQ) dated June 25, 2012 and contractor's SOQ dated July 20, 2012 and Request for Proposals (RFP) dated September 25, 2012 and contractor's response to RFP dated December 7, 2012 (incorporated by reference)
- (d) Notice to Proceed (incorporated by reference after issuance by the City)
- (e) General Contract Conditions (Part 2)
- (f) Special Contract Conditions (Part 3)
- (g) Federal Requirements (Part 4)

## **2.4 Order of Precedence**

In the event of a conflict between provisions of any of the Contract Documents which cannot be resolved by giving effect to both provisions, the order of precedence of the Contract Documents in descending order, shall be as follows:

- (1) this Agreement Main Contract Form (Part 1) and Federal Requirements (Part 4), as may be modified by amendment or change orders, with precedence of amendments or change orders in reverse order of issuance;
- (2) the Special Contract Conditions (Part 3);
- (3) the General Contract Conditions (Part 2);
- (4) Design-Build Criteria and Scope (Exhibit A)
- (5) Proposal Betterments and Clarifications (Exhibit A-1);
- (6) RFP issued September 25, 2012;
- (7) Design-Build Teams' Proposal dated December 7, 2012 (Exhibit B);

- (8) the Technical Specifications (Exhibit K);
- (9) The Contract Drawings (100% Construction Documents) (Exhibit J);
- (10) All other exhibits, whether attached to this Agreement, incorporated by reference or later added by Change Order.

## **2.5 Documents complementary**

The intent of the Contract Documents is to include all terms, conditions, work items and services necessary or required for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be binding as if required by all. Work items or services not covered in the Contract Documents will be required unless they are not consistent with the Contract Documents and are not inferable from the Contract Documents as being necessary to produce the result intended by the Contract Documents. Anything mentioned in the Technical Specifications and not shown on the Contract Drawings, or shown on the Contract Drawings and not mentioned in the Technical Specifications, shall be of like effect as if shown or mentioned in both. Words and abbreviations that have well known technical or trade meanings are used in the Contract Documents in accordance with such recognized meaning.

## **2.6 Documents following Contract execution**

It is contemplated by the parties that numerous exhibits or attachments, including construction documents and final technical specifications, will not be accomplished or must be developed after execution of this Agreement and, as such, must be finalized, incorporated by reference and/or attached to and be made a part of the Contract Documents subsequent to execution of this Agreement. The incorporation of such exhibits or attachments into this Agreement shall be accomplished by written directive from the Manager of Public Works or the Manager's designee. The parties shall be diligent in accomplishing these exhibits and attachments. To the extent these new exhibits or attachments conflict with other exhibits or portions of this Agreement, the greater service, better quality or greater quantity shall be included in the Work. However, nothing contained in this section shall limit the Design-Build Team's ability to seek Change Order time and compensation adjustments for City changes to the Work incorporated into any of these later exhibits and attachments.

## **2.7 Construction**

Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

## **2.8 Federal Requirements**

The Project is funded in whole or in part by federal funding, made available through the Federal Highway Administration ("FHWA") and administered by the Colorado Department of Transportation ("CDOT"). Therefore, performance under this Agreement is subject to certain "Federal Requirements" contained or referenced in the Contract Documents, including but not limited to Part 4 of the Contract. The Contractor shall thoroughly review and shall strictly comply with all Federal Requirements in performing its Work under this Agreement.

# **SECTION 3 – SCOPE OF WORK**

## **3.1 Design Documents.**

The Design-Build Team shall prepare or provide to the Project Manager for review and approval the Approved Design Documents and detailed specifications, including but not limited to those items set forth in **Exhibit A**. Design services shall be performed by qualified architects, engineers and other professionals selected and paid by the Design-Build Team.



### **3.2 Standard of Care for Professional Design Services**

The Design-Build Team shall perform all services required by this Agreement with the degree of skill, care and diligence consistent with the professional standards prevailing in the Denver Metropolitan Area for services of comparable scope and magnitude. The Design-Build Team's Design Manager shall be a professional engineer registered in the State of Colorado.

### **3.3 Ownership of Documents**

- (a) The City shall have title and all intellectual and other property rights, in and to all phased and final documents and all data used in the development of the same, including the results of any tests, surveys or inspections at the Project site, and all photographs, drawings, drafts, contract documents, studies, estimates, reports, models, notes and any other materials or work products, whether in electronic or hard copy format, created by the Design-Build Team pursuant to this Agreement, in preliminary and final forms and on any media whatsoever (collectively, the "Documents"), whether the Project for which the Documents were created is executed or not. The Design-Build Team shall identify and disclose, as requested, all such Documents to the City.
- (b) To the extent permitted by the U.S. Copyright Act, 17 USC § 101 et seq., as the same may be amended from time to time, the Documents are a "work made for hire," and all ownership of copyright in the Documents shall vest in the City at the time the Documents are created. To the extent that the Documents are not a "work made for hire," the Design-Build Team hereby assigns and transfers all right, title and interest in and to the Documents to the City, as of the time of the creation of the Documents, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark, and other intellectual property rights in perpetuity.
- (c) The Design-Build Team shall provide (and cause its employees and subcontractors to provide) all assistance reasonably requested in securing for the City's benefit any patent, copyright, trademark, service mark, license, right or other evidence of ownership of such Documents, and shall provide full information regarding the Documents and execute all appropriate documentation in applying for or otherwise registering, in the City's name, all rights to such Documents.
- (d) The Design-Build Team agrees to allow the City to review any of the procedures used in performing the work and services hereunder, and to make available for inspection the field notes and other documents used in the preparation for and performance of any of the services performed hereunder.
- (e) The Design-Build Team shall be permitted to retain reproducible and electronic copies of all of the Documents for the information and reference, and the originals of all of the Documents, including all electronic files, shall be delivered to the City promptly upon completion thereof, or if authorized by the City's Project Manager, upon termination or expiration of this Agreement.

### **3.4 Design-Build Services**

Design-Build Services shall be performed by qualified Design-Build Contractors (licensed in the City and County of Denver, and licensed and bonded for work in the City of Aurora), subcontractors and suppliers, selected and paid by the Design-Build Team and acting in the interest of the Design-Build Team. Selection of the Design-Build Team's subcontractors, consultants, subconsultants, vendors and suppliers shall be at the sole discretion of the Design-Build Team subject to the contractor's commitment to Major Participants and Key Personnel.

As used herein, the term "Major Participant" means any of the following entities: all general partners or joint venture members of the Submitter; all individuals, persons, proprietorships, partnerships, limited

liability partnerships, corporations, professional corporations, limited liability companies, business associations, or other legal entity, however organized, holding (directly or indirectly) a 25% or greater interest in the Submitter; any subcontractor(s) that will perform work valued at 20% or more of the overall contract amount; the lead engineering/design firm(s); and each engineering/design sub-consultant that will perform 20% or more of the design work.

Key Personnel refers to the Key Personnel named in the Design-Build Contractor's Final Proposal.

Key Personnel or Major Participants identified in the Design-Build Contractor's Qualifications Statement may not be removed, replaced, or added without the written approval of City. City may revoke an awarded contract if any Key Personnel or Major Participant identified in the SOQ is removed, replaced, or added to without City's written approval. To qualify for City's approval, the written request must document that the proposed removal, replacement, or addition will be equal to or better than the Key Personnel or Major Participant provided in the SOQ. City will use the criteria specified in the RFQ, and the qualification submitted by the Submitter in the SOQ, to evaluate all requests. Requests for removals, replacements, and additions must be submitted in writing to City's Project Manager.

### **3.5 Acts and Omissions**

The Design-Build Team shall be responsible to the City for negligent acts and omissions of the Design-Build Team's employees, contractors, subcontractors, agents and parties in privity of contract with it to perform a portion of the Work, including all design elements of the Project.

### **3.6 Conflict of Interests**

No design consultant or subconsultant, not already approved by the City, shall be engaged to perform work on the Project wherein a conflict exists, such as being connected with the sale or promotion of equipment or material which may be used in the Project, provided, however, that in unusual circumstances and with full disclosure to the City of such interest, the City may provide a waiver, in writing, in respect to the particular consultant or subconsultant.

### **3.7 Completion Obligation**

The Design-Build Team shall execute the Project described in the Contract Documents, except to the extent specifically indicated in the Contract Documents as the responsibility of others. The Design-Build Team agrees to commence and undertake the performance of the Work under this Agreement within ten (10) days of the date of issuance of a Notice to Proceed and agrees to substantially complete said Work within the Contract Time and fully complete said Work in accordance with the Contract Documents. The Design-Build Team may complete the Project earlier than the date established by the Contract for the Contractual Milestone or Substantial Completion, but any claim by the Design-Build Team based on delay shall be based upon the date for Substantial Completion established by the Contract Time and not on an earlier projected completion date that the Design-Build Team may propose.

### **3.8 Phases of Work**

The entire Scope of Work shall include the following phases:

- (a) Design Phase Services. The Design Phase Services are comprised of all those services, obligations and responsibilities necessary or required to complete for the City's review a Project Design that strictly complies with the requirements set forth in the Design-Build Criteria and Scope, incorporated herein by this reference as **Exhibit A**.
- (b) Construction Phase Services. The Construction Phase Services shall include the furnishing of all construction administration, management, supervision and coordination experience and expertise, as well as all construction services, work effort, labor, tools, supplies, manufactured components, equipment, materials, and everything else necessary and required to complete the construction of the Project on time and within budget; while satisfying the City's longstanding

commitment to quality, efficiency, value, innovation, partnering, responsiveness to agency and community needs and compliance with all applicable regulatory requirements in the performance of general public improvements.

### **3.9 The Work**

The terms “Scope of Work” or “Work” as used herein shall mean all Design and Construction Phase Services required by or reasonably inferable from the Contract Documents, whether completed or partially completed, and includes all other materials, equipment and services provided or to be provided by the Design-Build Team to fulfill the Design-Build Team’s obligations. The Work shall constitute the whole of the Project.

### **3.10 Acknowledgement of Scope of Work**

- (a) The Design-Build Team expressly recognizes and acknowledges that this Project must be completed within the time and fiscal constraints as set forth throughout this Agreement.
- (b) The Design-Build Team further represents to the City that by executing this Agreement, it has been fully informed of and has thoroughly reviewed the following: the objectives of the Project; the work effort of the City’s Consultants performed to date for the Project; all of the Contract Documents attached to this Agreement or incorporated by reference; and all of the Work required by the Design-Build Team by the Contract Documents. Based upon this thorough review and analysis, the Design-Build Team represents to the City that it will provide or perform all of the necessary Work within the requirements of the Contract Documents.
- (c) Also by execution of this Agreement, the Design-Build Team covenants and represents that the Design-Build Team has visited the site of the Project (the “Site”) and has had sufficient time and opportunity to independently examine and is sufficiently familiar with: the Site, the character and nature of the Site layout and materials, the character and nature of all Site constraints, restrictions and limitations, and limitations on ingress, egress and construction staging and performance; and the local conditions under which the Work is to be performed, including weather conditions and any other factors which may impact the Work. The Design-Build Team further represents that it has taken into consideration and correlated these direct observations, examinations and investigations with the requirements of the Contract Documents and in the pricing of the Work, the formulation of the Fixed Contract Price, the Design-Build Team’s Fee and in preparing all Exhibits.
- (d) Also by execution of this Agreement, the Design-Build Team represents that it has reviewed and is familiar with the City’s general expectations and scheduling assumptions regarding completion of the Project and use and that, given the Design-Build Criteria and Scope, these scheduling assumptions are reasonable and achievable. The Design-Build Team further represents that it has taken into consideration and correlated these assumptions and constraints with the requirements of the Contract Documents and in the pricing of the Work, the Fixed Contract Price and the Design-Build Team’s Fee.
- (e) Finally, the Design-Build Team represents that it has reviewed the Design-Build Criteria and Scope, accepts the terms and requirements thereof and affirmatively states that the Project, as expressed by these scoping documents and the Project requirements and constraints is a reasonable and constructible Project, incorporating a reasonable and workable delivery approach, schedule and budget.

## SECTION 4 – CONTRACT TERM AND TIME OF COMMENCEMENT

### 4.1 General

The Contract Term shall begin on the date of this Agreement, as set out on page 1, but no work shall be performed prior to the delivery of all bonds and insurance certificates (as required) of the Design-Build Team and until the City issues a Notice to Proceed. The Contract Time for the Project shall be the period of performance beginning on the date of Notice to Proceed and the Project shall include a Contractual Milestone that all vehicular, bicycle, and pedestrian traffic be fully removed from the Peoria at-grade crossing and relocated to the crossing structure no later than June 1, 2014. Two lanes in each direction with a center turn lane and safe accommodation of pedestrians will be the minimum configuration to meet the Contractual Milestone. Failure to meet this milestone will result in the assessment of liquidated damages. Liquidated damages up to \$15,000 per day may be assessed for each day beyond the Contractual Milestone date that the bridge does not meet the conditions listed earlier. In addition to the defined Contractual Milestone date defined herein, the project will be substantially completed by August 7, 2014 as submitted in **Exhibit B**, Proposal. Failure to meet the contractor guaranteed Substantial Completion date will accrue Liquidated Damages of \$1,000 per day. Final Completion and Acceptance will occur no later than September 21, 2014. The Design-Build Team is not authorized to commence Work prior to its receipt of the Notice to Proceed, and any Work performed prior to the Notice to Proceed is at the Design-Build Team's sole risk, cost and expense and with no obligation by the City to pay for any such Work. Upon issuance of the Notice to Proceed all Costs of the Work incurred prior to the issuance date will be reimbursable to the Design-Build Team subject to the approved Fixed Contract Price. Termination shall be pursuant to G.C. Title 22 except as otherwise provided herein.

### 4.2 Contract Time and Substantial Completion

The term "Project Contract Time" is defined as the period beginning on the date of Notice to Proceed and ending on the date of Final Completion and Acceptance of the Work set forth in the Design/Build Criteria and Scope (**Exhibit A**), subject to Change Orders as provided for in the Contract Documents. The terms "Substantial Completion" and "Final Completion" are defined in the General Conditions.

### 4.3 Liquidated Damages:

It is understood and agreed by and between the City and the Design-Build Team that, if the Design-Build Team fails to achieve the Contractual Milestone date and Substantial Completion of the Project Work within the Contract Time set forth in this Section 4.1, the City will suffer substantial damages, which damages would be difficult to accurately determine. The parties hereto have considered the possible elements of damages and have agreed upon the amount of liquidated damages for the Design-Build Team's failure to achieve the Contractual Milestone and Substantial Completion.

The Work shall be prosecuted in accordance with the Construction Schedule established in the scope of work including the Contractual Milestone as defined by these contract documents. The Contractor shall anticipate situations which would cause any Subcontractor difficulty in completing its portion of the Work within the time described in the Construction Schedule. If the Work is not completed on or before the Contractual Milestone and the Substantial Completion Date, as set forth in the table below, then in any of the above described events, the Contractor shall pay to the City as liquidated damages, and not as a penalty, an amount to be assessed as follows:

<u>Schedule Milestone</u>	<u>Liquidated Damages</u>	<u>Substantial Completion Milestone</u>
1. Contractual Milestone	\$15,000/day	June 1, 2014
2. Substantial Completion	\$1,000/day	August 7, 2014

Notwithstanding any other provision of this Agreement, in no event shall Contractor's liability for Liquidated damages to the City under this Agreement exceed the total cumulative sum of Five Million Dollars (\$5,000,000).

Administrative Costs:

- (a) Representative hourly rates for the City administrative costs described in General Contract Condition 602.2 shall be as follows for this Project:

Engineer = \$55/hour

Project Manager = \$60/hour

Project Inspector = \$48/hour

If the Design-Build Team shall fail to pay such liquidated damages promptly upon demand therefore, the Surety on its Performance Bond and Payment Bond shall pay such damages. Also, the City may withhold all, or any part of, such liquidated damages from any payment due the Design-Build Team. Additional provisions relating to liquidated damages are set forth in the Agreement General Contract Conditions. The Parties agree that the Liquidated Damages are the sole remedy for the City on the condition that the Design-Build Team does not seek to void the Liquidated Damages provisions in these Contract Documents or on any other basis, and in such event the City reserves all of its rights to seek actual damages from the Design-Build Team for injury or loss suffered by the City from the acts or omissions of the Design-Build Team, including but not limited to any other breach or default of this Agreement.

## **SECTION 5 – INSURANCE REQUIREMENTS**

### **5.1 General Conditions:**

The Design Build Team agrees to secure, at or before the time of execution of this Contract, the following insurance covering all operations, goods or services provided pursuant to this Contract. In addition to these coverages as stated below the Design-Build team will also need to meet all UPRR required coverages and all insurance requirements to cover permits and Right-of-Entry requirements to deliver the project. The UPRR coverages are attached as **Exhibit I**. Design Build Team shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for eight (8) years after termination of the Contract. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the above-described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such written notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Design Build Team shall provide written notice of cancellation or non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Design Build Team. Design Build Team shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Design Build Team. The Design Build Team shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

## **5.2 Proof of Insurance:**

The Design-Build Team shall provide a copy of this Agreement to its insurance agent or broker. Design Build Team may not commence services or work relating to the Agreement prior to placement of coverage. Design Build Team certifies that the certificate of insurance attached as **Exhibit E**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Design Build Team's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

## **5.3 Additional Insureds:**

For Commercial General Liability, Auto Liability, Excess Liability/Umbrella, and Contractors Pollution Liability, Design-Build Team and subcontractor's insurer(s) shall name the City and County of Denver, City of Aurora, its elected and appointed officials, employees and volunteers as additional insured.

## **5.4 Waiver of Subrogation:**

For all coverages, the Design-Build Team's insurer shall waive subrogation rights against the City.

## **5.5 Subcontractors and Subconsultants:**

All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Contract) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Design Build Team, but in amounts of at least \$1,000,000 Commercial General Liability, Business Auto insurance of \$1,000,000 combined single limit, statutory Workers' Compensation coverage, and \$1,000,000 professional liability for any subcontractor performing design or engineering work. Design Build Team shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Design Build Team agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

## **5.6 Workers' Compensation/Employer's Liability Insurance:**

The Design-Build Team shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 for each bodily injury occurrence claim, \$100,000 for each bodily injury caused by disease, and \$500,000 aggregate for all claims. The Design-Build Team expressly represents to the City, as a material representation upon which the City is relying in entering into this Contract, that none of the Design-Build Team's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Contract, and that any such rejections previously effected, have been revoked as of the date the Design-Build Team executes this Contract.

## **5.7 General Liability:**

The Design-Build Team shall maintain limits of \$1,000,000 for each occurrence claim, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations for each occurrence, and \$2,000,000 policy aggregate.

## **5.8 Business Automobile Liability:**

The Design-Build Team shall maintain Business Auto Liability, or its equivalent, with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Contract. If transporting wastes, hazardous materials, or regulated substances, Design-Build Team shall carry a pollution coverage endorsement and an MCS 90

endorsement on their policy. Transportation coverage under the Contractors Pollution Liability policy shall be an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.

**5.9 Professional Liability:**

The Design-Build Team shall maintain limits of \$2,000,000 for each claim, and \$5,000,000 aggregate limit for all claims.

**5.10 Excess/Umbrella Liability:**

The Design-Build Team shall maintain excess liability limits of \$10 million. Coverage must be written on a “follow form” basis. Any combination of primary and excess coverage may be used to achieve required limits.

**5.11 Contractors Pollution Liability:**

The Design-Build Team shall maintain limits of \$1,000,000 per occurrence and \$2,000,000 policy aggregate. Policy to include bodily injury; property damage including loss of use of damaged property; defense costs including costs and expenses incurred in the investigation, defense or settlement of claims; and clean up costs. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self insurance maintained by the City.

**5.12 Builders Risk or Installation Floater:**

The Design-Build Team shall maintain limits equal the completed value of the project. Coverage shall be written on an all risk, replacement cost basis including coverage for soft costs, flood and earth movement, if in a flood or quake zone, and, if applicable, equipment breakdown including testing. The City and County of Denver, Design-Build Team and sub-contractors shall be Additional Named Insured under the policy. Policy shall remain in force until acceptance of the project by the City.

**5.13 Additional Provisions:**

- (a) For all Commercial General Liability and Excess Liability, the policies must provide the following:
  - (i) That this Agreement is an Insured Contract under the policy;
  - (ii) Defense costs in excess of policy limits;
  - (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
  - (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
- (b) For claims-made coverage: The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
- (c) If any aggregate limit is reduced by twenty five percent (25%) or more by paid or reserved claims, the Design Build Team shall notify the City within ten (10) days and reinstate aggregates required.

**SECTION 6 – COMPENSATION**

In accordance with the terms of this Agreement, the amount to be paid by the City to the Design-Build Team under this Agreement shall be the Fixed Contract Price as set forth in **Exhibit B**. The Design-Build Team guarantees and warrants that the Project will be completed by its performance hereunder for the

Fixed Contract Price amount. In no event will the City's liability exceed the Fixed Contract Price, as adjusted by duly authorized change order in accordance with this Agreement. The parties specifically agree that any performance by the Design-Build Team hereunder shall not subject the City to any cost, charge or fee not specified above.

## **SECTION 7 – ADDITIONAL PROVISIONS**

### **7.1 Dispute resolution**

Partnering will be required in order to mitigate the more formal dispute resolution mechanisms provided in this Agreement. Partnering in this context is intended to be non-binding procedure available for use by the Parties to this Agreement to resolve any issues that may arise during performance of The Work. A Force Account has been set up to cover the Contractor's and CCD expenses associated with the partnering process up to a maximum of \$10,000.

In the event partnering fails to resolve an issue and D-B Contractor elects to pursue a formal Dispute with the City, the Dispute shall be resolved using the procedures, methods and decision body provided by this Section.

It is the express intention of the parties to this Agreement that all disputes of any nature that cannot be resolved through partnering regarding the Agreement including, but not limited to, any claims for compensation or damages arising out of breach or default under this Agreement, shall be resolved by administrative hearing pursuant to the provisions of Section 56-106, DRMC or, with respect to appropriate issues involving Disadvantaged Business Enterprise contracting, by Section 28-33, DRMC. The Design-Build Team expressly agrees that this dispute resolution process is the sole and only dispute resolution mechanism that will be recognized and employed by the parties for any claims put forward by the Design-Build Team, notwithstanding any other claimed theory of entitlement on the part of the Design-Build Team or its Subcontractors or Suppliers.

### **7.2 Subcontractor Responsibility**

The Design-Build Team shall be responsible to the City for the acts and omissions of its agents and employees, Subcontractors and Suppliers of any tier, and their agents and employees performing Work under this Agreement.

### **7.3 No Discrimination in Employment**

In connection with the performance of the Work under this Agreement, the Design- Build Team agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Design-Build Team further agrees to insert the foregoing provision in all subcontracts hereunder. Further, the Design-Build Team agrees to comply with the provisions of Section 28-45 to 28-47, DRMC, and all Rules and Regulations promulgated and adopted by the Manager of Public Works pursuant thereto relating to non-discrimination in employment by contractors, subcontractors and suppliers receiving compensation for work performed on the Project.

### **7.4 Title to the Work**

The parties agree that the City shall have title to all components and aspects of the Project which are in place and title to all materials for which any payment has been made to the Design-Build Team hereunder.

### **7.5 Nondiscrimination; Compliance with Disadvantaged Business Enterprise Requirements**

- (a) The Design-Build Team identified in its Proposal Disadvantaged Business Enterprises (DBE), as defined in 49 C.R.F. Part 26, Subpart D, Regulations of the Office of Secretary of



Transportation, which it would retain as subconsultants to perform portions of the Design-Build Team's Design Services Scope of Work. After this Contract is executed, the Design-Build Team agrees to use its best efforts to enter into agreements with the DBE firms it identified in its Proposal for the Design services. Throughout the term of this Contract, Consultant shall continue to utilize qualified and available DBE firms which have been and which continue to be certified by the City to the fullest extent which is reasonably possible to achieve. The goal for dollar value of design work performed by DBE firms shall be fifteen percent 15% of the dollar value of all of the design work performed under this Contract, and the Design-Build Team shall make a good faith effort to meet those goals throughout the term of this Contract. As to the Construction work to be performed under this Contract, the Design-Build Team must prepare and obtain the approval of the City's Director of DSBO, a Compliance Plan for DBE participation in such Construction Work, to meet the goal of fifteen percent (15%) of the dollar value of construction work performed under this Contract. If a DBE subconsultant must be replaced for any reason during the term of this Agreement, the Design-Build Team shall replace the subconsultant with another DBE or, if it cannot, demonstrate that it made good faith efforts to do so. The requirements and procedures for "good faith efforts" are contained in 49 C.F.R. Part 26.

- (b) The Design-Build Team shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Design-Build Team shall carryout applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Design-Build Team 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 City deems appropriate. Each contract signed by the Design-Build Team with a subcontractor must include this paragraph.

**7.6 Not Used**

**7.7 Compliance with Wage Rate Requirements**

In performance of all Work hereunder, the Design-Build Team agrees to comply with and be bound by all requirements and conditions of the City's Payment of Prevailing Wages Ordinance, Sections 20-76 through 20-79, DRMC, including but not limited to all Agreement anniversary date wage rate adjustments, and any determinations made by the City pursuant thereto. In accordance with Section 20-76(b), DRMC, the prevailing wage rate schedule applicable to this Agreement shall be the most current schedule available at the time the Design-Build Team executes this Agreement and current schedule is attached hereto and incorporated herein as **Exhibit G**. For purposes of establishing a date for prevailing wage rate anniversary adjustments the contract date should be the date of the attached wage rate schedule (**Exhibit G**). In addition, the provisions of Title 10 of the General Conditions, Special Condition 1 8(SC-1 8), and the Federal Provisions govern the payment of wages under this Contract. In the event that the City's prevailing wage schedule differs from the Davis Bacon schedule of wages and benefits for a job classification, then the schedule with the higher total compensation (wages plus benefits) shall govern as to that job classification.

**7.8 Applicable laws**

This Agreement between the Design-Build Team and the City shall be deemed to have been made in the City and County of Denver, State of Colorado and shall be subject to, governed by and interpreted and construed in accordance with the laws of the State of Colorado and the Charter, the Revised Municipal Code, Rules, Regulations, Executive Orders and fiscal rules of the City. As such, the Design-Build Team shall at all times comply with the provisions of the Charter, Revised Municipal Code, Rules, Regulations, Executive Orders and fiscal rules of the City, and those of the State of Colorado and Federal Laws and Rules and Regulations, which in any manner limit, control or apply to the actions or operations of the Design-Build Team, any Subcontractors, employees, agents or servants of the Design-Build Team

engaged in the Work or affecting the materials and equipment used in the performance of the Work, as the same may be, from time to time, promulgated, revised or amended. The Charter and Revised Municipal Code of the City, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference.

#### **7.9 Appropriation**

Notwithstanding any other term, provision, or condition herein, all payment obligations under this Agreement shall be limited to the funds duly and lawfully appropriated and encumbered, or otherwise made available by the Denver City Council and paid into the Treasury of the City. As of the date of this Agreement, \$21, 712, 581.89 have been appropriated and encumbered for this Agreement. The Manager of Public Works, upon reasonable written request, will advise the Design-Build Team in writing of the total amount of appropriated and encumbered funds that are or remain available for payment to the Design-Build Team. The issuance of any form of order or directive by the City which would cause the aggregate amount payable to the Design-Build Team to exceed the amount appropriated for the Work to be performed in accordance with the Contract Documents is expressly prohibited. In no event shall the issuance of any change order or other form of order or directive by the City be considered valid or binding if it requires additional compensable Work to be performed, which Work will cause the aggregate amount payable for such Work to exceed the amount appropriated and encumbered for the Work, unless and until such time as the Design- Build Team has been advised in writing by the Manager of Public Works that a lawful appropriation sufficient to cover the entire cost of such additional Work has been made. It shall be the responsibility of the Design-Build Team to verify that the amounts already appropriated for the Work are sufficient to cover the entire cost of such Work, and any Work undertaken or performed in excess of the amount appropriated is undertaken or performed in violation of the terms of this Agreement, without the proper authorization for such Work, and at the Design-Build Team's own risk and sole expense.

#### **7.10 City Council Approval**

Approval by the City Council of the City and County of Denver, acting by ordinance, in accordance with Section 3.2.6 of the Charter of the City and County of Denver, is and shall be an express condition precedent to the lawful and binding execution and effect and performance of this Agreement.

#### **7.11 Assignment Strictly Prohibited.**

The Design-Build Team shall not assign or otherwise transfer, in whole or in part, any of its rights, benefits, claims, obligations, duties or entitlement to monies owed or which may become due under this Agreement, except upon the prior written consent and approval of the Manager to such assignment.

#### **7.12 Conflict of Interest**

The parties agree that no official, officer or employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and the City further agrees not to hire or contract for services with any official, officer or employee of the City or any other person which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.2.9 and 1.2.12.

#### **7.13 Taxes, Charges and Penalties**

Except as provided in the City's Prompt Payment ordinance, codified at DRMC Sections 20-107, 20-108 and 20-109, the City shall not be liable for the payment of any taxes, late charges, interest or penalties of any nature arising out of this Agreement.

#### **7.14 Waiver of C.R.S. 13-20-802 et. seq.**

The Design-Build Team specifically waives all the provisions of Part 8 of Article 20 of Title 13, Colorado Revised Statutes regarding defects in the Work under this Agreement.

### **7.15 Proprietary or Confidential Information**

- (a) City Information: The Design-Build Team understands and agrees that, in performance of this Agreement, the Design-Build Team may have access to private or confidential information that may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. The Design-Build Team agrees that all information disclosed by the City to the Design-Build Team shall be held in confidence and used only in performance of the Agreement. The Design-Build Team shall exercise the same standard of care to protect such information as a reasonably prudent Design-Build Team would to protect its own proprietary data.
- (b) Design-Build Team Information: The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act, C.R.S. 24-72-201, et seq., (“CORA”) and that in the event of a request to the City for disclosure of such information, the City shall advise the Design-Build Team of such request in order to give the Design-Build Team the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Design-Build Team agrees to intervene in such lawsuit to protect and assert its claims of privilege against disclosure of such material. The Design-Build Team further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Design-Build Team’s intervention to protect and assert its claims of privilege against disclosure under this Section including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

### **7.16 Status of Design-Build Team**

It is understood and agreed that the status of the Design-Build Team shall be that of an independent contractor retained on a contractual basis to perform work or services for limited periods of time, and it is not intended, nor shall it be construed, that the Design-Build Team, or any member of its staff or any consultant, is an employee or officer of the City for any purpose whatsoever.

### **7.17 Rights and Remedies Not Waived**

No payment or failure to act under the Agreement by the City shall constitute a waiver of any breach of covenant or default which may then exist on the part of the Design-Build Team. No assent, expressed or implied, by either party to any breach of the Agreement shall be held to be a waiver of any default or other breach.

### **7.18 Notices**

Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be given in writing, delivered personally or sent by registered mail, postage prepaid and return receipt requested, addressed to the parties at the addresses set forth herein or at such other address as either party may hereafter or from time to time designate by written notice to the other party given in accordance herewith. Notice shall be considered received on the day on which such notice is actually received by the party to whom it is addressed, or the third (3rd) day after such notice is mailed, whichever is earlier. Unless changed in writing, such notices shall be mailed to:

If to the Design Build Team: Larry Walsh  
7353 S. Eagle Street  
Centennial, Colorado 80112

If to the City: Manager of Public Works  
City and County of Denver  
201 W. Colfax, Dept. 608  
Denver, CO 80202

With a copy to: City Attorney  
Municipal Operations  
201 W. Colfax Ave. Dept. 1207  
Denver, CO 80202

### **7.19 Survival of Certain Provisions**

The parties understand and agree that all terms, conditions and covenants of this Agreement, together with the exhibits and attachments hereto, if any, any or all of which, by reasonable implication, contemplate continued performance or compliance beyond the expiration or termination of this Agreement (by expiration of the term or otherwise), shall survive such expiration or termination and shall continue to be enforceable as provided herein. Without limiting the generality of the foregoing, the Design-Build Team's obligations for the provision of insurance, for indemnity to the City and for preserving confidentiality of trade secrets and other information shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

### **7.20 Contract Binding**

It is agreed that this Agreement shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and duly authorized assigns.

### **7.21 Paragraph Headings**

The captions and headings set forth herein are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

### **7.22 Severability**

It is understood and agreed by the parties hereto that, if any part, term, or provision of this Agreement, except for the provisions of this Agreement requiring prior appropriation and limiting the total amount to be paid by the City, is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

### **7.23 Counterparts**

This Agreement will be executed in two (2) counterparts, each of which shall be deemed to be an original, and all of which taken together, shall constitute one and the same instrument.

**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** PWADM-201309616-00

**Contractor Name:** SEMA CONSTRUCTION INC

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

Name: T. Brett Ames  
(please print)

Title: Vice President  
(please print)

**ATTEST: [if required]**

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

Name: Steven R. Graves  
(please print)

Title: Secretary  
(please print)



Exhibit A  
Design/Build Criteria and Scope

**Exhibit A**  
**Design-Build Criteria and Scope**

**GENERAL DESCRIPTION OF SERVICES AND PROJECT**

The Peoria Crossing Design-Build Project consists of the final design and construction of a grade separated structure elevating Peoria Street over the Union Pacific Railroad and future RTD East Rail Line and associated work on intersecting side streets. The project boundaries are I-70 to the north, Baranmor Parkway to the south, Quentin Street to the east and Paris Street to the west.

The successful Proposer will be responsible for the design, construction, and warranty (3 years materials and workmanship as required by CCD General Conditions) of the Project. Demolition of existing structures and infrastructure on parcels acquired by CCD to accommodate the project will be required. Final alignments, grades, horizontal and vertical clearances, foundation types and locations, final structure type selection and design, final drainage design, geotechnical design and all other final design features are the responsibility of the successful Proposer. The final design documents shall be completed in English units of measurement and language. The design and construction by the successful Proposer shall be completed in accordance with applicable Project, CCD, COA, RTD, and CDOT guidelines and standards identified in the RFP. CCD's intent is to permit flexibility in design and the subsequent construction to accommodate processes, procedures and innovative techniques preferred by the successful Proposer, as long as they are consistent with site conditions, good engineering practices, and other standards, guidelines, and procedures identified in the RFP.

The Project includes the: design and construction of all project improvements, including but not limited to survey, geotechnical, foundation, drainage, structures, retaining walls, roadway and pavement, traffic features, lighting, aesthetics, environmental compliance and mitigation, traffic control measures, permits, landscaping, and warranties necessary to meet the requirements contained in the plans, standards, and specifications referenced in this RFP.

Please see the **RFP Reference Documents, Attachment 1, Preliminary Engineering Plans**, for the elements comprising the Peoria Crossing Design-Build Project.



Exhibit A-1  
Proposal Betterments and Contract Clarifications

## **EXHIBIT A-1**

### **BETTERMENTS AND CLARIFICATIONS**

The following are clarifications to the Proposal submitted by SEMA Construction, Inc. (the "SEMA Proposal") and added elements resulting from the contract negotiations.

SEMA Construction will provide hard copies of all project documents and will provide the City with access to the web based document control system so that electronic copies (pdf format) of these documents may be retrieved by the City for the life of the project. All documents sent to the City shall have a unique serial number.

The following are changes to the SEMA Proposal:

1. As detailed in the RFP documents per Addendum #6, provide in your schedule a mandatory settlement period of 6 months prior to the construction of any additional element on the embankment and walls, unless otherwise approved in the design approval phase.
2. Substantial completion date of August 7, 2014.
3. Final completion date of September 21, 2014. Final completion is defined as completion of all contracted work inclusive of any final punch lists.
4. The SEMA Proposal reflects a schedule based on a Notice to Proceed date of March 1, 2013. That date should be March 11, 2013 per the RFP.
5. The two Parking/Fuel storage easement areas in the northwest corner of AP-25 will not be available for SEMA construction use.
6. All non-confidential RFI from the Peoria Crossing Design/Build RFP competition are hereby incorporated by reference into the Design/Build Contract.
7. The pricing for Option 1 and Option 2 outlined in the fixed contract price proposal will be held until it is determined whether the scope is needed as part of the Peoria Crossing Design/Build scope.
8. The minimum acceptable width of the Peoria bridge structure and elevated approaches to the bridge structure shall be 96'-6" as defined in the preliminary engineering drawings included in the RFP. A 5-foot wide safety buffer area, included in the 96'-6" minimum acceptable width, shall be provided between face of barrier and gutter pan line or edge of traveled way on the west side of the Peoria bridge structure and elevated approaches to the bridge structure.
9. A Utility Force Account has been added to the contract schedule of values in the amount of \$1,300,000.00 for disbursement of funds for utility relocates as approved by CCD.
10. The City and County of Denver has decided that the Textura Submittal Exchange service will be used for all project submittals. A \$13,000 force account has been created within the Design/Build contract for amounts charged to SEMA by Textura. Hard copies shall still be provided as necessary to supplement the Textura submittal review process.
11. The required hours to be documented for the project under the OJT program are 2,500 hours.

12. Three evaporation standpipes are located near the south edge of TE-31 in the landscaped area. These standpipes shall be protected in place during construction.
13. Please see all added technical specifications for added force account items at the back of this exhibit for utilities, Partnering, and Textura Submittal Exchange.

The following additional benefits to the City and County of Denver will be provided by SEMA Construction:

1. Contractual Milestone to have all traffic and pedestrians on the newly constructed Peoria Street bridge structure over the rail lines on June 1, 2014.
2. Substantial completion date of August 7, 2014.
3. Quality testing frequency at a rate of two times CDOT's rate as published in the CDOT 2009 Construction Manual as shown on page 40 of the proposal.
4. Phasing plan that minimizes impacts to the community and the traveling public. Existing traffic lanes will be maintained through 90% (13 months out of 15 months) of the construction schedule to minimize impacts on traffic.
5. Long term durability with the use of all new full width concrete pavements on Peoria Street from 33<sup>rd</sup> Avenue to 39<sup>th</sup> Avenue (approximately Sta 16+20 through 42+00).
6. SEMA will coordinate its work with RTD to ensure no conflict with the system testing of the RTD East Rail Line.
7. Pedestrian access through the work zone will be fenced with a warning barrier along paths, with clear signage indicating the pathway, and separated from construction traffic.
8. Access to business frontages will be maintained in all construction phases.
9. Efficient bridge design that clears the UPRR ROW and minimizes structure depth.
10. Effective public involvement plan and outreach strategies that maintain open communication.
11. SEMA will prepare and submit for the City's approval a collaborative plan and strategy to effectively coordinate with RTD's adjacent Projects, I-225 and the East Rail Line.
12. Every employee is empowered and expected to stop work if/when they recognize quality standards are not being met.
13. All project documentation will be available 24/7 through ProjectSolve, a website document control system that can be accessed by the City and County of Denver.
14. Community Outreach and Public Involvement Program will start with the Notice of Award.
15. SEMA will establish a MOT taskforce at the beginning of the project that will regularly meet to coordinate between the owners, RTD, affected utility agencies and local emergency services.
16. The SEMA TCS will be required to inspect all traffic control devices at the beginning and end of each shift.
17. ATC-3, modification to remove the stairs located on the east side of the bridge structure on both the north and south sides of the railroad tracks.

18. ATC-11, early design submittals allowed at Contractors risk accelerating the project completion date.

The following elements have been proposed by SEMA Construction subject to review and acceptance by the City during the final design submittal(s), in accordance with the contract requirements, and the provisions of the specified Alternate Technical Concept (ATC) and/or Request for Information (RFI):

1. Retaining wall foundation design and service limits per ATC-4
2. Retaining wall structural backfill per ATC-5
3. MOT design per ATC-7
4. Mechanical tining per ATC-13
5. Roadway embankment material per ATC-15
6. Metal railing on Type 7 barrier per ATC-17

**Note:**

In the event that an ATC listed in Exhibit A-1 satisfies all requirements of the RFP but is ultimately rejected for non-technical reasons, the design/builder may submit a change order request.

Exhibit B  
SEMA Construction Inc. Proposal - Technical and Price  
(Incorporated by Reference)

Exhibit C  
Schedule of Values

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
<b>Project Management (This Category to fall under the Construction DBE Goal.)</b>								
1		Project Administration-Quality Assurance	1	LS	\$303,800.00	\$303,800.00	1.49%	Quality manager, document controls, accounting, admin asst, IT, travel, per diem, etc.
2								
3		Laboratory fees	1	LS	\$30,000.00	\$30,000.00	0.15%	Field lab and supplies, central lab test fees
4		SUBTOTAL- Quality Management				\$333,800.00	1.64%	Sum of Lines 1, 2 & 3
5								
6		SUBTOTAL- Design Management				\$333,800.00	1.64%	Sum of Line 4 & 5
7		Project Administration -Construction	1	LS	\$792,400.00	\$792,400.00	3.89%	Project manager, construction manager, scheduler, document controls, environmental controls/permits, accounting, admin asst, IT, travel, per diem, etc.
8		Contractor Quality Control	1	LS	\$336,200.00	\$336,200.00	1.65%	Materials testing by contractor
9		Public Information	1	LS	\$100,000.00	\$100,000.00	0.49%	External communication
10		Office Mobilization	1	LS	\$192,000.00	\$192,000.00	0.94%	Office costs
11		Bonds/Permit fees/Insurance	1	LS	\$491,300.00	\$491,300.00	2.41%	Permitting costs
12		Construction Surveying	1	LS	\$206,800.00	\$206,800.00	1.02%	
13		SUBTOTAL -Construction Management				\$2,118,700.00	10.41%	Sum of Lines 7 thru 12
14		Other remaining items	1	LS				
15		<b>SUBTOTAL - Project Management</b>				<b>\$2,452,500.00</b>	<b>12.05%</b>	<b>Sum of Lines 4, 6, 13 &amp; 14</b>
<b>Engineering and Design Services (This Category to fall under the Design DBE Goal)</b>								
16		Project Administration-Design	1	LS	\$206,300.00	\$206,300.00	1.01%	Design manager, document controls, accounting, admin asst, IT, travel, per diem, etc.
17		Survey	1	LS	\$18,000.00	\$18,000.00	0.09%	Field work, design data
18		Right of Way	1	LS		\$0.00	0.00%	Title searches, plan prep, acquisition
19		Geotechnical	1	LS	\$132,000.00	\$132,000.00	0.65%	Borings, logs, pavement design, foundation design
20		Environmental Mitigation	1	LS		\$0.00	0.00%	EA (and other?) commitments
21		Utilities	1	LS	\$37,300.00	\$37,300.00	0.18%	Potholing, plan prep, agreements
22		Roadway	1	LS	\$157,700.00	\$157,700.00	0.78%	Alignments, earthwork, templates, guardrail/roadside protection, summary of quantities
23		Drainage	1	LS	\$120,800.00	\$120,800.00	0.59%	Hydraulics, hydrology
24		Lighting	1	LS	\$45,000.00	\$45,000.00	0.22%	Street lighting
25		Traffic	1	LS	\$73,700.00	\$73,700.00	0.36%	Signs, signals, markings, ITS
26		Maintenance of Traffic	1	LS	\$77,400.00	\$77,400.00	0.38%	Construction phasing, detours
27		Structures	1	LS	\$492,200.00	\$492,200.00	2.42%	Bridges, walls
28		Aesthetics	1	LS	\$72,300.00	\$72,300.00	0.36%	Landscaping, structural features
29		Final Plan assembly	1	LS	\$19,700.00	\$19,700.00	0.10%	Combining RFC plans into final sealed plans, packaging reports and documents for transmittal to Denver and CDOT
30								
31								
32								
33		Other remaining items	1	LS				
34		<b>SUBTOTAL - Engineering and Design Services</b>				<b>\$1,452,400.00</b>	<b>7.14%</b>	

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
<b>Construction - Roadway (This Category to fall under the Construction DBE Goal)</b>								
35		Mobilization	1	LS	\$1,760,000.00	\$1,760,000.00	8.65%	Equipment, field trailers, supplies, misc. materials
36		Demolition	1	LS	\$213,400.00	\$213,400.00	1.05%	Removals, structure demo., disposal
37		Environmental	1	LS		\$165,526.00	0.81%	Sum of Lines 37A thru 37I
37A	208-00002	Erosion Log (12 Inch)	3500	LF	\$3.50	\$12,250.00	0.06%	
37B	208-00011	Sweeping (With Pickup Broom)	600	HRS	\$130.00	\$78,000.00	0.38%	
37C	208-00020	Silt Fence	12000	LF	\$1.20	\$14,400.00	0.07%	
37D	208-00040	Check Dam	4	EA	\$1,000.00	\$4,000.00	0.02%	
37E	208-00045	Concrete Washout Structure	4	EA	\$750.00	\$3,000.00	0.01%	
37F	208-00050	Storm Drain Inlet Protection	66	EA	\$86.00	\$5,676.00	0.03%	
37G	208-00070	Stabilized Constr Entrance	8	EA	\$1,400.00	\$11,200.00	0.06%	
37H	208-00205	Erosion Control Maintenance	150	HRS	\$140.00	\$21,000.00	0.10%	
37I	240-00100	Praire Dog Management	1	LS	\$16,000.00	\$16,000.00	0.08%	
38		Maintenance of Traffic	1	LS		\$408,688.00	2.01%	Sum of Lines 38A thru 38O
38A	630-00000	Flagging	6,160	HRS	\$23.00	\$141,680.00	0.70%	
38B	630-00003	Uniformed Traffic Control	260	HRS	\$67.00	\$17,420.00	0.09%	
38C	630-00007	Traffic Control Inspection	129	DAY	\$77.00	\$9,933.00	0.05%	
38D	630-00012	Traffic Control Management	287	DAY	\$530.00	\$152,110.00	0.75%	
38E	630-80001	Flashing Beacon (Portable)	1	EA	\$520.00	\$520.00	0.00%	
38F	630-80305	Flagging Station Light	2	EA	\$930.00	\$1,860.00	0.01%	
38G	630-80336	Barricade (Type 3 M-B) (Temp)	7	EA	\$100.00	\$700.00	0.00%	
38H	630-80341	Construction Traffic Sign A	125	EA	\$52.00	\$6,500.00	0.03%	
38I	630-80344	Construction Traffic Sign (Spec)	130	SF	\$19.00	\$2,470.00	0.01%	
38J	630-80355	Portable Message Sign Panel	4	EA	\$7,200.00	\$28,800.00	0.14%	
38K	630-80358	Adv Warning Flashing or Seq Arrow Panel	2	EA	\$1,000.00	\$2,000.00	0.01%	
38L	630-80360	Drum Channe Device (36" High Min)	70	EA	\$21.00	\$1,470.00	0.01%	
38M	630-80370	Concrete Barrier (Temp)	2,200	LF	\$16.00	\$35,200.00	0.17%	
38N	630-80380	Traffic Cone (36" High Min)	85	EA	\$5.00	\$425.00	0.00%	
38O	630-85010	Impact Attenuator (Temp)	4	EA	\$1,900.00	\$7,600.00	0.04%	
39		Utilities	1	LS		\$425,706.00	2.09%	Utility relocations (not completed by owners)
		Sanitary Sewer						Sum of Lines 39A thru 39AA
39A	202-00038	Abandon 8" Sanitary Sewer	850	LF	\$3.00	\$2,550.00	0.01%	
39B	604-30048	48" Diameter Manhole	2	EA	\$2,300.00	\$4,600.00	0.02%	
39C	604-30060	60" Diameter Manhole	3	EA	\$2,700.00	\$8,100.00	0.04%	
39D	619-50640	8" Sanitary Sewer (PVC)	210	LF	\$120.00	\$25,200.00	0.12%	
39E	619-51200	15" Sanitary Sewer (PVC)	778	LF	\$130.00	\$101,140.00	0.50%	
39F	619-60001	Connect to Existing Sanitary Sewer	2	EA	\$2,800.00	\$5,600.00	0.03%	
39G	210-04010	Adjust Manhole	4	EA	\$530.00	\$2,120.00	0.01%	
39H	202-0021	Removal of Manhole (Abandon)	3	EA	\$880.00	\$2,640.00	0.01%	
		Waterline						
39I	202-00031	Removal of Fire Hydrant	4	EA	\$900.00	\$3,600.00	0.02%	
39J	202-00033	Abandon 16" Aurora Water	285	LF	\$7.00	\$1,995.00	0.01%	
39K	202-00034	Abaondon 8" Aurora Water	260	LF	\$4.40	\$1,144.00	0.01%	
39L	202-00035	Abaondon 6" Aurora Water	990	LF	\$2.30	\$2,277.00	0.01%	
39M	202-00036	Remove 36" Water Denver Water	220	LF	\$17.00	\$3,740.00	0.02%	
39N	210-04050	Adjust Valve	18	EA	\$380.00	\$6,840.00	0.03%	
39O	619-06060	6" Ductile Iron Pipe (Fire Hydrant)	220	EA	\$150.00	\$33,000.00	0.16%	



Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
39P	619-75064	8" Gate Valve and Box	2	EA	\$1,600.00	\$3,200.00	0.02%	
39Q	619-75096	12" Gate Valve and Box	2	EA	\$3,000.00	\$6,000.00	0.03%	
39R	619-50960	12" Water Line (PVC) Encased	360	LF	\$120.00	\$43,200.00	0.21%	
39S	619-51280	16" Water Line (PVC)	360	LF	\$100.00	\$36,000.00	0.18%	
39T	619-70016	16" 45 Degree Bend w/ Thrust Blocks	4	EA	\$4,900.00	\$19,600.00	0.10%	
39U	619-70017	16" x 12" Tee	1	EA	\$2,300.00	\$2,300.00	0.01%	
39V	619-78048	Fire Hydrant Assembly	4	EA	\$2,700.00	\$10,800.00	0.05%	
39W	619-80010	Wet Tap into Existing 16" Water	1	EA	\$4,300.00	\$4,300.00	0.02%	
39X	619-80011	Connect to Existing Water	3	EA	\$1,200.00	\$3,600.00	0.02%	
39Y	619-80012	Lower Existing 8" Water Line	220	LF	\$220.00	\$48,400.00	0.24%	
39Z	619-80013	Lower Existing 12" Water Line	230	LF	\$130.00	\$29,900.00	0.15%	
39AA	619-80014	Encase Existing 8" Water Line	220	LF	\$63.00	\$13,860.00	0.07%	
40		Clearing and Grubbing / Misc Demolition	1	LS	\$12,000.00	\$12,000.00	0.06%	Prep for construction
41	202	Removals (includes 2 billboards)	1	LS		\$222,490.00	1.09%	Sum of Lines 41A thru 41H
41A	202-00195	Removal of Median Cover	135	SY	\$15.00	\$2,025.00	0.01%	
41B	202-00200	Removal of Sidewalk	2,325	SY	\$4.80	\$11,160.00	0.05%	
41C	202-00203	Removal of Curb and Gutter	11,350	LF	\$2.90	\$32,915.00	0.16%	
41D	202-00210	Removal of Concrete Pavement	450	SY	\$7.50	\$3,375.00	0.02%	
41E	202-00220	Removal of Asphalt Mat	30,700	SY	\$5.00	\$153,500.00	0.75%	
41F	202-00240	Removal of Asphalt Mat (Planing)	10,150	SY	\$1.30	\$13,195.00	0.06%	
41G	202-05030	Sawing Asphalt Material (10 Inch)	3,000	LF	\$1.40	\$4,200.00	0.02%	
41H	210-04010	Adjust Manhole	4	EA	\$530.00	\$2,120.00	0.01%	
42	203-00060	Embankment Material	45,835	CY		\$784,090.00	3.85%	Sum of Lines 42A thru 42D
42A	203-00010	Unclassified Excavation (CIP)	4,000	CY	\$10.00	\$40,000.00	0.20%	
42B	203-00060	Embankment Material (CIP) (AASHTO)	38,000	CY	\$16.00	\$608,000.00	2.99%	
42C	203-00062	Embankment Material (CIP) (Spec) (R40)	7,835	CY	\$14.00	\$109,690.00	0.54%	
42D	203-01597	Potholing	120	HRS	\$220.00	\$26,400.00	0.13%	

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
43	212-00006	Native Seeded Areas	3	AC		\$11,400.00	0.06%	Sum of Lines 43A thru 43B
43A	212-00006	Seeding (Native)	3	AC	\$1,000.00	\$3,000.00	0.01%	
43B	212-00032	Soil Conditioning	3	AC	\$2,800.00	\$8,400.00	0.04%	
44	213-00011	Mulching Seeded Areas	3	AC		\$7,500.00	0.04%	Sum of Lines 44A thru 44B
44A	213-00011	Mulching Seeded Areas	3	AC	\$2,000.00	\$6,000.00	0.03%	
44B	213-00061	Mulch Tackifier	300	LBS	\$5.00	\$1,500.00	0.01%	
45		Non-Growth Landscape (river rock, crusher fines)	27,408	SF		\$146,014.30	0.72%	Sum of Lines 45A thru 45E
45A	420-00200	Geotextile (Weed Barrier)	525	SY	\$5.50	\$2,887.50	0.01%	
45B	610-00030	Median Cover Material (Concrete)	22,700	SF	\$4.10	\$93,070.00	0.46%	
45C	610-00050	Median Cover Material (Cobble)	4,708	SF	\$4.60	\$21,656.80	0.11%	
45D		Concrete Bollards	28	EA	\$800.00	\$22,400.00	0.11%	
45E		Concrete Benches	6	EA	\$1,000.00	\$6,000.00	0.03%	
46		Areas Surfaced w/ Millings or Road Base	7,200	SF	\$0.45	\$3,240.00	0.02%	
47		Irrigated Landscape (trees, sod)	79,483	SF		\$53,300.00	0.26%	Sum of Lines 47A thru 47G
47A	212-00032	Soil Conditioning	2	AC	\$2,800.00	\$5,600.00	0.03%	
47B	212-00040	Soil Preparation	2	AC	\$1,000.00	\$2,000.00	0.01%	
47C	212-00022	Seeding - Irrigated	2	AC	\$1,000.00	\$2,000.00	0.01%	
47D	213-00011	Mulching Irrigated	2	AC	\$2,000.00	\$4,000.00	0.02%	
47E	213-00061	Mulching Tackifier	200	LBS	\$5.00	\$1,000.00	0.00%	
47F	214-00220	Deciduous Tree (2 Inch Caliper)	88	EA	\$400.00	\$35,200.00	0.17%	
47G	214-00350	Deciduous Shrub (5 Gal Container)	100	EA	\$35.00	\$3,500.00	0.02%	
48		Permanent Irrigation System	1	LS		\$289,449.00	1.42%	Sum of Lines 48A thru 48J
		<b>Denver Irrigation Items</b>						
48A		Irrigation System - Sod Areas	37,829	SF	\$3.00	\$113,487.00	0.56%	
48B		1" Water Tap with Meter	1	EA	\$10,000.00	\$10,000.00	0.05%	
48C		Denver Water Tap Fee	1	EA	\$10,000.00	\$10,000.00	0.05%	
48D		1" Backflow Preventer with Valves	1	EA	\$2,000.00	\$2,000.00	0.01%	
48E		24 Station Pedestal Mount Controller	1	EA	\$3,500.00	\$3,500.00	0.02%	
		<b>Aurora Irrigation Items</b>						
48F		Irrigation System - Sod Areas	41,654	SF	\$3.00	\$124,962.00	0.61%	
48G		1" Water Tap with Meter	1	EA	\$10,000.00	\$10,000.00	0.05%	
48H		Aurora Water Tap Fee	1	EA	\$10,000.00	\$10,000.00	0.05%	
48I		1" Backflow Preventer with Valves	1	EA	\$2,000.00	\$2,000.00	0.01%	
48J		24 Station Pedestal Mount Controller	1	EA	\$3,500.00	\$3,500.00	0.02%	
49		Temporary Irrigation / Watering	1	LS	\$25,000.00	\$25,000.00	0.12%	
50								
51	306-06000	Aggregate Base Course	17,039	TON	\$9.00	\$153,351.00	0.75%	
52								

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
53	403-33842	Hot Mix Asphalt (HMA) Pavement	9,049	TON		\$609,616.00	3.00%	Sum of Lines 53A thru 53G
53A	403-00721	HMA (Patching) (Asphalt)	440	TON	\$130.00	\$57,200.00	0.28%	
53B	403-09210	SMA (PG 76-28) (Top)	83	TON	\$86.00	\$7,138.00	0.04%	
53C	403-09210	SMA (PG 76-28) (2" Overlay)	1,325	TON	\$86.00	\$113,950.00	0.56%	
53D	403-33741	HMA (Gr S) (75) (PG 64-22) (Bttm)	4,721	TON	\$52.00	\$245,492.00	1.21%	
53E	403-33871	HMA (Gr S) (100) (PG 64-22) (Bttm)	334	TON	\$57.00	\$19,038.00	0.09%	
53F	403-34771	HMA (Gr SX) (75) (PG 76-28) (Top)	2,146	TON	\$73.00	\$156,658.00	0.77%	
53G	411-10255	Emulsified Asphalt (Slow-Setting)	3,900	GAL	\$2.60	\$10,140.00	0.05%	
54								
55	607-53173	Chain Link Fence (72 Inch)	230	LF	\$12.00	\$2,760.00	0.01%	
56	412-01000	Bus Stop Pads (CCD Std Dwg 9.1)	400	SY	\$51.00	\$20,400.00	0.10%	
57	606-02003	Impact Attenuators	2	EA	\$22,500.00	\$45,000.00	0.22%	
58	606-10742	Roadway Barrier (F-Shape and Vertical)	-	LF		\$0.00	0.00%	
59		Roadway/Pedestrian Barrier (Conc 42")	920	LF	\$89.00	\$81,880.00	0.40%	
60	607-11580	Temporary Fencing	2,200	LF	\$6.00	\$13,200.00	0.06%	
61	609-71000	Curb (Special) (6" x 10")	1,443	LF	\$9.00	\$12,987.00	0.06%	
62	608-00000	Concrete Sidewalk	4,097	SY	\$28.00	\$114,716.00	0.56%	
63	608-00010	Concrete Curb Ramp	316	SY	\$91.00	\$28,756.00	0.14%	
64	609-21010	Curb and Gutter Type 2 I-B	8,545	LF	\$10.00	\$85,450.00	0.42%	
65	609-21020	Curb and Gutter Type 2 II-B	8,315	LF	\$11.00	\$91,465.00	0.45%	
66	609-24008	Gutter Type 2 (8')	64	LF	\$39.00	\$2,496.00	0.01%	
67	610-00020	Concrete Median Cover Material (Patterned Concrete)	8,872	SY	\$5.00	\$44,360.00	0.22%	
68	412-00600	Concrete Driveway 6 Inch	382	SY	\$33.00	\$12,606.00	0.06%	
69	412-01050	Concrete Pavement (10-1/2 Inch)	15,752	SY	\$51.00	\$803,352.00	3.95%	
70	608-00026	Multiuse Facility - 14' concrete path	2,600	SY	\$39.00	\$101,400.00	0.50%	
71	607-60610	Vehicle Gate	2	EA	\$1,500.00	\$3,000.00	0.01%	
72		<b>SUBTOTAL - Roadway</b>				<b>\$6,754,598.30</b>	<b>33.20%</b>	
<b>Construction - MSE Walls / Concrete Barrier (This Category to fall under the Construction DBE Goal)</b>								
73	206-00000	Structure Excavation	2,275	CY	\$6.50	\$14,787.50	0.07%	
74	206-00100	Structure Backfill (Class 1)	16,000	CY	\$24.00	\$384,000.00	1.89%	
75	206	Foundation Improvement	2,940	CY	\$20.00	\$58,800.00	0.29%	
76	206-00360	Mechanical Reinforcement of Soil	16,000	CY	\$1.70	\$27,200.00	0.13%	
77	504-xxxxx	Precast Coping	-	LF		\$0.00	0.00%	
78	504-04420	Precast Panel Facing	24,798	SF	\$16.00	\$396,768.00	1.95%	
79	507-00100	Concrete Slope and Ditch Paving (Reinf.)	109	CY	\$350.00	\$38,150.00	0.19%	
80	601-03040	Concrete Class D (Bridge) (Moment Slab)	525	CY	\$460.00	\$241,500.00	1.19%	
81	602-00000	Reinforcing Steel (Moment Slab)	63,171	LB	\$0.80	\$50,536.80	0.25%	
82								

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
83	607	Cable Fence (42")	0	LF		\$0.00	0.00%	
84	607	Bike / Ped Railing	0	LF		\$0.00	0.00%	
85	601-03040	Conc Class D (Bridge) (Levelng Pad)	65	CY	\$300.00	\$19,500.00	0.10%	
86	606-10705	Bridge Rail Type 7	560	LF	\$75.00	\$42,000.00	0.21%	
87	607-11530	Pedestrian Fence (Special) (48")	1443	LF	\$100.00	\$144,300.00	0.71%	
88	601-40300	Structural Concretet Coating	3366	SY	\$8.00	\$26,928.00	0.13%	
89								
90								
91								
92								
93								
94	Other remaining items		1	LS				
95	<b>SUBTOTAL - MSE Walls / Concrete Barrier</b>					\$1,444,470.30	7.10%	
<b>Construction - Bridge Structures (This Category to fall under the Construction DBE Goal)</b>								
96	206-00000	Structure Excavation	60	CY	\$55.00	\$3,300.00	0.02%	
97	206-00100	Structure Backfill (Class 1)	695	CY	\$28.00	\$19,460.00	0.10%	
98	206-00360	Mechanical Reinforcement of Soil	695	CY	\$17.00	\$11,815.00	0.06%	
99	403-09221	Stone Matrix Asphalt (Fibers) (Asph)	784	TON	\$86.00	\$67,424.00	0.33%	
100	502-00460	Pile Tip	-	EA		\$0.00	0.00%	
101	502-11253	Steel Piling (HP 12x53)	-	LF		\$0.00	0.00%	
102	515-00120	Waterproofing (Membrane)	4,804	SY	\$13.00	\$62,452.00	0.31%	
102A	515-00400	Concrete Sealer	2,813	SY	\$17.00	\$47,821.00	0.24%	
103	518-01004	Bridge Expansion Device (0-4 Inch)	189	LF	\$220.00	\$41,580.00	0.20%	
104	601-01040	Concrete Class B (Bridge)	178	CY	\$530.00	\$94,340.00	0.46%	
105	601-03040	Concrete Class D (Bridge)	2,881	CY	\$450.00	\$1,296,450.00	6.37%	
106	601-40300	Structural Concrete Coating	13,507	SY	\$8.00	\$108,056.00	0.53%	
107	602-00000	Reinforcing Steel	22,220	LB	\$0.70	\$15,554.00	0.08%	
108	602-00020	Reinforcing Steel (Epoxy Coated)	602,336	LB	\$0.79	\$475,845.44	2.34%	
109	606-10200	Bridge Rail (Special)	601	LF	\$51.00	\$30,651.00	0.15%	
110	606-10705	Bridge Rail Type 7 (Special)	601	LF	\$68.00	\$40,868.00	0.20%	
111	607-53178	Fence Chain Link (Special) (85 Inch)	600	LF	\$270.00	\$162,000.00	0.80%	
112	607-00000	Fence Chain Link (Solid Special) (85 Inch)	35	LF	\$130.00	\$4,550.00	0.02%	
113		Fence Chain Link (Special) (78 Inch)	600	LF	\$250.00	\$150,000.00	0.74%	
113A		Fence Chain Link (Solid Special) (78 Inch)	35	LF	\$120.00	\$4,200.00	0.02%	
114	613-00200	2" Electrical Conduit	-	LF		\$0.00	0.00%	
115	613-00300	3" Electrical Conduit	5,405	LF	\$14.00	\$75,670.00	0.37%	
116	618-10200	Precast Concrete U Girder (Pre and Post-Ten)	2,778	LF	\$570.00	\$1,583,460.00	7.78%	
117	630-00000	Railroad Flagging	100	Days	\$1,200.00	\$120,000.00	0.59%	
118	618-00002	Prestressing Steel Wire or Strand	207,345	LB	\$1.82	\$377,367.90	1.85%	
118A	503-00024	Drilled Caisson (24 Inch)	648	LF	\$100.00	\$64,800.00	0.32%	
119	503-00036	Drilled Caisson (36 Inch)	900	LF	\$130.00	\$117,000.00	0.58%	
120	503-00054	Drilled Caisson (54 Inch)	875	LF	\$280.00	\$245,000.00	1.20%	
121	512-00103	Bearing Device (Type III)	10	EA	\$1,800.00	\$18,000.00	0.09%	
122	<b>SUBTOTAL - Bridge Structures</b>					\$5,237,664.34	25.74%	

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
<b>Construction - Drainage</b> (This Category to fall under the Construction DBE Goal)								
<b>CCD Drainage Items</b>								
123		Type 14 Inlets	12	EA		\$63,200.00	0.31%	Sum of Lines 123A thru 123C
123A		Type 14 Inlet L=15'	4	EA	\$6,400.00	\$25,600.00	0.13%	
123B		Type 14 Inlet L=12'	3	EA	\$5,700.00	\$17,100.00	0.08%	
123C		Type 14 Inlet L=6'	5	EA	\$4,100.00	\$20,500.00	0.10%	
124		Type C and D Inlets	5	EA		\$22,300.00	0.11%	Sum of Lines 124A thru 124B
124A	604-00315	Type C Inlet	2	EA	\$4,400.00	\$8,800.00	0.04%	
124B	604-00515	Type D Inlet	3	EA	\$4,500.00	\$13,500.00	0.07%	
125		Manoles - 5' and 7' dia.	8	EA		\$39,600.00	0.19%	Sum of Lines 125A thru 125B
125A		Manhole 5 ft dia	1	EA	\$2,500.00	\$2,500.00	0.01%	
125B		7' x 7' Box Base Manhole	7	EA	\$5,300.00	\$37,100.00	0.18%	
126		RCP - 18" to 48" dia.	1,592	LF		\$144,448.00	0.71%	Sum of Lines 126A thru 126C
126A	603-01185	18 Inch Reinf Conc Pipe (CIP)	880	LF	\$65.00	\$57,200.00	0.28%	
126B	603-01245	24 Inch Reinf Conc Pipe (CIP)	296	LF	\$98.00	\$29,008.00	0.14%	
126C	603-01485	48 Inch Reinf Conc Pipe (CIP)	416	LF	\$140.00	\$58,240.00	0.29%	
127		Misc - adjust manholes and abandon pipe runs	4	EA	\$530.00	\$2,120.00	0.01%	
<b>Aurora Drainage Items</b>								
130		Type R and C and D Inlets	25	EA		\$135,300.00	0.67%	Sum of Lines 130A thru 130F
130A	604-19105	Inlet Type R L 5 (5 Foot)	12	EA	\$3,700.00	\$44,400.00	0.22%	
130B	604-19405	Inlet Type R L 5 (Special)	1	EA	\$4,300.00	\$4,300.00	0.02%	
130C	604-19205	Inlet Type R L 10 (5 Foot)	3	EA	\$5,700.00	\$17,100.00	0.08%	
130D	604-19305	Inlet Type R L 15 (5 Foot)	6	EA	\$7,700.00	\$46,200.00	0.23%	
130E	604-19505	Inlet Type R L 30 (5 Foot)	1	EA	\$14,500.00	\$14,500.00	0.07%	
130F	604-00315	Inlet Type C	2	EA	\$4,400.00	\$8,800.00	0.04%	
131		Manholes - 4' to 8' dia.	8	EA		\$32,600.00	0.16%	Sum of Lines 131A thru 131C
131A		5' Dia Manhole	1	EA	\$2,500.00	\$2,500.00	0.01%	
131B		6' Dia Manhole	1	EA	\$3,600.00	\$3,600.00	0.02%	
131C		8' x 8' Box Base Manhole	5	EA	\$5,300.00	\$26,500.00	0.13%	
132		RCP - 18" to 48" dia.	2,328	LF		\$171,614.00	0.84%	Sum of Lines 132A thru 132F
132A	603-01185	18 Inch Reinf Conc Pipe (CIP)	1,496	LF	\$53.00	\$79,288.00	0.39%	
132B	603-01245	24 Inch Reinf Conc Pipe (CIP)	352	LF	\$87.00	\$30,624.00	0.15%	
132C	603-01305	30 Inch Reinf Conc Pipe (CIP)	144	LF	\$78.00	\$11,232.00	0.06%	
132D	603-01365	36 Inch Reinf Conc Pipe (CIP)	88	LF	\$140.00	\$12,320.00	0.06%	
132E	603-01425	42 Inch Reinf Conc Pipe (CIP)	248	LF	\$130.00	\$32,240.00	0.16%	
132F	603-05042	42 Inch RCP End Section	2	EA	\$1,100.00	\$2,200.00	0.01%	
132G		Adjust Manhole	7	EA	\$530.00	\$3,710.00	0.02%	
133		HERCP - various sizes	326	LF		\$46,360.00	0.23%	Sum of Lines 133A thru 133B
133A	603-02305	38x24 Reinf Conc Pipe (CIP)	72	LF	\$150.00	\$10,800.00	0.05%	
133B	603-02425	53x34 Reinf Conc Pipe (CIP)	254	LF	\$140.00	\$35,560.00	0.17%	

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
134		Misc - removals, adjust mahholes & inlets, junction structures		EA		\$16,810.00	0.08%	Sum of Lines 134A thru 134H
134A	202-00019	Removal of Inlet	8	EA	\$290.00	\$2,320.00	0.01%	
134B	202-00021	Removal of Manhole	1	EA	\$290.00	\$290.00	0.00%	
134C	202-00035	Removal of Pipe	170	LF	\$22.00	\$3,740.00	0.02%	
134D	202-00037	Removal of End Section	1	EA	\$180.00	\$180.00	0.00%	
134E		Removal of Pond Outlet Structure	1	EA	\$2,600.00	\$2,600.00	0.01%	
134F		Reset Vane Grate	1	EA	\$2,100.00	\$2,100.00	0.01%	
134G	210-04010	Adjust Inlet	2	EA	\$2,100.00	\$4,200.00	0.02%	
134H	210-04020	Plug Pipe	460	LF	\$3.00	\$1,380.00	0.01%	
135		Concrete Junction Structure	1	EA	\$8,500.00	\$8,500.00	0.04%	
136		Pond & Outlet Structure	1	LS	\$31,400.00	\$31,400.00	0.15%	
137		Riprap - 6" (typ.)	19	CY	\$59.00	\$1,121.00	0.01%	
138		Abandon Existing Manhole	-	EA		\$0.00	0.00%	
139		Abandon Existing 48" dia Pipe	460	LF	\$38.00	\$17,480.00	0.09%	
140	210-04015	Modify Existing Manhole	1	EA	\$970.00	\$970.00	0.00%	
141		Other remaining items	1	LS				
142		<b>SUBTOTAL - Drainage</b>				\$733,823.00	3.61%	
<b>Construction - Traffic / Lighting (This Category to fall under the Construction DBE Goal)</b>								
143		Traffic Signal - 33rd Avenue	1	LS		\$219,310.00	1.08%	Sum of Lines 143A thru 143U
143A	202-00828	Removal of Traffic Signal Equip	1	EA	\$2,100.00	\$2,100.00	0.01%	
143B	613-01200	2 Inch Electrical Conduit (Plastic)	340	LF	\$14.00	\$4,760.00	0.02%	
143C	613-01300	3 Inch Electrical Conduit (Plastic)	1,020	LF	\$18.00	\$18,360.00	0.09%	
143D		Pull Box (Type A) (16" x 25" x 12") Elect	1	EA		\$0.00	0.00%	
143E		Pull Box (Type B) (19" x 32" x 12") Traff	5	EA	\$420.00	\$2,100.00	0.01%	
143F	613-10000	Wiring - Traf Signals	1	LS	\$10,900.00	\$10,900.00	0.05%	
143G	614-70150	Pedestrian Signal Face (16) (Countdown)	8	EA	\$480.00	\$3,840.00	0.02%	
143H	614-70336	Traffic Signal Face (12-12-12)	13	EA	\$810.00	\$10,530.00	0.05%	
143I	614-70560	Traffic Signal Face (12-12-12-12)	8	EA	\$980.00	\$7,840.00	0.04%	
143J	614-70560	Traffic Signal Face (12-12-12-12) FYA	4	EA	\$960.00	\$3,840.00	0.02%	
143K	614-72855	Traf Signal Controller Cabinet	1	EA	\$23,300.00	\$23,300.00	0.11%	
143L	614-86240	Traf Signal Controller	1	EA	\$4,300.00	\$4,300.00	0.02%	
143M	614-72860	Pedestrian Push Button	8	EA	\$310.00	\$2,480.00	0.01%	
143N	614-72866	Fire Preemption Unit and Timer	4	EA	\$1,500.00	\$6,000.00	0.03%	
143O	614-72886	Intersection Detection System (Camera)	4	EA	\$5,700.00	\$22,800.00	0.11%	
143P	614-81140	Traffic Signal-Light Pole Steel (1-40 Ft MA)	1	EA	\$17,600.00	\$17,600.00	0.09%	
143Q	614-81150	Traffic Signal-Light Pole Steel (1-50 Ft MA)	2	EA	\$20,200.00	\$40,400.00	0.20%	
143R	614-81160	Traffic Signal-Light Pole Steel (1-60 Ft MA)	1	EA	\$22,100.00	\$22,100.00	0.11%	
143S	503-00030	Drilled Caisson - 30"	15	LF	\$220.00	\$3,300.00	0.02%	
143T	503-00036	Drilled Caisson - 36"	30	LF	\$260.00	\$7,800.00	0.04%	
143U	503-00048	Drilled Caisson - 48"	16	LF	\$310.00	\$4,960.00	0.02%	

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
144	Traffic Signal - 39th Avenue		1	LS		\$227,230.00	1.12%	Sum of Lines 144A thru 144U
144A	202-00828	Removal of Traffic Signal Equip	1	EA	\$2,100.00	\$2,100.00	0.01%	
144B	613-01200	2 Inch Electrical Conduit (Plastic)	360	LF	\$14.00	\$5,040.00	0.02%	
144C	613-01300	3 Inch Electrical Conduit (Plastic)	735	LF	\$18.00	\$13,230.00	0.07%	
144D		Pull Box (Type A) (16" x 25" x 12") Elect	4	EA	\$280.00	\$1,120.00	0.01%	
144E		Pull Box (Type B) (19" x 32" x 12") Traff	5	EA	\$420.00	\$2,100.00	0.01%	
144F	613-10000	Wiring - Traf Signals	1	LS	\$11,900.00	\$11,900.00	0.06%	
144G	614-70150	Pedestrian Signal Face (16) (Countdown)	6	EA	\$480.00	\$2,880.00	0.01%	
144H	614-70336	Traffic Signal Face (12-12-12)	14	EA	\$770.00	\$10,780.00	0.05%	
144I	614-70560	Traffic Signal Face (12-12-12-12-12)	4	EA	\$890.00	\$3,560.00	0.02%	
144J	614-70560	Traffic Signal Face (12-12-12-12-12) Doghouse	4	EA	\$1,300.00	\$5,200.00	0.03%	
144K	614-72855	Traf Signal Controller Cabinet	1	EA	\$16,400.00	\$16,400.00	0.08%	
144L	614-86240	Traf Signal Controller	1	EA	\$2,600.00	\$2,600.00	0.01%	
144M	614-72860	Pedestrian Push Button	6	EA	\$290.00	\$1,740.00	0.01%	
144N	614-72866	Fire Preemption Unit and Timer	4	EA	\$1,600.00	\$6,400.00	0.03%	
144O	614-72886	Intersection Detection System (Camera)	4	EA	\$7,000.00	\$28,000.00	0.14%	
144P	614-81145	Traffic Signal-Light Pole Steel (1-45 Ft MA)	1	EA	\$19,600.00	\$19,600.00	0.10%	
144Q	614-81155	Traffic Signal-Light Pole Steel (1-55 Ft MA)	1	EA	\$23,200.00	\$23,200.00	0.11%	
144R	614-81160	Traffic Signal-Light Pole Steel (1-60 Ft MA)	2	EA	\$23,700.00	\$47,400.00	0.23%	
144S	503-00036	Drilled Caisson - 36"	36	LF	\$260.00	\$9,360.00	0.05%	
144T	503-00048	Drilled Caisson - 48"	34	LF	\$380.00	\$12,920.00	0.06%	
144U	613-50355	Power Transformer	1	EA	\$1,700.00	\$1,700.00	0.01%	
145	Permanent Striping		1	LS		\$106,040.00	0.52%	Sum of Lines 145A thru 145G
145A	627-00005	Epoxy Pavement Marking	35	GAL	\$180.00	\$6,300.00	0.03%	
145B	627-00011	Pavement Marking Paint (Waterborne)	80	GAL	\$36.00	\$2,880.00	0.01%	
145C	627-01010	Preform Plastic Pvmnt Marking (Ty I) (Inlaid)	245	SF	\$11.00	\$2,695.00	0.01%	
145D	627-02010	Preform Plastic Pvmnt Marking (Ty II) (Inlaid)	4,529	SF	\$12.00	\$54,348.00	0.27%	
145E	627-30327	Preform Plastic Pvmnt Marking (Arrows)	9	EA	\$230.00	\$2,070.00	0.01%	
145F	627-30332	Preform Plastic Pvmnt Marking (X-S)	3,083	SF	\$9.00	\$27,747.00	0.14%	
145G	202-05150	Sandblasting	5,000	SF	\$2.00	\$10,000.00	0.05%	
146	Traffic Signs		1	LS		\$71,042.00	0.35%	Sum of Lines 146A thru 146G
146A	202-00810	Removal of Ground Sign	138	EA	\$150.00	\$20,700.00	0.10%	
146B	202-00815	Removal of Sign (Spec) (Billboards)	2	EA	\$1,500.00	\$3,000.00	0.01%	
146C	202-00821	Removal of Sign Panel	140	EA	\$65.00	\$9,100.00	0.04%	
146D	614-00011	Sign Panel (Class I)	516	SF	\$20.00	\$10,320.00	0.05%	
146E	614-00012	Sign Panel (Class II)	66	SF	\$25.00	\$1,650.00	0.01%	
146F	614-00013	Sign Panel (Class III)	72	SF	\$26.00	\$1,872.00	0.01%	
146G	614-00216	2" Square Punched Steel Tubing	1,220	LF	\$20.00	\$24,400.00	0.12%	

Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
147	Lighting		1	LS		\$363,788.95	1.79%	Sum of Lines 147A thru 147N
147A	613-00100	1 Inch Electrical Conduit - Bridge	500	LF	\$8.50	\$4,250.00	0.02%	
147B	613-00200	2 Inch Electrical Conduit - Bridge	350	LF	\$13.00	\$4,550.00	0.02%	
147C	613-01200	2 Inch Electrical Conduit (Plastic)	7,620	LF	\$4.80	\$36,576.00	0.18%	
147D	613-10000	Wiring - Lighting	8,246	LF	\$2.30	\$18,965.80	0.09%	
147E	613-34302	Light Standard Metal (30 Foot) (2 Arm)	39	EA	\$2,300.00	\$89,700.00	0.44%	
147F	613-40010	Light Standard Foundation	46	EA	\$900.00	\$41,400.00	0.20%	
147G	613-50100	Lighting Control Center	1	EA	\$6,700.00	\$6,700.00	0.03%	
147H	613-50355	Power Transformer	1	EA	\$50,000.00	\$50,000.00	0.25%	
147I	613-75250	Luminaire Metal Halide (250 W)	51	EA	\$1,300.00	\$66,300.00	0.33%	
147J	613-76150	Luminaire Metal Halide (Wall) (150 W)	8	EA	\$760.00	\$6,080.00	0.03%	
147K		Std Pedestrian Light (100w) (Xcel)	9	EA	\$2,800.00	\$25,200.00	0.12%	
147L		Pull Box (11" x 18" x 12")	48	EA	\$240.00	\$11,520.00	0.06%	
147M		#6 AWG AL Conductors (Underdeck Lumin)	1,524	LF	\$1.10	\$1,676.40	0.01%	
147N		#10 AWG CU Conductors (Ped Lumin)	1,161	LF	\$0.75	\$870.75	0.00%	
148	Removal of Traffic Signals - 37th Avenue and Smith Road (at Peoria)		2	EA	\$2,100.00	\$4,200.00	0.02%	
149	ITS Equipment		1	LS		\$278,015.00	1.37%	Sum of Lines 149A thru 149F
149A	614-86735	Weather Pavement Sensors	1	LS	\$50,900.00	\$50,900.00	0.25%	
149B		Pan-Tilt-Zoom Camera	1	EA	\$3,400.00	\$3,400.00	0.02%	
149C	613-01200	2 Inch Electrical Conduit	75	LF	\$50.00	\$3,750.00	0.02%	
149D	614-87497	96 Strand Fiber Optice Cable	2,900	LF	\$4.20	\$12,180.00	0.06%	
149E	613-10010	Wiring	2,900	LF	\$1.10	\$3,190.00	0.02%	
149F	613-07023	Pull Box Type D (24 x 30 x 60)	2	EA	\$740.00	\$1,480.00	0.01%	
150	613-01300	3 Inch Electrical Conduit (Plastic)	26,170	LF	\$7.50	\$196,275.00	0.96%	
151	613-07000	Pull Box (Special) 30 x 60 x 24	9	EA	\$760.00	\$6,840.00	0.03%	
152	<b>SUBTOTAL - Traffic / Lighting</b>					\$1,269,625.95	6.24%	
<b>Force Accounts (This Category shall EXCLUDED from both the Design and Construction DBE Goals)</b>								
153	Partnering F/A				\$10,000.00	\$10,000.00	0.05%	
154	On-Job-Training (OJT) F/A				\$7,500.00	\$7,500.00	0.04%	
155	<b>SUBTOTAL - Force Accounts</b>					\$17,500.00	0.09%	
<b>Base Project Total</b>						\$19,362,581.89	95.17%	
<b>Fee</b>						\$1,000,000.00		
<b>Proposal Fixed Contract Price</b>						\$20,345,081.89		



Line #	Item #	Item Description	Quantity	Unit	Unit Price	Amount	% of Contract	Description of Scope
<b>Proposal Fixed Contract Price with Force Account</b>						\$20,362,581.89		
<b>3 ft Buffer/Safety Walk (This Category to fall under the Construction DBE Goal)</b>								
62	608-00000	Concrete Sidewalk	189	SY	\$30.00	\$5,670.00		
42C	203-00062	Embankment Material (CIP) (Spec) (R40)	188	CY	\$14.00	\$2,632.00		
79	507-00100	Concrete Slope and Ditch Paving (Reinf.)	4	CY	\$350.00	\$1,400.00		
42B	203-00060	Embankment Material (CIP) (AASHTO)	1,059	CY	\$16.00	\$16,944.00		
69	412-01050	Concrete Pavement (10-1/2 Inch)	696	SY	\$51.00	\$35,496.00		
103	518-01004	Bridge Expansion Device (0-4 Inch)	6	LF	\$220.00	\$1,320.00		
104	601-03040	Concrete Class D (Bridge)	135	CY	\$450.00	\$60,750.00		
80	601-03040	Concrete Class D (Bridge) (Moment Slab)	(174)	CY	\$460.00	-\$80,040.00		
108	602-00020	Reinforcing Steel (Epoxy Coated)	19,955	LB	\$0.79	\$15,764.45		
81	602-00000	Reinforcing Steel (Moment Slab)	(31,092)	LB	\$0.80	-\$24,873.66		
11		Performance & Payment Bond	\$35,062.79	%	0.50%	\$175.31		
		Fee	\$35,238.10	%	5.00%	\$1,761.90		
156		<b>SUBTOTAL - 3 ft Buffer/Sidewalk</b>				\$37,000.00		
<b>Force Account - Textura Submittal Exchange (This Category shall EXCLUDED from both the Design and Construction DBE Goals)</b>								
157		Textura Submittal Exchange	1	LS	\$13,000.00	\$13,000.00		
<b>Force Account - Utility (This Category shall EXCLUDED from both the Design and Construction DBE Goals)</b>								
158		Utility Force Account	1	LS	\$1,231,936	\$1,231,935.56		
		Performance & Payment Bond	\$1,231,935.56	%	0.50%	\$6,159.68		
		Fee	\$1,238,095.24	%	5.00%	\$61,904.76		
		<b>SUBTOTAL - Utility Force Account</b>				\$1,300,000.00		
<b>Negotiated Fixed Contract Price without Partnering &amp; OJT</b>						\$21,695,081.89		
<b>Negotiated Fixed Contract Price with Partnering &amp; OJT</b>						\$21,712,581.89		

**FORCE ACCOUNT ITEMS**

**Description**

This special provision contains the City and County of Denver estimate for force account items included in the Contract. The estimated amounts have been added to the total bid as depicted in Exhibit C to determine the final Contract price which will also be utilized for the performance and payment bonds. Force account work shall be performed as directed by the CCD Project Manager.

<b><u>Force Account Item</u></b>	<b><u>Unit</u></b>	<b><u>Quantity</u></b>	<b><u>Amount</u></b>
F/A 01- Partnering Program	F.A.	1	\$10,000.00
F/A 02- On the Job Training	Hour	2,500	\$7,500.00
F/A 03- Utility Relocations	F.A.	1	\$1,300,000.00
F/A 04- Textura Submittal Exchange	F.A.	1	\$13,000.00

**F/A 01- Partnering Program**

This force account will be utilized to institute a project specific partnering program. The project shall use partnering consistent with the requirements listed below.

The following information summarizes the partnering process. This partnership will be structured to draw on the strengths of all organizations involved in the project to identify and achieve mutual goals. The objectives are effective and efficient Contract performance with reciprocal cooperation, completion within budget, on schedule, and in accordance with the Contract.

The Contractor shall assume full responsibility for documenting and gaining approval from the CCD Project Manager of all costs associated with partnering during implementation of the partnering process.

The Contractor shall implement the partnership initiative within ten days after Notice to Proceed. The Contractor's on site project manager shall meet with the City's Project Manager to plan a partnering development and team building workshop. At this planning session, arrangements shall be made to determine the facilitator, attendees, agenda, duration, and location. Representation from CCD, City of Aurora, RTD, CDOT, and the Contractor's team will be invited to participate.

The workshop shall be held prior to the commencement of any major work item and preferably before the project preconstruction meeting. The City's Project Manager and the Contractor's Project Manager shall meet to determine who will be asked to attend the partnership workshop.

Following the initial partnering meeting, the Contractor shall prepare a schedule of follow-up Owner, Engineer, Contractor (OEC) monthly meetings. Contractor shall require the attendance at the OEC meetings of all active superintendants, lead designer and QA/QC managers. The City shall require the attendance of the OEC meetings of the City Project Manager, Project Construction Oversight Manager, and Project Design Oversight Manager. Each partnering meeting shall address, at a minimum, the following:

- Progress
- Forecast of upcoming work
- Problems that need resolution
- Action plan moving forward

The establishment of a partnership charter, which identifies the workshop participants' mutual goals on the project, will not change the legal relationship of the parties to the Contract or relieve either party from any terms of the Contract.

#### **F/A 02- On the Job Training**

This work consists of providing on the job trainees in compliance with the On the Job Training (OJT) provisions provided in the Federal Requirements, located in Part 4 of the Contract. The designated number of required project OJT hours is designated as 2,500 hours.

#### **F/A 03- Utility Relocations**

This force account will be used to facilitate all required utility relocations for the project as they pertain to Xcel, Level 3, Windstream, Century Link, and Denver Water. All charges to be incurred under the utility force account shall be approved prior to commencement of the work by the CCD Project Manager.

#### **F/A 04- Textura Submittal Exchange**

This force account will be used to provide a project specific Textura Submittal Exchange software to facilitate efficient exchanging, reviewing, and archiving of design and construction submittals.

Exhibit D  
Payment and Performance Bond

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF PUBLIC WORKS**

Bond No. 09107391

**PERFORMANCE AND PAYMENT BOND**

**KNOW ALL MEN BY THESE PRESENTS**, that we, the undersigned **SEMA CONSTRUCTION, INC.**, a corporation organized and existing under and by virtue of the laws of the State of **COLORADO**, hereafter referred to as the "Contractor", and **FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, a corporation organized and existing under and by virtue of the laws of the State of **MARYLAND**, and authorized to transact business in the State of Colorado, and **ZURICH AMERICAN INSURANCE COMPANY**, a corporation organized and existing under and by virtue of the laws of the State of **NEW YORK**, and authorized to transact business in the State of Colorado, as Sureties, are held and firmly bound unto the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, hereinafter referred to as the "City", in the penal sum of **TWENTY-ONE MILLION SEVEN HUNDRED TWELVE THOUSAND FIVE HUNDRED EIGHTY ONE DOLLARS AND 89/100 (\$21,712,581.89)**, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents;

**THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:**

**WHEREAS**, the above bounden Contractor has entered into a written contract with the aforesaid City for furnishing all labor and tools, supplies, equipment, superintendence, materials and everything necessary for and required to do, perform and complete the construction of **CONTRACT NO. 201309616 PEORIA CROSSING**, Denver, Colorado, and has bound itself to complete the project within the time or times specified or pay liquidated damages, all as designated, defined and described in the said Contract and Conditions thereof, and in accordance with the Plans and Technical Specifications therefore, a copy of said Contract being made a part hereof;

**NOW, THEREFORE**, if the said Contractor shall and will, in all particulars well and truly and faithfully observe, perform and abide by each and every Covenant, Condition and part of said Contract, and the Conditions, Technical Specifications, Plans, and other Contract Documents thereto attached, or by reference made a part thereof and any alterations in and additions thereto, according to the true intent and meaning in such case, then this obligation shall be and become null and void; otherwise, it shall remain in full force and effect;


**PROVIDED FURTHER**, that if the said Contractor shall satisfy all claims and demands incurred by the Contractor in the performance of said Contract, and shall fully indemnify and save harmless the City from all damages, claims, demands, expense and charge of every kind (including claims of patent infringement) arising from any act, omission, or neglect of said Contractor, its agents, or employees with relation to said work; and shall fully reimburse and repay to the City all costs, damages, and expenses which it may incur in making good any default based upon the failure of the Contractor to fulfill its obligation to furnish maintenance, repairs or replacements for the full guarantee period provided in the Contract Documents, then this obligation shall be null and void; otherwise it shall remain in full force and effect;

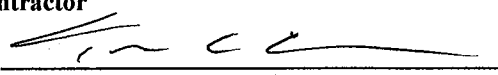
**PROVIDED FURTHER**, that if said Contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing it or its subcontractors with labor and materials, rental machinery, tools or equipment used or performed in the prosecution of work provided for in the above Contract and that if the Contractor will indemnify and save harmless the City for the extent of any and all payments in connection with the carrying out of such Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect;

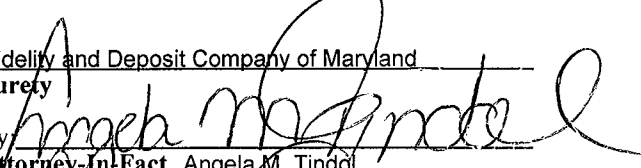
**PROVIDED FURTHER**, that if the said Contractor fails to duly pay for any labor, materials, team hire, sustenance, provisions, provender, gasoline, lubricating oils, fuel oils, grease, coal, or any other supplies or materials used or consumed by said Contractor or its subcontractors in performance of the work contracted to be done, or fails to pay any person who supplies rental machinery, tools or equipment, all amounts due as the result of the use of such machinery, tools or equipment in the prosecution of the work, the Surety will pay the same in any amount not exceeding the amount of this obligation, together with interest as provided by law;

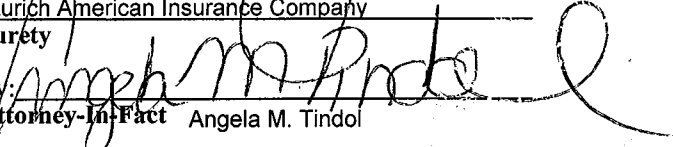
**PROVIDED FURTHER**, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to contracts with others in connection with this project, or the work to be performed thereunder, or the Technical Specifications and Plans accompanying the same, shall in any way affect its obligation on this bond and it does hereby waive notice of any change, extension of time, alteration or addition to the terms of the Contract, or contracts, or to the work, or to the Technical Specifications and Plans.

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this 12th day of February, 2013.


Attest:  
  
Secretary Steven R. Graves

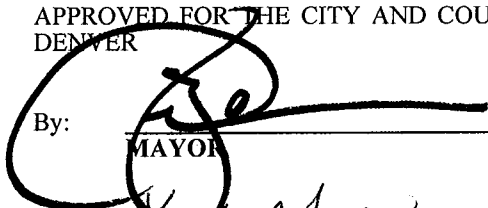
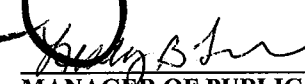
SEMA CONSTRUCTION, INC.  
Contractor  
By:   
Thomas C. Clark  
Title: Sr. Vice President

Fidelity and Deposit Company of Maryland  
Surety  
By:   
Attorney-In-Fact Angela M. Tindol

Zurich American Insurance Company  
Surety  
By:   
Attorney-In-Fact Angela M. Tindol

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond).

APPROVED AS TO FORM:  
Attorney for the City and County of Denver  
By:   
Assistant City Attorney

APPROVED FOR THE CITY AND COUNTY OF DENVER  
By:   
MAYOR  
By:   
MANAGER OF PUBLIC WORKS

**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by **JAMES M. CARROLL, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Mona D. WEAVER, John BROWNING, Anuj JAIN, Sheila J MONTOYA, Charles M. MCDANIEL and Angela M. TINDOL, all of Denver, Colorado, EACH** its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 20th day of July, A.D. 2012.

**ATTEST:**

**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



*Gerald F. Haley*

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

*Assistant Secretary  
Gerald F. Haley*

*James M. Carroll*

*Vice President  
James M. Carroll*

State of Maryland  
City of Baltimore

On this 20th day of July, A.D. 2012, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **JAMES M. CARROLL, Vice President, and GERALD F. HALEY, Assistant Secretary**, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

*Constance A. Dunn*

\_\_\_\_\_  
Constance A. Dunn, Notary Public  
My Commission Expires: July 14, 2015



**EXTRACT FROM BY-LAWS OF THE COMPANIES**

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

**CERTIFICATE**

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 12 day of FEBRUARY, 2013.



*Geoffrey Delisio*

Geoffrey Delisio, Vice President





**PERFORMANCE AND PAYMENT BOND  
SURETY AUTHORIZATION**

FAX NUMBER: 720-913-3183  
TELEPHONE NUMBER: 720-913-3267

Assistant City Attorney  
201 W. Colfax Ave. Dept 1207  
Denver, Colorado 80202

RE: SEMA Construction, Inc.

Contract No: 201309616  
Project Name: PEORIA CROSSING  
Contract Amount: \$21,712,518.89  
Performance and Payment Bond No.: 09107391

Dear Assistant City Attorney,

The Performance and Payment Bonds covering the above captioned project were executed by this agency, through Fidelity and Deposit Company of Maryland and Zurich American Insurance Company, on January 28, 2013.

We hereby authorize the City and County of Denver, Department of Public Works, to date all bonds and powers of attorney to coincide with the date of the contract.

If you should have any additional questions or concerns, please don't hesitate to give me a call at 303-414-6427.

Thank you.

Sincerely,

Lockton Companies, LLC

  
Angela M. Tindol,  
Surety Account Manager

Exhibit E  
Insurance Certificates



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/8/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(les) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Lockton Companies, LLC Denver 8110 E. Union Avenue Suite 700 Denver CO 80237 (303) 414-6000	<b>CONTACT NAME:</b> _____	
	<b>PHONE (A/C No, Ext):</b> _____	<b>FAX (A/C, No):</b> _____
<b>E-MAIL ADDRESS:</b> _____		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A:</b> National Union Fire Ins Co Pittsburgh PA		19445
<b>INSURER B:</b> Great American Insurance Company		16691
<b>INSURER C:</b> Travelers Property Casualty Co of America		25674
<b>INSURER D:</b>		
<b>INSURER E:</b>		
<b>INSURER F:</b>		

**COVERAGES** SEMCO02      **CERTIFICATE NUMBER:** 12145769      **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <hr/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX DAMAGE TO RENTED PREMISES (Ea occurrence) \$ XXXXXXXX MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ XXXXXXXX GENERAL AGGREGATE \$ XXXXXXXX PRODUCTS - COMP/OP AGG \$ XXXXXXXX \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			NOT APPLICABLE			COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y	Y	BE23465106	4/1/2012	4/1/2013	EACH OCCURRENCE \$ 28,000,000 AGGREGATE \$ 28,000,000 \$ XXXXXXXX
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N	NOT APPLICABLE			<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
B	Professional Liab	Y	N	PCE211132302	4/1/2012	4/1/2013	\$2,000,000 occ/\$5,000,000 agg
C	Pollution Liab			QT6609C597779	2/7/2013	12/31/2014	\$5,000,000 Limit: \$21,712,581
	Builders Risk						

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)**

RE: Peoria Crossing. Contract No. 201309616. The City of Aurora, RTD and the City and County of Denver, its elected and appointed officials, employees and volunteers are included as Additional Insureds with regard to the Umbrella Liability and Contractor's Pollution Liability.

## CERTIFICATE HOLDER

12145769

City and County of Denver  
 Department of Public Works  
 201 West Colfax, Dept 511  
 Denver CO 80202

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Charles M McDaniel*



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
02/07/2013

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> MARSH USA, INC. 600 RENAISSANCE CENTER, SUITE 2100 DETROIT, MI 48243 Attn: RAFFLES Fax (313) 393-6950 00177 -00177-RAF-12-13	<b>CONTACT NAME:</b> PHONE (A/C, No. Ext): E-MAIL ADDRESS:		<b>FAX (A/C, No):</b>
	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> SEMA CONSTRUCTION, INC. 7353 S. EAGLE STREET CENTENNIAL, CO 80112-4223	<b>INSURER A:</b> American Zurich Insurance Co.		
	<b>INSURER B:</b> Valiant Insurance Company		26611
	<b>INSURER C:</b> Zurich American Insurance Company		16535
	<b>INSURER D:</b>		
	<b>INSURER E:</b>		
	<b>INSURER F:</b>		

**COVERAGES**                      **CERTIFICATE NUMBER:** CHI-004625806-02                      **REVISION NUMBER:** 2

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
C	GENERAL LIABILITY	X	X	GLO3486335	04/01/2012	04/01/2013	EACH OCCURRENCE	\$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC							DAMAGE TO RENTED PREMISES (Ea occurrence) \$
C	AUTOMOBILE LIABILITY	X	X	BAP3486333	04/01/2012	04/01/2013	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
	<input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS						BODILY INJURY (Per person) \$	
B	UMBRELLA LIAB			NY-EX-000007805	04/01/2012	04/01/2013	EACH OCCURRENCE	\$ 1,000,000
	<input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$ <input type="checkbox"/> CLAIMS-MADE						AGGREGATE	\$ 1,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		X	WC3486331	04/01/2012	04/01/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N      N/A						E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)**

Contract No. 201309616.  
The City of Aurora, RTD and the City and County of Denver, its elected and appointed officials, employees and volunteers are named as additional insureds with regard to the Commercial General and Auto Liability policies.

**CERTIFICATE HOLDER**                      **CANCELLATION**

City and County of Denver  
Department of Public Works  
201 W Colfax Avenue, Dept. 511  
Denver, CO 80202

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.**


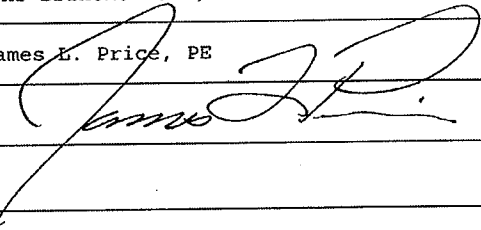
AUTHORIZED REPRESENTATIVE  
of Marsh USA Inc.  
John C Hurley

Exhibit F  
DBE Commitment Documents  
Letters of Intent (Design)  
Compliance Plan (Construction)



CITY AND COUNTY OF DENVER, COLORADO  
 PCO Tracking Number: PWC2011-8004  
 CDOT Project No.: STU C010-108 (subaccount 18529)  
 REQUEST FOR PROPOSAL  
 September 25, 2012


**Commitment to DBE Participation**

 <b>DENVER</b> <small>THE MILE HIGH CITY</small>	<h2 style="margin: 0;">COMMITMENT TO DBE PARTICIPATION</h2>	<small>Office of Economic Development          Division of Small Business Opportunity  <b>Compliance Unit</b>          201 West Colfax Avenue, Dept. 907          Denver, CO 80202          Phone: 720-913-1999          Fax: 720-913-1693          DSBO@denvergov.org</small>
<p><b>The undersigned has satisfied the DBE participant requirements in the following manner (Please check the appropriate box):</b></p>		
<p><input checked="" type="checkbox"/> The Bidder/Proposer is committed to a minimum of <u>15</u> % <b>DBE</b> utilization on the project, and will submit Letters of Intent (LOI) for each subcontractor/subconsultant listed in the Bid Forms as follows:  <u>Hard Bids: Five (5) business days after the bid opening</u>  <u>Request for Proposals: With the proposal when due</u></p>		
<p><input type="checkbox"/> The Bidder/Proposer is unable to meet the project goal of _____ % <b>DBE</b>, but is committed to a minimum of _____ % <b>DBE</b> utilization on the project. The Bidder/Proposer understands that they must submit a detailed statement of their good faith effort in accordance with DRMC Section 28-62 and 28-67 of Ordinance 760 and must submit Letters of Intent for each <b>DBE</b> listed in the Bid Forms, within five (5) business days after the bid opening or at time proposal is submitted.</p>		
<p><input type="checkbox"/> The Bidder/Proposer is a certified <b>DBE</b> in good standing with the City and is committed to self-perform a minimum of _____ % of the work on the contract.</p>		
<p>Bidder/Proposer (Name of Firm): Parsons Brinckerhoff, Inc.</p>		
<p>Firm's Representative (Please print): James E. Price, PE</p>		
<p>Signature (Firm's Representative): </p>		
<p>Title: Area Manager/Vice President</p>		
<p>Address: 555 17th Street, Suite 500</p>		
City: Denver	State: CO	Zip: 80202
Phone: (303) 832-9091	Fax: (303) 728-1936	Email: Priceja@pbworld.com
<p><b>A copy of the DBE Certification <u>must</u> be attached.</b></p>		



CITY AND COUNTY OF DENVER, COLORADO  
 PCO Tracking Number: PWC2011-8004  
 CDOT Project No.: STU C010-108 (subaccount 18529)  
 REQUEST FOR PROPOSAL  
 September 25, 2012

**Proposed DBE Subconsultants**

 <b>DENVER</b> THE MILE HIGH CITY		<b>List of Proposed DBE Subconsultants</b>		Office of Economic Development Division of Small Business Opportunity Compliance Unit 201 West Colfax Avenue, Dept. 907 Denver, CO 80202 Phone: 720-913-1999 Fax: 720-913-1803 DSBO@denvergov.org	
City and County of Denver Contract No.: <u>PWC2011-8004</u>					
The undersigned Proposer proposes to utilize the following DBE's for the Peoria Crossing Design/Build project. All listed firms are <b>CURRENTLY</b> certified by the CDOT or the City and County of Denver. Only the level of DBE participation listed at the proposal submission will count toward satisfaction of the recommended project goal. DBE prime proposer must detail their percent participation information below. Please copy and attach this page to list additional DBE's.					
Address: 555 17th Street, Suite 500, Denver, CO 80202			Contact Person: James L. Price,		
Type of Service: Engineering Consulting Services			Dollar Amount: \$: n/a	Percent of Project: 85%	
<b>DBE/Prime Proposer</b>					
Business Name: n/a					
Address:			Contact Person:		
Type of Service:			Dollar Amount: \$:	Percent of Project:	
<b>DBE- Subconsultants</b>					
x	Subconsultant				
Business Name: 105 West, Inc.					
Address: 14996 E WagonTrail Dr, Aurora, CO 80015			Type of Service: land surveying		
Contact Person: Robert Maestas, PLS			Dollar Amount: \$: n/a	Percent of Project: 1%	
x	Subconsultant				
Business Name: Clanton and Associates, Inc.					
Address: 4699 Nautilus Ct. So., #102, Boulder, CO 80301			Type of Service: electrical engineering services		
Contact Person: Nancy Clanton, PE			Dollar Amount: \$: n/a	Percent of Project: 1%	
x	Subconsultant				
Business Name: San Engineering, LLC					
Address: 6099 S. Windemere Street, Littleton, CO 80120			Type of Service: civil engineering services and drafting services		
Contact Person: Eduardo San, PE			Dollar Amount: \$: n/a	Percent of Project: 6.5%	



CITY AND COUNTY OF DENVER, COLORADO  
 PCO Tracking Number: PWC2011-8004  
 CDOT Project No.: STU C010-108 (subaccount 18529)  
 REQUEST FOR PROPOSAL  
 September 25, 2012


Subconsultants			
x	Subconsultant		
Business Name: Stolfus & Associates, Inc.			
Address: 5690 DTC Blvd, Suite 101W, Greenwood Village, CO 80111		Type of Service: traffic engineering consulting services	
Contact Person: Matt Brown, PE		Dollar Amount: \$: n/a	Percent of Project: 3.5%
x	Subconsultant		
Business Name: Yeh & Associates, Inc.			
Address: 5700 E. Evans Ave., Denver, CO 80222		Type of Service: construction management, highway road, street and bridge	
Contact Person: Charlie MacKean, PE		Dollar Amount: \$: n/a	Percent of Project: 3%
	Subconsultant		
Business Name:			
Address:		Type of Service:	
Contact Person:		Dollar Amount: \$:	Percent of Project:
	Subconsultant		
Business Name:			
Address:		Type of Service:	
Contact Person:		Dollar Amount: \$:	Percent of Project:
	Subconsultant		
Business Name:			
Address:		Type of Service:	
Contact Person:		Dollar Amount: \$:	Percent of Project:
	Subconsultant		
Business Name:			
Address:		Type of Service:	
Contact Person:		Dollar Amount: \$:	Percent of Project:
	Subconsultant		
Business Name:			
Address:		Type of Service:	
Contact Person:		Dollar Amount: \$:	Percent of Project:

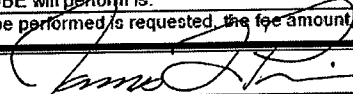
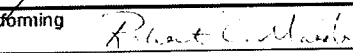




CITY AND COUNTY OF DENVER, COLORADO  
 PCO Tracking Number: PWC2011-8004  
 CDOT Project No.: STU C010-108 (subaccount 18529)  
 REQUEST FOR PROPOSAL  
 September 25, 2012

**Letter of Intent**

 <b>DENVER</b> <small>THE CITY BEHOLDERS</small> Office of Economic Development Division of Small Business Opportunity Compliance Unit 201 West Colfax Ave., Dept. 907 Denver, CO 80202 Phone: 720-913-1929 Fax: 720-913-1803	<b>LETTER OF INTENT (LOI)</b> <b>INSTRUCTIONS FOR COMPLETION &amp; SUBMISSION:</b>
	<ul style="list-style-type: none"> <li>All lines must be completed or marked N/A for Not Applicable</li> <li>Submit the attached completed checklist with this letter           <ul style="list-style-type: none"> <li>Email to <a href="mailto:debo@denvergov.org">debo@denvergov.org</a>, <b>OR</b></li> <li>Fax: 720-913-1803, <b>OR</b></li> <li>Hand-Delivery: Office Economic Dev. 1st Fl., "Business Assistance Center (BAC)"</li> </ul> </li> <li>FOR RFPs: LOIs should be submitted with Proposal.</li> </ul>

<b>Contract No.:</b> PWC2011-8004		<b>Project Name:</b> Design-Build Services for The Peoria Crossing	
<b>Design-Build Project</b>			
<b>A. The Following Section Is To Be Completed by the Bidder/Consultant</b> <b>This Letter of Intent Must be Signed by the Bidder/Consultant and M/WBE, SBE or DBE</b>			
<b>Name of Bidder/Consultant:</b> Parsons Brinckerhoff, Inc.		<b>Self-Performing:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Phone:</b> (303) 832-9091
<b>Contact Person:</b> James L. Price, PE		<b>Email:</b> priceja@pbworld.com	<b>Fax:</b> (303) 832-9096
<b>Address:</b> 555 17th Street, Suite 500		<b>City:</b> Denver	<b>State:</b> CO <b>Zip:</b> 80202
<b>B. The Following Section is To Be Completed by the M/WBE, SBE or DBE, at any Tier</b> <b>This Letter of Intent Must be Signed by the M/WBE, SBE or DBE and Bidder/Consultant</b>			
<b>Name of Certified Firm:</b> 105 West, Inc.			<b>Phone:</b> 303-859-4491
<b>Contact Person:</b> Robert C. Maestas		<b>Email:</b> rmaestas@105westinc.com	<b>Fax:</b> N/A
<b>Address:</b> 2140 S. Ivanhoe St., STE G5		<b>City:</b> Denver	<b>State:</b> CO <b>Zip:</b> 80222
<b>Please check the designation which applies to the certified firm.</b>	<input type="checkbox"/> MBE/WBE (-)	<input type="checkbox"/> SBE (-)	<input checked="" type="checkbox"/> DBE (-)
<b>Self-Performing (-)</b>			
<b>Indirect Utilization:</b> If this M/WBE, SBE or DBE is not a direct first tier subcontractor/subconsultant, supplier or broker to the Bidder/Consultant, please indicate the name of the subcontractor/subconsultant, supplier or broker which is utilizing the participation of this firm: N/A			
<b>A Copy of the M/WBE, SBE or DBE Letter of Certification must be Attached</b>			
Identify the scope of the work to be performed or supply item that will be provided by the M/WBE/SBE/DBE. <u>On unit price bids only, identify which bid line items the M/WBE/SBE/DBEs scope of work or supply corresponds to.</u>			
land surveying services			
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> Subcontractor/Subconsultant (v)	<input type="checkbox"/> Supplier (v)	<input type="checkbox"/> Broker (v)
<b>Bidder</b> intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The cost of the work and percentage of the total subcontractor M/WBE, SBE or DBE bid amount is:		\$ N/A N/A%	
<b>Consultant</b> intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The percentage of the work of the total subconsultant M/WBE, SBE or DBE will perform is:		1 %	
If the fee amount of the work to be performed/s requested, the fee amount is:		\$ N/A	
<b>Bidder/Consultant's Signature:</b> 			<b>Date:</b> December 7, 2012
<b>Title:</b> Area Manager/Vice President			
<b>M/WBE, SBE or DBE or Self-Performing Firm's Signature:</b> 			<b>Date:</b> November 13, 2012
<b>Title:</b> Director			
If the above named Bidder/Consultant is not determined to be the successful Bidder/Consultant, this Letter of Intent shall be null and void.			

# 105 WEST, INCORPORATED

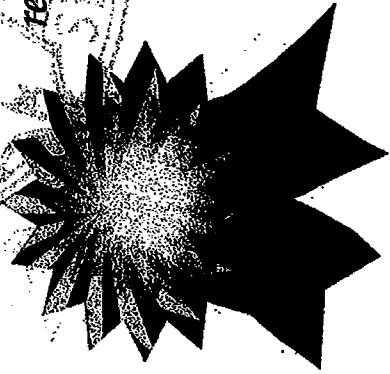
## Certification #8631

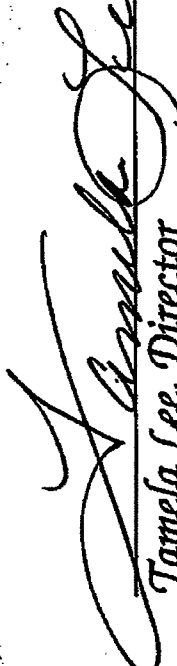
*Is hereby certified as a Disadvantaged Business Enterprise pursuant to U.S. Department of Transportation DBE regulations found at 49 CFR, Parts 23 and 26 and administered by Colorado's UCP.*

Work Codes  
**41600 Land Surveyors**

Certification Date: July 7, 2011 – July 6, 2013

*This certification expires on the aforementioned date. A new certificate will be issued ending every 3rd year, upon successfully meeting annual renewal requirements.*



  
\_\_\_\_\_  
Date July 7, 2011

Date


Tamela Lee, Director

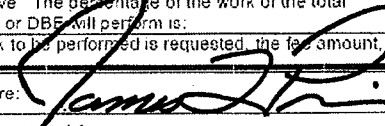
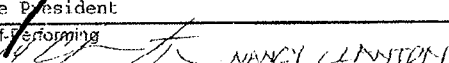
UCP Partner at City and County of Denver



CITY AND COUNTY OF DENVER, COLORADO  
 PCO Tracking Number: PWC2011-8004  
 CDOT Project No.: STU C010-108 (subaccount 18529)  
 REQUEST FOR PROPOSAL  
 September 25, 2012

**Letter of Intent**

 <b>DENVER</b> <small>THE MILE HIGH CITY</small> Office of Economic Development Division of Small Business Opportunity Compliance Unit 201 West Co-fax Ave., Dept 907 Denver CO 80202 Phone 720-913-1999 Fax 720-213-1303	<b>LETTER OF INTENT (LOI)</b> <b>INSTRUCTIONS FOR COMPLETION &amp; SUBMISSION:</b>
	<ul style="list-style-type: none"> <li>All lines must be completed or marked N/A for Not Applicable</li> <li>Submit the attached completed checklist with this letter           <ul style="list-style-type: none"> <li>Email to <a href="mailto:dsbo@denvergov.org">dsbo@denvergov.org</a> OR</li> <li>Fax: 720-913-1903 OR</li> <li>Hand-Delivery: Office Economic Dev. 1st Fl. Business Assistance Center (BAC)</li> </ul> </li> <li>FOR RFPs, LOIs should be submitted with Proposal</li> </ul>

Contract No.: PWC2011-8004		Project Name: Design-Build Services for The Peoria Crossing Design-Build Project					
<b>A. The Following Section Is To Be Completed by the Bidder/Consultant</b> <b>This Letter of Intent Must be Signed by the Bidder/Consultant and M/WBE, SBE or DBE</b>							
Name of Bidder/Consultant: Parsons Brinckerhoff, Inc.				Self-Performing: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Phone (303) 832-9091	
Contact Person: James L. Price, PE			Email: priceja@pbworld.com		Fax: (303) 832-9096		
Address: 555 17th Street, Suite 500			City: Denver		State: CO	Zip: 80202	
<b>B. The Following Section is To Be Completed by the M/WBE, SBE or DBE, at any Tier</b> <b>This Letter of Intent Must be Signed by the M/WBE, SBE or DBE and Bidder/Consultant</b>							
Name of Certified Firm: Clanton and Associates, Inc.				Phone: 303-530-7229			
Contact Person: Nancy Clanton			Email: nancy@clantonassociates.com		Fax: 303-530-7229		
Address: 4699 Nautilus Ct. So. #102			City: Boulder		State: CO	Zip: 80301	
Please check the designation which applies to the certified firm.				M/WBE ( )	SBE ( )	DBE ( )	Self-Performing ( )
Indirect Utilization: If this M/WBE, SBE or DBE is not a direct first tier subcontractor/subconsultant, supplier or broker to the Bidder/Consultant, please indicate the name of the subcontractor/subconsultant, supplier or broker which is utilizing the participation of this firm: N/A							
<b>A Copy of the M/WBE, SBE or DBE Letter of Certification must be Attached</b>							
Identify the scope of the work to be performed or supply item that will be provided by the M/WBE/SBE/DBE. On unit price bids only, identify which bid line items the M/WBE/SBE/DBE's scope of work or supply corresponds to.							
electrical engineering services							
X	Subcontractor/Subconsultant (v)		Supplier (v)		Broker (v)		
Bidder intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The cost of the work and percentage of the total subcontractor M/WBE, SBE or DBE bid amount is:							
\$ N/A				N/A%			
Consultant intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The percentage of the work of the total subconsultant M/WBE, SBE or DBE will perform is:							
1 %							
If the fee amount of the work to be performed is requested, the fee amount is:							
\$ N/A							
Bidder/Consultant's Signature: 					Date: December 7, 2012		
Title: Area Manager/Vice President							
M/WBE, SBE or DBE or Self-Performing Firm's Signature: 					Date: November 28, 2012		
Title: President							
If the above named Bidder/Consultant is not determined to be the successful Bidder/Consultant, this Letter of Intent shall be null and void.							

**Clanton Engineering, Inc. DBA Clanton and Associates, Inc.  
Certification #7158**

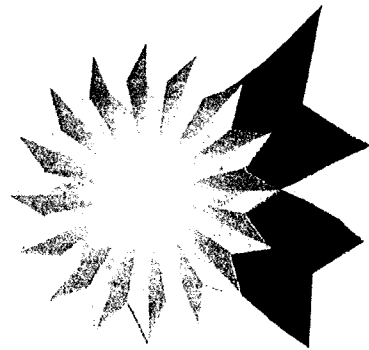
*Is hereby certified as a Disadvantaged Business Enterprise pursuant to U.S. Department of Transportation DBE regulations found at 49 CFR, Parts 23 and 26 and administered by Colorado's UCP.*

**Work Codes**

**CO UCP-406: Engineering-Electrical**

**Certification Date: DBE October 21, 2010 – November 30, 2013**

*This certification expires on the 30<sup>th</sup> day of November 2013. A new certificate will be issued ending every 3rd year, upon successfully meeting annual renewal requirements.*



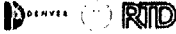
*Chris Martinez*

**Chris Martinez, Director**

**UCP Partner at City and County of Denver**

**12/02/2011**

**Date**



CITY AND COUNTY OF DENVER, COLORADO  
 PCO Tracking Number: PWC2011-8004  
 CDOT Project No.: STU C010-108 (subaccount 18529)  
 REQUEST FOR PROPOSAL  
 September 25, 2012

**Letter of Intent**

**DENVER**  
THE MILE HIGH CITY  
 Office of Economic Development  
 Division of Small Business Opportunity  
 Compliance Unit  
 201 West Colfax Ave., Dept. 907  
 Denver, CO 80202  
 Phone: 720-913-1899 Fax: 720-913-1803

**LETTER OF INTENT (LOI)**  
**INSTRUCTIONS FOR COMPLETION & SUBMISSION:**

- All lines must be completed or marked N/A for Not Applicable
- Submit the attached completed checklist with this letter
  - Email to [dobo@denvergov.org](mailto:dobo@denvergov.org), **OR**
  - Fax: 720-913-1803, **OR**
  - Hand-Delivery: Office Economic Dev. 1st Fl., "Business Assistance Center (BAC)"
- FOR RFPs: LOIs should be submitted with Proposal.

Contract No.: PWC2011-8004		Project Name: Design-Build Services for The Peoria Crossing Design-Build Project	
<b>A. The Following Section is To Be Completed by the Bidder/Consultant</b> <b>This Letter of Intent Must be Signed by the Bidder/Consultant and M/WBE, SBE or DBE</b>			
Name of Bidder/Consultant: Parsons Brinckerhoff, Inc.		Self-Performing: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Phone: (303) 832-9091
Contact Person: James L. Price, PE		Email: <a href="mailto:priceja@pbworld.com">priceja@pbworld.com</a>	Fax: (303) 832-9096
Address: 555 17th Street, Suite 500		City: Denver	State: CO Zip: 80202
<b>B. The Following Section is To Be Completed by the M/WBE, SBE or DBE, at any Tier</b> <b>This Letter of Intent Must be Signed by the M/WBE, SBE or DBE and Bidder/Consultant</b>			
Name of Certified Firm: San Engineering, LLC		Phone: 303.953.9014	
Contact Person: Eduardo San		Email: <a href="mailto:Eduardo@sancivil.com">Eduardo@sancivil.com</a>	Fax: 303.953.9016
Address: 6099 S. Windermere St.		City: Littleton	State: co Zip: 80120
Please check the designation which applies to the certified firm.		<input checked="" type="checkbox"/> MBE/WBE (✓)	<input checked="" type="checkbox"/> SBE (✓) <input checked="" type="checkbox"/> DBE (✓) <input type="checkbox"/> Self-Performing (✓)
Indirect Utilization: If this M/WBE, SBE or DBE is not a direct first tier subcontractor/subconsultant, supplier or broker to the Bidder/ Consultant, please indicate the name of the subcontractor/subconsultant, supplier or broker which is utilizing the participation of this firm: N/A			
<b>A Copy of the M/WBE, SBE or DBE Letter of Certification must be Attached</b>			
Identify the scope of the work to be performed or supply item that will be provided by the M/WBE/SBE/DBE. <b>On unit price bids only, identify which bid line items the M/WBE/SBE/DBEs scope of work or supply corresponds to.</b>			
civil engineering services, drafting services			
<input checked="" type="checkbox"/>	Subcontractor/Subconsultant (✓)	<input type="checkbox"/>	Supplier (✓) <input type="checkbox"/>
		<input type="checkbox"/>	Broker (✓)
Bidder intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The cost of the work and percentage of the total subcontractor M/WBE, SBE or DBE bid amount is:			
\$ N/A		N/A%	
Consultant intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The percentage of the work of the total subconsultant M/WBE, SBE or DBE will perform is:			
		6.5 %	
If the fee amount of the work to be performed is requested, the fee amount, is:			
		\$ N/A	
Bidder/Consultant's Signature:		Date: December 7, 2012	
Title: Area Manager/Vice President			
M/WBE, SBE or DBE or Self-Performing Firm's Signature:		Date: December 7, 2012	
Title: Managing Member			
If the above named Bidder/Consultant is not determined to be the successful Bidder/Consultant, this Letter of Intent shall be null and void.			



**DENVER**  
THE MILE HIGH CITY

August 31, 2011

Eduardo San  
San Engineering, LLC  
6099 S. Windemere St  
Littleton, CO 80120

Dear Eduardo San:

The Division of Small Business Opportunity is pleased to inform you that San Engineering, LLC is certified as a Disadvantaged Business Enterprise (DBE) pursuant to the US Department of Transportation's Regulation 49 CFR Part 26. San Engineering, LLC is eligible to participate as a DBE on US Department of Transportation financially-assisted projects in Colorado in the work categories listed on the enclosed attachment. Your firm will be included on the Colorado Unified Certification Program's (UCP) on-line directory of eligible DBE's. You can access the directory at [www.dot.state.co.us/app\\_ucp/](http://www.dot.state.co.us/app_ucp/).

**Certification Number: 7648**

**Annual Update Due: August 3, 2012**

This certification is valid through August 3, 2013 but must be updated annually prior to the anniversary of the certification date. A reminder with instructions will be sent the month prior to your annual due date. If you do not receive the reminder, it is your responsibility to request a Change Affidavit from this office. The annual updates are necessary to ensure no interruption in your firm's DBE eligibility. If any change occurs in the firm's legal structure, ownership, management, control, or work performed, you must notify the Division of Small Business Opportunity immediately.

The State of Colorado's UCP partners wish you great success in all your business endeavors.

Sincerely,

Tamela Lee  
Director

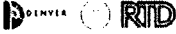
Enclosure: Certificate

(MW)


**Office of Economic Development**  
Division of Small Business Opportunity

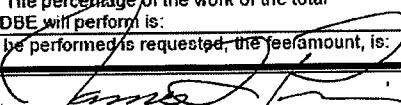
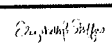
201 W. Coifax Ave. Dept 907  
Denver, CO 80202  
p: 720.913.1999  
f: 720.913.1809  
[www.milehigh.com](http://www.milehigh.com)

Denver International Airport  
Airport Office Building, Suite 7810  
8500 Peña Boulevard  
Denver, CO 80249-6340  
p: 303.342.2180  
f: 303.342.2190  
[www.flydenver.com](http://www.flydenver.com)



**Letter of Intent**

 <b>DENVER</b> <small>THE MILE HIGH CITY</small> Office of Economic Development Division of Small Business Opportunity Compliance Unit 201 West Colfax Ave., Dept. 907 Denver, CO 80202 Phone: 720-913-1629 Fax: 720-913-1803	<p align="center"><b>LETTER OF INTENT (LOI)</b></p> <p align="center"><b>INSTRUCTIONS FOR COMPLETION &amp; SUBMISSION:</b></p> <ul style="list-style-type: none"> <li>All lines must be completed or marked N/A for Not Applicable</li> <li>Submit the attached completed checklist with this letter           <ul style="list-style-type: none"> <li>Email to <a href="mailto:dsbo@denvergov.org">dsbo@denvergov.org</a>, OR</li> <li>Fax: 720-913-1803, OR</li> <li>Hand-Delivery: Office Economic Dev. 1st Fl., "Business Assistance Center (BAC)"</li> </ul> </li> <li>FOR RFPs: LOIs should be submitted with Proposal.</li> </ul>
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Contract No.: PWC2011-8004		Project Name: Design-Build Services for The Peoria Crossing	
Project Name: Design-Build Project			
<b>A. The Following Section Is To Be Completed by the Bidder/Consultant</b> <b>This Letter of Intent Must be Signed by the Bidder/Consultant and M/WBE, SBE or DBE</b>			
Name of Bidder/Consultant: Parsons Brinckerhoff, Inc.		Self-Performing: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Phone: (303) 832-9091
Contact Person: James L. Price, PE		Email: priceja@pbworld.com	Fax: (303) 832-9096
Address: 555 17th Street, Suite 500		City: Denver	State: CO Zip: 80202
<b>B. The Following Section is To Be Completed by the M/WBE, SBE or DBE, at any Tier</b> <b>This Letter of Intent Must be Signed by the M/WBE, SBE or DBE and Bidder/Consultant</b>			
Name of Certified Firm: Stolfus & Associates, Inc.		Phone: 303-221-2330	
Contact Person: Elizabeth Stolfus		Email: elizabeth@stolfusandassociates.com	Fax: 303-221-2331
Address: 5690 DTC Blvd, Suite 101W		City: Greenwood Village	State: CO Zip: 80111
Please check the designation which applies to the certified firm.		<input type="checkbox"/> MBE/WBE (-) <input type="checkbox"/> SBE (-) <input checked="" type="checkbox"/> DBE (-) <input type="checkbox"/> Self-Performing (-)	
Indirect Utilization: If this M/WBE, SBE or DBE is not a direct first tier subcontractor/subconsultant, supplier or broker to the Bidder/Consultant, please indicate the name of the subcontractor/subconsultant, supplier or broker which is utilizing the participation of this firm: N/A			
<b>A Copy of the M/WBE, SBE or DBE Letter of Certification must be Attached</b>			
Identify the scope of the work to be performed or supply item that will be provided by the M/WBE/SBE/DBE. <b>On unit price bids only, identify which bid line items the M/WBE/SBE/DBEs scope of work or supply corresponds to.</b>			
traffic engineering consulting services			
<input checked="" type="checkbox"/>	Subcontractor/Subconsultant (√)	<input type="checkbox"/>	Supplier (√)
<input type="checkbox"/>		<input type="checkbox"/>	Broker (√)
Bidder intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The cost of the work and percentage of the total subcontractor M/WBE, SBE or DBE bid amount is:		\$ N/A N/A%	
Consultant intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The percentage of the work of the total subconsultant M/WBE, SBE or DBE will perform is:		3.5 %	
If the fee amount of the work to be performed is requested, the fee/amount, is:		\$ N/A	
Bidder/Consultant's Signature: 		Date: December 7, 2012	
Title: Area Manager/Vice President			
M/WBE, SBE or DBE or Self-Performing Firm's Signature: 		Date: November 19, 2012	
Title: president			
If the above named Bidder/Consultant is not determined to be the successful Bidder/Consultant, this Letter of Intent shall be null and void.			

**Stolfus & Associates, Inc.**  
**Certification #8383**

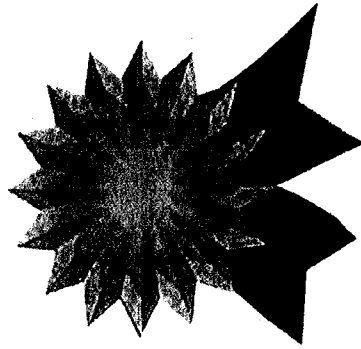
*Is hereby certified as a Disadvantaged Business Enterprise pursuant to U.S. Department of Transportation DBE regulations found at 49 CFR, Parts 23 and 26 and administered by Colorado's UCP.*

**Work Codes**

Denver-405: Engineering-Civil  
Denver-412: Engineering-Roadway Design  
Denver-414: Engineering-Transportation

Certification Date: DBE February 24, 2011 - February 23, 2013

*This certification expires on the 24<sup>th</sup> day of February 2013. A new certificate will be issued ending every 3<sup>rd</sup> year, upon successfully meeting annual renewal requirements.*



  
\_\_\_\_\_  
Tamela Lee, Director  
UCP Partner at City and County of Denver

02/25/11  
Date





CITY AND COUNTY OF DENVER, COLORADO  
 PCO Tracking Number: PWC2011-8004  
 CDOT Project No.: STU C010-108 (subaccount 18529)  
 REQUEST FOR PROPOSAL  
 September 25, 2012

**Letter of Intent**

<p><b>DENVER</b>  <small>THE BLUE ROCK CITY</small>        Office of Economic Development        Division of Small Business Opportunity        Compliance Unit        201 West Colfax Ave., Dept 907        Denver, CO 80202        Phone: 720-913-1622 Fax: 720-913-1803</p>	<p align="center"><b>LETTER OF INTENT (LOI)</b>  <b>INSTRUCTIONS FOR COMPLETION &amp; SUBMISSION:</b></p> <ul style="list-style-type: none"> <li>All lines must be completed or marked N/A for Not Applicable</li> <li>Submit the attached completed checklist with this letter           <ul style="list-style-type: none"> <li>Email to <a href="mailto:dsbo@denvergov.org">dsbo@denvergov.org</a>, OR</li> <li>Fax: 720-913-1803, OR</li> <li>Hand-Delivery: Office Economic Dev 1st Fl., "Business Assistance Center (BAC)"</li> </ul> </li> <li>FOR RFPs: LOIs should be submitted with Proposal.</li> </ul>
---	---

Contract No.: PWC2011-8004	Project Name: Design-Build Services for The Peoria Crossing Design-Build Project		
<b>A. The Following Section is To Be Completed by the Bidder/Consultant</b> <b>This Letter of Intent Must be Signed by the Bidder/Consultant and M/WBE, SBE or DBE</b>			
Name of Bidder/Consultant: Parsons Brinckerhoff, Inc.	Self-Performing: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Phone: (303) 832-9091	
Contact Person: James L. Price, PE	Email: priceja@pbworld.com	Fax: (303) 832-9096	
Address: 555 17th Street, Suite 500	City: Denver	State: CO	Zip: 80202
<b>B. The Following Section is To Be Completed by the M/WBE, SBE or DBE, at any Tier</b> <b>This Letter of Intent Must be Signed by the M/WBE, SBE or DBE and Bidder/Consultant</b>			
Name of Certified Firm: Yeh and Associates, Inc.	Phone: (303) 781-9590		
Contact Person: Shan-Tai Yeh	Email: styeh@yeh-eng.com	Fax: (303) 781-9583	
Address: 5700 E. Evans Ave.	City: Denver	State: CO	Zip: 80222
Please check the designation which applies to the certified firm.	<input checked="" type="checkbox"/> MBE/WBE (✓)	<input checked="" type="checkbox"/> SBE (✓)	<input checked="" type="checkbox"/> DBE (✓) <input type="checkbox"/> Self-Performing (✓)
Indirect Utilization: If this M/WBE, SBE or DBE is not a direct first tier subcontractor/subconsultant, supplier or broker to the Bidder/Consultant, please indicate the name of the subcontractor/subconsultant, supplier or broker which is utilizing the participation of this firm: <u>N/A</u>			
<b>A Copy of the M/WBE, SBE or DBE Letter of Certification must be Attached</b>			
Identify the scope of the work to be performed or supply item that will be provided by the M/WBE/SBE/DBE. <u>On unit price bids only, identify which bid line items the M/WBE/SBE/DBEs scope of work or supply corresponds to.</u>			
construction management, highway, road, street and bridge			
<input checked="" type="checkbox"/>	Subcontractor/Subconsultant (✓)	<input type="checkbox"/>	Supplier (✓)
<input type="checkbox"/>		<input type="checkbox"/>	Broker (✓)
Bidder intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The cost of the work and percentage of the total subcontractor M/WBE, SBE or DBE bid amount is:			
\$ N/A	N/A%		
Consultant intends to utilize the aforementioned M/WBE, SBE or DBE for the Work/Supply described above. The percentage of the work of the total subcontractor M/WBE, SBE or DBE will perform is:			
	3 %		
If the fee amount of the work to be performed is requested, the fee amount is:			
	\$ N/A		
Bidder/Consultant's Signature:			Date: December 7, 2012
Title: Area Manager/Vice President			
M/WBE, SBE or DBE or Self-Performing Firm's Signature:			Date: December 7, 2012
Title: President			
If the above named Bidder/Consultant is not determined to be the successful Bidder/Consultant, this Letter of Intent shall be null and void.			

**Yeh & Associates, Inc.  
Certification #7513**

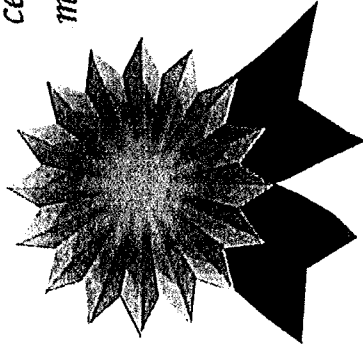
*Is hereby certified as a Disadvantaged Business Enterprise pursuant to U.S. Department of Transportation DBE regulations found at 49 CFR, Parts 23 and 26 and administered by Colorado's UCP.*


*Work Codes*

- Denver-401: Construction Management and Related Services
- Denver-418: Soils Testing
- Denver-42007: Quality Control Services
- Denver-50103: Consulting
- Denver-503: Environmental/Hazmat
- Denver-50301: Environmental Impact Services
- Denver-50305: Materials Testing

*Certification Date: DBE January 7, 2010 – February 23, 2013*

*This certification expires on the 24<sup>th</sup> day of February 2013. A new certificate will be issued ending every 3rd year, upon successfully meeting annual renewal requirements.*



  
\_\_\_\_\_  
Date 04/07/11

*Tamela Lee, Director  
UCP Partner at City and County of Denver*



**DENVER**  
THE MILE HIGH CITY

**Office of Economic Development**  
Division of Small Business Opportunity  
201 W. Colfax Ave, Dept 907  
Denver, CO 80202  
p: 720.913.1999  
f: 720.913.1803  
www.milehigh.com

Denver International Airport  
Airport Office Building, Suite 7810  
8500 Peña Boulevard  
Denver, CO 80249-6340  
p: 303.342.2180  
f: 303.342.2190  
www.flydenver.com

February 11, 2013

Larry Walsh  
SEMA Construction, Inc.  
7353 S. Eagle St.  
Centennial, CO 80112

**Re: Compliance Plan for Construction Services on Peoria Crossing Design-Build Project**

Dear Mr. Walsh:

The Division of Small Business Opportunity (DSBO) has reviewed the Compliance Plan submitted by SEMA Construction, Inc. on the above referenced project and has determined that this plan complies with the requirements of 49 CFR 26, the local Ordinance and all Rules and Regulations and is consistent with the scope and intent of 49 CFR 26.

Therefore, DSBO approves the Compliance Plan submitted by SEMA Construction for the contract and the commitment to meet or exceed the 15% DBE goal on the total contract for the Peoria Crossing Project.

Please contact Jessica Encinias, Management Analyst II on this project, with any documentation, questions or concerns.

Sincerely,

Chris Martinez, Director  
Division of Small Business Opportunity

Cc: Jessica Encinias, DSBO  
Bret Banwart, Public Works Engineer

**DIVISION OF SMALL BUSINESS OPPORTUNITY (DSBO)  
DBE GOALS PROGRAM  
COMPLIANCE PLAN REQUIREMENTS**

for

**SEMA Construction, Inc**

**CDOT Project No.: STU CO10-108 (18529)  
Denver Contract Control No.: PWC2011-8004**

**Design/Build Services for  
Peoria Crossing Design-Build Project**

**City and County of Denver  
Denver, Colorado**



**February 7, 2013**

# **SEMA Construction, Inc Compliance Plan**

## **Table of Contents**

<b>Section A.</b>	<b>Commitment to the DBE Goal Program</b>
<b>Section B</b>	<b>Key Personnel - Duties and Responsibilities</b>
<b>Section C</b>	<b>Community Outreach Efforts</b>
<b>Section D</b>	<b>Methodology for Structuring Bid Packages</b>
<b>Section E</b>	<b>Participation Counting Requirements</b>
<b>Section F</b>	<b>Compliance Reporting</b>
<b>Section G</b>	<b>Methodology for Dispute Resolutions</b>
<b>Section H</b>	<b>Sanctions and Remediation Plan</b>
<b>Section I</b>	<b>Methodology for Final Reconciliation</b>
<b>Attachment 1</b>	<b>Total Value of Construction Services Total Value of Professional Services</b>
<b>Attachment 2</b>	<b>Potential DBE Construction Services DBE Professional Services Commitment</b>
<b>Attachment 3</b>	<b>Subcontractor/Supplier Invitation to Bid</b>

## **A. Commitment to the DBE Goal Program**

SEMA Construction Company (SEMA), the negotiated Design/Build Contractor for the Peoria Crossing Design-Build Project (Project), has prepared this Compliance Plan, submitted pursuant to Section 3 of the City of Denver (City) Request for Proposal (RFP) for the Design Build Services dated September 25, 2012. These requirements are set forth by the US Department of Transportation (DOT) and the DOT DBE Regulations at 49 CFR Part 26 ("Part 26"). The RFP provided the Disadvantaged Business Enterprise Participation (DBE) goals for this project below:

### **DBE Construction Participation Goal – 15%**

As the above participation percentage is SEMA's goal, we endeavor to meet it. The Total Value of Construction Services (Attachment 1) from our Proposal Schedule of Values indicates our commitment to the DBE Construction Participation project goal which will be met through the construction process. The DBE Construction Participation will be met through the Potential DBE Construction Services (Attachment 2) showing the potential Workscopes or Bid Packages providing opportunities to DBE Subcontractors and Suppliers to participate in the Project. The actual dollar values and percentages will vary for each Bid Package, which will be dependent upon the final design, quantities and the quotations received. While the overall goal will be met, DBE participation may not be realized in the amounts shown in Attachment 2 for every bid package/workscope.

The Award of subcontracts to DBE firms will be based upon their competitive pricing, ability to provide quality products and installations, adhere to the project drawings and specifications while meeting the project schedule. In every fair, ethical, and practical manner, SEMA will provide assistance with the preparation of the required DSBO compliance reports to all firms, both DBE and non DBE firms requesting it.

SEMA is also committed to providing DBE Design Professional Services in the amount of 15% of the Design Services portion of our Design Build Contract. The commitment for meeting the 15% participation goal was provided with our Proposal of December 7<sup>th</sup> and will be overseen by Larry Warner of Parsons Brinckerhoff. The Total Value of Professional Services from the Schedule of Values and the commitment to DBE Design Professional Services is in Attachment 1.

## **B. Key Personnel - Duties and Responsibilities**

SEMA's Vice President, Larry Walsh, is responsible for the initial implementation of the project goals, including the following duties:

- Be the senior interface with the City throughout the Pre-construction process;
- Implement bid packages for workscopes in economically feasible units to meet project goals;
- Achieve the project percentage goals with bid solicitation from DBE subcontractors;
- Clarify the Scope of Work for all bidding trades;
- Utilize additional SEMA resources to successfully complete these responsibilities;
- Provide assistance to solicited Subcontractors and Suppliers for questions and answers during the pre-bidding process;
- Prepare a bid analysis of the subcontractor and supplier quotations received;
- Verify that all subcontractors are currently and properly certified with DSBO prior to contract (as described in "Section D-Bid Package Methodology").

Jessica Nuncio the Estimating Coordinator for SEMA is responsible for the community outreach efforts and oversees the outreach program. The Estimating Coordinator role is to assist the Vice President to insure maximization of the participation of DBE Subcontractors and Suppliers under the requirements of the contract documents and 49 CFR Part 26. A detailed list of those efforts is found in Section C. Community Outreach Efforts.

The Project Manager, Tom Saele, is responsible for the execution of the subcontractor contracts and completion of the work, including the following duties:

- Administer the subcontracts to the successful DBE and non DBE bidders;
- Maintain the appropriate records as required by the DSBO;
- Prepare monthly reports for submittal to the City to:
  - Summarize subcontracts issued and subcontractor/supplier activity

The Project Engineer, Charlie Bisbee is responsible for the collection and coordination of DSBO documentation and monthly reports for all subcontractors and suppliers on the project and reports to the Project Manager. These reports will be turned in by the 10<sup>th</sup> of each month for the preceding month.

### **C. Community Outreach Efforts**

Jessica Nuncio the Estimating Coordinator for SEMA is responsible for the community outreach efforts and oversees the outreach program. The following outreach efforts will be utilized to maximize our participation of DBE Construction Subcontractors and Suppliers. It is understood that steps taken in securing DBE participation will be compared to those in 49 CFR 26 Appendix A.

- Use the State of Colorado's Department of Transportation (CDOT) DBE Directory to identify firms in the workscopes indicated in Attachment 2 to meet the project goals.
- Encourage lower tier subcontractors and prospective lower tier bidders to use this directory in soliciting DBE subcontractors/suppliers.
- Alert Minority/Women's Community & Contractor Associations of the project opportunity.
- Assist any DBE with questions on submitting a quotation.
- Assist any DBE in preparing their bids or proposals, as required.
- Refer any firms potentially eligible to become a DBE to apply to DSBO or CDOT's certification process. Bids received from a firm in the process of being certified will not be counted toward the project goal unless such certification is received prior to subcontract.
- Inform firms of option to Joint Venture and/or bid less than the full scope of a line item (both as mentioned in Section D).  
Publish public Request for Proposal (RFP) notices via publications such as *The Daily Journal*, *Dodge Plan room*, *Bluebook*, *La Voz Nueva*, *Urban Spectrum* and the like to solicit potential minority and non-minority firms to furnish a quotation. A copy of this notice will be provided to DSBOs' Management Analyst II Jessica Encinias at [Jessica.Encinias@denvergov.org](mailto:Jessica.Encinias@denvergov.org)
- Solicit quotations through the use of direct contact with certified DBE Subcontractors and Suppliers from the State of Colorado's Department of Transportation (CDOT) DBE Directory via fax transmission and/or e-mail. A record of these transactions will be kept (an example RFP Notice is include in Attachment 3).
- DBE suppliers/subcontractors performing services under first and second tiered subcontractors will be provided with a bidders list to provide quotes to the appropriate tiered subcontractors.
- Minimum goals may be established for each workscope. Non DBE subcontractors may be required to meet minimum DBE goals for specific workscopes based on contract value to meet goals represented in Attachment 1. The minimum goals established by SEMA will be outlined in the subcontract signed by the subcontractor and used as a basis of award.

#### **D. Methodology for Structuring Bid Packages**

A list of subcontractors, both DBE and non DBE, will be generated for distribution of an Invitation to Bid on the Project. All DBE trades will be contacted via phone, email, or fax to ensure coverage in the trades anticipated, and to fulfill the project DBE percentage goal. The subcontractors will be encouraged to bid on the workscopes indicated on the attached Bid Package Summary (Attachment 2), which will follow the process below:

- Generate a list of bidders, both DBE and non DBE, to receive an Invitation to Bid (ITB).
- Generate bid packages, reflecting the standards of the construction industry.
- Issue a bid package to parties, both DBE and non DBE, responding to the previously mentioned

The timing of bid package solicitations will be determined in part by design. The entirety of any listed work scope / bid package is available for bid.

##### Invitation to Bid (ITB)

The ITB instructs all bidders to submit pricing in accordance with project drawings and specifications, including but not limited to: project schedule, phasing, safety issues, clarification & assumptions, and inclusion & exclusions.

- Bids received are compiled into a bid tab format which follows the workscopes indicated in Attachment 2.
- A Subcontractor selection is made based upon competitive pricing, completeness of scope, and utilization of DBE supplier and lower tier subcontractors.
- SEMA will verify that all subcontractors are currently certified with DSBO prior to contract.
- Letters of Intent will be submitted within 3 days of request, following bid tally and subcontractor notification.
- Desired DBE subcontractor list, with participation information to include Letters of Intent, to be submitted to DSBO for review within one week of completion of the above steps.

In the event a subcontractor does not have the capacity to complete a particular scope, SEMA may elect to accept quotes for partial or reduced scopes beyond those indicated in the Bid Package Summary in Attachment 2 based upon the subcontractors qualifications and abilities.

- Firms interested in Joint Venturing will be given/have access to the required forms and these forms will be submitted to DSBO for review no less than 10 business days prior to bid opening.

All solicitation requests will be made at least 10 days prior to when bid quotations are requested to be submitted to SEMA.

Plans and specifications will be made available to potential subcontractors and suppliers by one or more of the following methods at no cost to the vendor:

- Electronic Copies distributed via e-mail
- SEMA Construction office at 7353 S Eagle Street, Centennial Colorado



## E. Participation Counting Requirements

SEMA intends to subcontract work through a competitive bid process in an attempt to provide the best overall quality, value, safety, and DBE participation. This process will follow these general procurement steps:

- SEMA will report the DBE subcontractor selection to the DSBO for review and approval. For DBE firms, DSBO will determine the percentage of work to be counted and whether the firm is performing a commercially useful function. It is understood that SEMA is responsible for lowered tier participation requirements.
- DBE firm participation will be counted toward the DBE as indicated by the DSBO.
- In accordance with the RFP requirements, the subcontracted value and project percentages of DBE participation will be reported to the DSBO via the required DSBO Contractors Certification of Payment Form.
- Detailed in 49 CFR 26.55, the following highlights on counting are understood by SEMA and will be communicated to potential bidders:
  - DBE Subcontractors and manufacturers will count at 100%
  - DBE Suppliers (regular dealers) will count at 60% of the cost of the materials
  - DBE Brokers and manufacturer's representatives may count only their fees
  - Joint Ventures will count as the contract portion performed by the DBE's own forces—to be determined by DSBO review
  - Trucking:
    - Trucking materials on to a site will count transportation fees only, unless otherwise covered under 49CFR26.55
    - Trucking material off of a site will count at the 100% subcontractor rate if performed by a DBE
    - Truckers may be certified and counted in both manners listed above, and accurate records will need to be kept
  - Only the work actually performed by a DBE will count towards DBE goals; this also applies in subcontracting situations
  - Work performed by a firm not performing a commercially useful function shall not count towards the participation goal
  - DBE firms not performing at least 30% of the total cost of their contract through their own forces shall not be considered performing a commercially useful function
  - Only work performed by currently certified firms will count towards the goal

## F. Compliance Reporting

At all times throughout the project, SEMA intends to maintain the project DBE participation goals, calculated upon the total value of the Contract minus contingencies, force accounts and design fees, but including change orders. The original calculations are shown in Attachment 1. Contract goals will be met through direct cost items only, meaning the following are excluded: design fees and contingencies, Contractor's General Conditions, permits, bonds, insurance, indirect costs, overhead, fees, and force account items. Direct Cost of the work will include contingencies insofar as they are added by change order. The following documentation will be provided throughout the project duration to verify compliance with the project goals:

Issued for each respective Bid Package issued:

- Prime Contractor's Background Information Form, reissued as required by changes
- Schedule of Work Form

Issued for each subcontractor:

- DBE Letter of Intent as relevant
- Subcontractor Background Information Form, reissued as required by changes
- Change Orders - form to be submitted by SEMA for each respective order received
- EEO Questionnaire for all firms including SEMA

- Final Lien Release Forms

Issued Monthly: (due on the 10<sup>th</sup> of the month for the preceding month)

- Certification of Payment for Prime and any subcontractor using DBEs
- EEO Monthly Compliance Reports (Monthly Compliance Activity Report): beginning at contract setup, SEMA and all subcontractors are to enter employees' gender and ethnicity fields in the LCP Tracker system, which automatically tallies this report (Workforce Utilization Report) as wages are completed.
- B2G Compliance Database: Upon receiving notification from the City & County of Denver, the Project Manager, Tom Saele will update the B2G Compliance Database Audit List entering the payments made to certified DBE subcontractors within 30 days of receiving the notification that the B2G Compliance Database is ready for an update. The Project Manager will be responsible for insuring the B2G Compliance Database is maintained accurately and kept up to date on a monthly basis. Any discrepancies reported from any DBE subcontractors will be address upon notification from DSBO.

### **G. Methodology for Dispute Resolutions**

SEMA intends to handle any DBE and non DBE disputes on a case by case basis, typically done on all of SEMA's projects. All subcontractors are required by the subcontract to address all disputes through SEMA, and notify the DSBO of the dispute immediately. For the purposes of this project, disputes will be documented for report to the DSBO by the Project Manager, with a dispute resolution plan. Documentation will be issued to DSBO upon dispute resolution, filed complaint or claim, or results of disputes that are unable to be resolved. SEMA can request DSBO assistance in dispute resolution if desired. DSBO will notify SEMA of any complaints regarding a dispute are received.

### **H. Sanctions and Remediation Plan**

In compliance with the RFP, SEMA accepts the provisions set forth by the DSBO and DOT for failure to comply with the Compliance Plan, DBE rules and regulations, and parts of 28 D.R.M.C., a.k.a. the Ordinance, and its associated Rules and Regulations, insofar as incorporated by 49 CFR 26.53. It is understood such failure would result in sanctions. SEMA additionally acknowledges that any fraud taking place on the contract could result in the suspension or debarment of the involved firms in accordance with 49 CFR part 26.107.

In the event participation levels fall below the project assigned goal, SEMA will submit a DBE remediation plan to the DSBO immediately upon knowledge of the deficiency. The remediation plan will include proposed steps to ensure DBE participation rises to the project goals, using methods including, but not limited to: re-bidding specific scopes or the re-distribution of the division specific goals to increase the project total. Upon acceptance of such remediation plan, assigned level of DBE participation must be met for the remainder of the project.

SEMA will make every effort to reach the project goal, but will appeal sanctions if it is the determination of the DSBO director that sanctions be levied. SEMA and the DSBO will attempt to resolve any noncompliance issues prior to the levy of any sanctions.

As previously indicated, Attachment 2 indicates the potential for estimated participation for each work scope which in aggregate exceeds the project goal. SEMA will make every effort to establish and meet the project goals; however in order to achieve this goal, SEMA may modify the potential estimated participation for each workscope as participation allows.

### **I. Methodology for Final Reconciliation of DBE Participation**

Final lien releases will be provided by SEMA signed by all DBE 1st and lower tier subcontractors and suppliers, indicating all applicable parties have received payment for completed work. SEMA acknowledges failure to achieve final compliance could result in sanctions. SEMA additionally acknowledges the requirement that subcontractors on DBE jobs be released their retainage within 30 days of satisfactory completion of their complete scope (per 49 CFR 26.29).

**Attachment 1**

**Total Value of Construction Services  
and  
Total Value of Professional Services  
from  
Exhibit A - Schedule of Values**

**Total DBE Construction Services Commitment**

<b>Description</b>	<b>Value</b>
Project Management	\$2,452,500.00
Construction - Roadway	\$6,754,598.30
Construction – MSE Walls/Concrete Barrier	\$1,444,470.30
Construction – Bridge Structures	\$5,237,664.34
Construction – Drainage	\$733,823.00
Construction – Traffic / Lighting	\$1,269,625.95
3 ft Buffer/Sidewalk	\$37,000.00
Fee	\$1,000,000.00
<b>Total Project Value of Construction Services</b>	<b>\$18,929,681.89</b>
DBE Construction Services Commitment - %	15.00%
<b>Total DBE Construction Services Commitment - \$</b>	<b>\$2,839,452.28</b>

**Total DBE Professional Services Commitment**

<b>Description</b>	<b>Value</b>
Engineering & Design Services	\$1,452,400.00
<b>Total Project Value of Professional Services</b>	<b>\$1,452,400.00</b>
DBE Professional Services Commitment - %	15.00%
<b>Total DBE Professional Services Commitment - \$</b>	<b>\$217,860.00</b>

**Attachment 2  
Bid Package Summary**

**Potential DBE Construction Services<sup>1</sup>**

		<b>Estimated Potential DBE Participation</b>	
<b>Workscope</b>	<b>Tier</b>	<b>\$ of Listed Scope</b>	<b>% of Constr Services</b>
Aggregates/Embankment	1	\$500,000	2.64%
Rebar – Furnish & Install	1	\$621,600	3.28%
Waterproof Membrane	1	\$63,000	0.33%
Landscaping	1	\$250,000	1.32%
Concrete Flatwork	1	\$640,700	3.38%
Concrete Pavement	1	\$885,600	4.68%
Perm Signage - Roadway	1	\$70,000	0.37%
Sweeping	1	\$75,000	0.40%
Concrete Coatings	1	\$210,000	1.11%
Traffic Control	1	\$380,000	2.01%
QA/QC Testing	1	\$600,000	3.17%
Asphalt Pavement	2	\$34,500	0.18%
<b>Total – Potential DBE Construction Services</b>		<b>\$4,330,400</b>	<b>22.87%</b>

**DBE Professional Services Commitment**

<b>DBE Firm</b>	<b>Percent</b>
105 West, Inc.	1.00%
Clanton and Associates, Inc.	1.00%
San Engineering, LLC	6.50%
Stolfus & Associates, Inc.	3.50%
Yeh and Associates, Inc	3.00%
<b>Total DBE Professional Services</b>	<b>15.00%</b>



# INVITATION TO BID

**TO:**  
«CONNAMA»  
«ADDR1»  
«CITY», «STATE» «ZIPCODE»  
Phone: «PHONE»  
Fax: «FAX»

**FROM:**  
SEMA Construction, Inc.  
7353 S. Eagle Street  
Centennial, CO 80112  
Phone: (303) 627-2600  
Fax: (303) 627-2626

Bid Information:

---

**PROJECT NAME:** Peoria Crossing Design Build Project  
City of Denver Project No. PWC2011-8004;  
CDOT Project No. STU C010-108 (18529)

**RESPOND TO SEMA BY:** Monday, April 12, 2013 at 5:00 PM (MT)  
**LOCATION:** Denver County, CO

SEMA Construction is requesting subcontractor and material supply quotes from DBE subcontractors and material suppliers to meet the **15.0% DBE goal**. All DBE firms are encouraged to participate. All Non-DBE firms are encouraged to utilize DBE firms as part of their quotes. Bonding, lines of credit, and special insurance limits may be required; please contact SEMA for assistance. EOE.

Plans can be viewed at:

SEMA Construction, 7353 S. Eagle Street, Centennial, CO 80112 (303) 627-2600 during business hours M-F from 7:00 am to 5:00 pm or electronically if available.

Submit quotes to:

SEMA Construction, 7353 S. Eagle Street, Centennial, CO 80112 ATTN: Jessica Nuncio  
Phone: (303) 627-2600 – Fax: (303) 627-2626 – Email: [estimating.co@semaconstruction.com](mailto:estimating.co@semaconstruction.com)

**NOTE:** Please clearly indicate on your quote if you are a DBE firm.  
If you are a Non-DBE firm, please list all 2<sup>nd</sup> Tier DBE firm names, work scope, and value of work the DBE firm will be performing or supplying clearly on your quote.  
A bidder's list is available to any subcontractor upon request.  
All DBE Joint Ventures will need to submit paperwork prior to bid time. Call for details.

Project Description: Construction of a new grade separation project of the Union Pacific Railroad and Regional Transportation District right of way at Peoria Street between East 39<sup>th</sup> Avenue and Baranmor Parkway.

Major items for the project include:

Subcontractors / Installation:

Demolition, asphalt milling, street sweeping, landscaping (seeding, land reclamation, mulching, planting, soil retention blanket), asphalt paving, concrete paving, pile driving, drilled caissons, pedestrian railing, waterproofing membrane, structural concrete sealer/coating/stain, rebar placing, concrete guardrail, concrete bridge rail, fencing (chain link), concrete flatwork, electrical, lighting, signs, signalization, sanitary facility, surveying, pavement marking (paint, epoxy, preformed), and traffic control (flagging, channelizing devices, construction signs, temp. impact attenuators).

Material Supply Only:

Aggregates and riprap, geotextiles, steel piling, expansion devices, concrete ready mix, rebar, pipe RCP, PVC, inlets, grates, manholes, underdrains, and concrete bridge girders.

A FOLLOW-UP CALL WILL BE MADE TO YOUR COMPANY IF WE DO NOT RECEIVE A RESPONSE.  
Please fax this sheet back to 303-627-2626.

Please indicate items you will be Bidding: \_\_\_\_\_

\_\_\_\_\_ We WILL be sending a quote.

\_\_\_\_\_ We WILL NOT be sending a quote.

Exhibit G  
Prevailing Wage Rates

August 10, 2012

**U.S. DEPT. OF LABOR,  
DAVIS BACON MINIMUM WAGES, COLORADO  
GENERAL DECISION NUMBERS  
CO100016, CO100017, CO100018, CO100019, CO100020,  
CO100021, CO100022, CO100023 and CO100024  
HIGHWAY CONSTRUCTION**

**NOTICE**

This is a standard special provision that revises or modifies CDOT's *Standard Specifications for Road and Bridge Construction*. It has gone through a formal review and approval process and has been issued by CDOT's Project Development Branch with formal instructions for its use on CDOT construction projects. It is to be used as written without change. Do not use modified versions of this special provision on CDOT construction projects, and do not use this special provision on CDOT projects in a manner other than that specified in the instructions, unless such use is first approved by the Standards and Specification Unit of the Project Development Branch. The instructions for use on CDOT construction projects appear below.

Other agencies which use the *Standard Specifications for Road and Bridge Construction* to administer construction projects may use this special provision as appropriate and at their own risk.

**Instructions for use on CDOT construction projects:**

Use this standard special provision on all federal-aid projects with contracts exceeding \$2000, except for non-ARRA projects on roadways classified as local roads or rural minor collectors, which are exempt. Projects on local roads, rural minor collectors, and enhancement projects funded with ARRA funds are not exempt.

<b>Decision Nos. CO100016, 17, 18, 19, 20, 21, 22, 23 and 24</b> dated January 06, 2012 supersedes <b>Decision Nos. CO100018, 19, 20, 21, 22, 23, 24, 25 and 26</b> dated September 30, 2011.	<b>Modifications</b>			<b>ID</b>
	<b>MOD Number</b>	<b>Date</b>	<b>Page Number(s)</b>	
When work within a project is located in two or more counties and the minimum wages and fringe benefits are different for one or more job classifications, the higher minimum wages and fringe benefits shall apply throughout the project.	1	11-18-11	14	1
	2	01-06-12	1, 10, 14, 19, 25, 29, 34, 42 and 50	2
	3	02-10-12	8, 16, 25, 29, 32, 34, 42 and 50	3
	4	08-10-12	1, 10, 14, 19, 20, 25, 29, 34, 42 and 50	4

General Decision No. CO100019 applies to the following counties: Denver and Douglas counties.

General Decision No. CO100019  
**The wage and fringe benefits listed below reflect collectively bargained rates.**

<b>Code</b>	<b>Classification</b>	<b>Basic Hourly Rate</b>	<b>Fringe Benefits</b>	<b>Last Mod</b>
1279	<b>CARPENTER (Form Work Only)</b>	24.00	11.28	
	<b>TRAFFIC SIGNALIZATION:</b>			
	<b>Traffic Signal Installation</b>			
1280	Zone 1	26.42	4.75% + 8.68	
1281	Zone 2	29.42	4.75% + 8.68	
	<u>Traffic Installer Zone Definitions</u> Zone 1 – Within a 35 mile radius measured from the addresses of the following cities: Colorado Springs - Nevada & Bijou Denver - Ellsworth Avenue & Broadway Ft. Collins - Prospect & College Grand Junction - 12th & North Avenue Pueblo - I-25 & Highway 50 Zone 2 - All work outside these areas.			
	<b>POWER EQUIPMENT OPERATOR:</b>			
	<b>Hydraulic Backhoe</b>			
1282	Wheel Mounted, under ¾ yds.	24.27	8.62	4
1283	Backhoe/Loader combination	24.27	8.62	4
	<b>Drill Rig Caisson</b>			
1284	Smaller than Watson 2500 and similar	24.27	8.62	4
1285	Watson 2500 similar or larger	24.57	8.62	4
	<b>Loader</b>			
1286	Up to and including 6 cubic yards	24.27	8.62	4
1287	Denver County - Under 6 cubic yards	24.27	8.62	4
1288	Denver County - Over 6 cubic yards	24.42	8.62	4



General Decision No. CO100019				
<b>The wage and fringe benefits listed below reflect collectively bargained rates.</b>				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	<b>POWER EQUIPMENT OPERATOR (con't.):</b>			
	<b>Motor Grader</b>			
1289	Douglas county - Blade Rough	24.27	8.62	4
1290	Douglas county - Blade Finish	24.57	8.62	4
	<b>Crane</b>			
1291	50 tons and under	24.42	8.62	4
1292	51 to 90 tons	24.57	8.62	4
1293	91 to 140 tons	24.72	8.62	4
	<b>Scraper</b>			
1294	Single bowl under 40 cubic yards	24.42	8.62	4
1295	40 cubic yards and over	24.57	8.62	4
General Decision No. CO100019				
<b>The wage and fringe benefits listed below do not reflect collectively bargained rates.</b>				
1296	<b>CARPENTER</b> (Excludes Form Work)	19.27	5.08	
	<b>CEMENT MASON/CONCRETE FINISHER:</b>			
1297	Denver	20.18	5.75	
1298	Douglas	18.75	3.00	
1299	<b>ELECTRICIAN</b> (Excludes Traffic Signal Installation)	35.13	6.83	
1300	<b>FENCE ERECTOR</b> (Excludes Link/Cyclone Fence Erection)	13.02	3.20	
1301	<b>GUARDRAIL INSTALLER</b>	12.89	3.20	
	<b>HIGHWAY/PARKING LOT STRIPING:</b>			
	<b>Painter</b>			
1302	Denver	12.62	3.21	
1303	Douglas	13.89	3.21	
	<b>IRONWORKERS:</b>			
1304	<b>Reinforcing</b> (Excludes Guardrail Installation)	16.69	5.45	
1305	<b>Structural</b> (Includes Link/Cyclone Fence Erection), (Excludes Guardrail Installation)	18.22	6.01	

General Decision No. CO100019				
<b>The wage and fringe benefits listed below do not reflect collectively bargained rates.</b>				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	<b>LABORERS:</b>			
1306	Asphalt Raker	16.29	4.25	
1307	Asphalt Shoveler	21.21	4.25	
1308	Asphalt Spreader	18.58	4.65	
	<b>Common or General</b>			
1309	Denver	16.76	6.77	
1310	Douglas	16.29	4.25	
1311	Concrete Saw (Hand Held)	16.29	6.14	
1312	Landscape and Irrigation	12.26	3.16	
	<b>Mason Tender - Cement/Concrete</b>			
1313	Denver	16.96	4.04	
1314	Douglas	16.29	4.25	
	<b>Pipelayer</b>			
1315	Denver	13.55	2.41	
1316	Douglas	16.30	2.18	
	<b>Traffic Control</b>			
1317	Flagger	9.55	3.05	
1318	Sets Up/Moves Barrels, Cones, Install Signs, Arrow Boards and Place Stationary Flags, (Excludes Flaggers)	12.43	3.22	
	<b>PAINTER:</b>			
1319	Spray Only	16.99	2.87	
	<b>POWER EQUIPMENT OPERATOR:</b>			
	<b>Asphalt Laydown</b>			
1320	Denver	22.67	8.72	
1321	Douglas	23.67	8.47	
	<b>Asphalt Paver</b>			
1322	Denver	24.97	6.13	
1323	Douglas	25.44	3.50	

General Decision No. CO100019				
<b>The wage and fringe benefits listed below do not reflect collectively bargained rates.</b>				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	<b>POWER EQUIPMENT OPERATOR (con't.):</b>			
	<b>Asphalt Roller</b>			
1324	Denver	23.13	7.55	
1325	Douglas	23.63	6.43	
1326	Asphalt Spreader	22.67	8.72	
	<b>Backhoe/Trackhoe</b>			
1327	Douglas	23.82	6.00	
1328	Bobcat/Skid Loader	15.37	4.28	
1329	Boom	22.67	8.72	
	<b>Broom/Sweeper</b>			
1330	Denver	22.47	8.72	
1331	Douglas	22.96	8.22	
1332	Bulldozer	26.90	5.59	
1333	Concrete Pump	21.60	5.21	
	<b>Drill</b>			
1334	Denver	20.48	4.71	
1335	Douglas	20.71	2.66	
1336	Forklift	15.91	4.68	
	<b>Grader/Blade</b>			
1337	Denver	22.67	8.72	
1338	Guardrail/Post Driver	16.07	4.41	
	<b>Loader (Front End)</b>			
1339	Douglas	21.67	8.22	
	<b>Mechanic</b>			
1340	Denver	22.89	8.72	
1341	Douglas	23.88	8.22	

General Decision No. CO100019				
<b>The wage and fringe benefits listed below do not reflect collectively bargained rates.</b>				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	<b>POWER EQUIPMENT OPERATOR (con't.):</b>			
	<b>Oiler</b>			
1342	Denver	23.73	8.41	
1343	Douglas	24.90	7.67	
	<b>Roller/Compactor (Dirt and Grade Compaction)</b>			
1344	Denver	20.30	5.51	
1345	Douglas	22.78	4.86	
1346	Rotomill	16.22	4.41	
	<b>Screed</b>			
1347	Denver	22.67	8.38	
1348	Douglas	29.99	1.40	
1349	Tractor	13.13	2.95	
	<b>TRAFFIC SIGNALIZATION:</b>			
	<b>Groundsman</b>			
1350	Denver	17.90	3.41	
1351	Douglas	18.67	7.17	
	<b>TRUCK DRIVER:</b>			
	<b>Distributor</b>			
1352	Denver	17.81	5.82	
1353	Douglas	16.98	5.27	
	<b>Dump Truck</b>			
1354	Denver	15.27	5.27	
1355	Douglas	16.39	5.27	
1356	Lowboy Truck	17.25	5.27	
1357	Mechanic	26.48	3.50	
	<b>Multi-Purpose Specialty &amp; Hoisting Truck</b>			
1358	Denver	17.49	3.17	
1359	Douglas	20.05	2.88	

General Decision No. CO100019				
<b>The wage and fringe benefits listed below do not reflect collectively bargained rates.</b>				
Code	Classification	Basic Hourly Rate	Fringe Benefits	Last Mod
	<b>TRUCK DRIVER (con't.):</b>			
	<b>Pickup and Pilot Car</b>			
1360	Denver County	14.24	3.77	
1361	Douglas County	16.43	3.68	
1362	Semi/Trailer Truck	18.39	4.13	
1363	Truck Mounted Attenuator	12.43	3.22	
	<b>Water Truck</b>			
1364	Denver County	26.27	5.27	
1365	Douglas County	19.46	2.58	

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

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

In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

**END OF GENERAL DECISION NO. CO100019**

Exhibit H  
City and County of Denver Equal Opportunity Provisions

**City and County of Denver Equal Opportunity Provisions**

**RULES AND REGULATIONS AND BID CONDITIONS  
OF THE MANAGER OF PUBLIC WORKS  
PERTAINING TO EQUAL EMPLOYMENT OPPORTUNITY**

**Adopted October 19, 1993**

(also available online at <http://www.denvergov.org/Portals/480/documents/BIDCONDEEO.pdf>)

## RULES AND REGULATIONS

### REGARDING

<b>EQUAL EMPLOYMENT OPPORTUNITY</b>
-------------------------------------

Promulgated and adopted by the Manager of Public Works pursuant to and by authority of Article III, Division 2, Chapter 28 of the Revised Municipal Code of the City and County of Denver, and for the purpose of insuring that contractors, subcontractors and suppliers soliciting and receiving compensation for contract work from or through the City and County of Denver provide equal opportunity in employment without regard to race, color, creed, sex, national origin, age, religion, marital status, political opinion or affiliation or mental or physical handicap and meet certain requirements for the hiring, training, promotion, and treatment during employment of members of ethnic groups subject to differential treatment, including persons of African descent (Black), Spanish-surnamed (Hispanic), Asian-American and American Indian Groups.

#### RULE I - DEFINITIONS

- A. "City" means the City and County of Denver.
- B. "Manager" shall mean the Manager of Public Works for the City and County of Denver.
- C. "Contract" means a contract entered into with the City and County of Denver, financed in whole or in part by local resources or funds of the City and County of Denver, for the construction of any public building or prosecution or completion of any public work.
- D. "Contractor" means the original party to a contract with the City and County of Denver, also referred to as the "general" or "prime" contractor.
- E. "Director" means the Director of the Mayor's Office of Contract Compliance\*\*.
- F. "Subcontractor" means any person, company, association, partnership, corporation, or other entity which assumes by subordinate agreement some or all of the obligations of the general or prime contractor.
- G. The phrase "Bidding Specifications" as used in Article III, Division 2 of Chapter 28 of the Revised Municipal Code shall include BID CONDITION, INVITATION TO BID, and NOTICE OF PROPOSAL.
- H. "Affirmative Action Program" means a set of specific and result-oriented procedures or steps to which a contractor commits himself to apply every good faith effort to employ members of ethnic minority groups, to include persons of African descent (Black), Spanish surnamed (Hispanic), Asian-American, American Indians, and persons with mental or physical handicap.
- I. "Mayor's Office of Contract Compliance\*\*" means the City agency established pursuant to Article III, Division 1 of Chapter 28 of the Denver Revised Municipal Code.

\*\*NOTE: The "Mayor's Office of Contract Compliance" appears in the rules; however that agency is now known as the "Division of Small Business Opportunity"

#### RULE II - NOTICE OF HEARING

When results of conciliation efforts are unsatisfactory to the Manager and he is informed in accordance with Article III, Division 2 of Chapter 28 of the Revised Municipal code that a contractor or subcontractor has apparently failed to meet affirmative action and equal employment opportunity requirements after a reasonable period of notice to correct deficiencies, the Manager will , prior to imposition of any sanctions, afford the general contractor a hearing in order to determine whether the contractor or his subcontractors have failed to comply with the affirmative action and equal employment opportunity requirements of Article III, Division 2 of Chapter 28 of the Revised Municipal

Code or of the contract. Written notice of such hearing shall be delivered personally or sent by certified mail, return receipt requested, to the contractor and to any subcontractor involved, at least ten (10) days prior to the date scheduled for the hearing.

#### RULE III - HEARING

- A. Contractors will appear at hearings and may be represented by counsel, and may present testimony orally and other evidence.
- B. Hearings shall be conducted by one or more hearing examiners designated as such by the Manager.



- C. The Director of the Mayor's Office of Contract Compliance may participate in hearings as a witness.
- D. Hearings shall be held at the place specified in the notice of hearing.
- E. All oral testimony shall be given under oath or affirmation and a record of such proceedings shall be made.
- F. All hearings shall be open to the public.
- G. The hearing officer shall make recommendations to the Manager who shall make a final decision.

**REGULATIONS**

**REGULATION NO. 1 - ORDINANCE:**

The Rules and Regulations of the Manager shall be inserted in the bidding specifications for every contract for which bidding is required.

**REGULATION NO. 2 - EXEMPTIONS:**

Each contract and subcontract, regardless of the dollar amount, shall be subject to affirmative action requirements unless specifically exempted in writing individually by the Manager. Exemptions apply only to "affirmative action" in equal employment opportunity, and are not to be construed as condonation in any manner of "discrimination" or "discriminatory practices" in employment because of race, color, creed, sex, age, national origin, religion, marital status, political opinion or mental or physical handicap.

**REGULATION NO. 3 - DIRECTOR OF CONTRACT COMPLIANCE:**

The Director of the Mayor's Office of Contract Compliance shall perform the duties assigned to such official by Article III, Division 2 Chapter 28 of the Revised Municipal Code and by the Manager. (1) The Director of the Mayor's Office of Contract Compliance or designated representatives shall inform bidders and contractors of affirmative action procedures, programs, and goals in accordance with the Ordinance at pre-bid and pre-construction conference; (2) make regular on-site inspections; (3) supply contractors and subcontractors with report forms to be completed by them when requested, and furnished to the Director of the Mayor's Office of Contract Compliance; and (4) review payroll records, employment records and practices of general contractors and their subcontractors and suppliers during the performance of any contract. The Director of the Mayor's Office of Contract Compliance shall promptly report apparent affirmative action deficiencies to the Manager.

**REGULATION NO. 4 - GOALS AND TIMETABLES:**

In general, goals and timetables should take into account anticipated vacancies and the availability of skills in the market place from which employees should be drawn. In addition, where discrimination in employment by a general contractor or any of his subcontractors is indicated, a corrective action program will take into account the need by the general contractor and his subcontractors to correct past discriminatory practices and reach goals of minority manpower utilization on a timely basis through such recruiting and advertising efforts as are necessary and appropriate.

**REGULATION NO. 5 - AWARD OF CONTRACTS:**

It shall be the responsibility of the Director of the Mayor's Office of Contract Compliance to determine the affirmative action capability of bidders, contractors and subcontractors and to recommend to the Manager the award of contracts to those bidders, contractors and subcontractors and suppliers who demonstrate the ability and willingness to comply with the terms of their contract.

**REGULATION NO. 6 - PUBLICATION AND DUPLICATION:**

Copies of these Rules and Regulations as amended by the Manager from time to time, shall as soon as practicable and after Notice being published will be made a part of all City Contracts.

**REGULATION NO. 7 - NOTICE TO PROCEED:**

Prior to issuance of the Notice to Proceed a sign-off will be required of the Director of the Mayor's Office of Contract Compliance or his designee.

**REGULATION NO. 8 - CONTRACTS WITH SUBCONTRACTORS:**

To the greatest extent possible, the contractor shall make a good faith effort to contract with minority contractors, subcontractors and suppliers for services and supplies by taking affirmative actions which include but are not limited to the following:

1. Advertise invitations for subcontractor bids in minority community news media.
2. Contact minority contractor organizations for referral of prospective subcontractors.
3. Purchase materials and supplies from minority material suppliers.

**REGULATION NO. 9 - AGENCY REFERRALS:**

It shall be no excuse that the union with which the contractor or subcontractor has an agreement providing for referral, exclusive or otherwise, failed to refer minority employees.

**REGULATION NO. 10 - CLAUSES:**

The Manager shall include the appropriate clauses in every contract and the contractor shall cause to be inserted in every subcontract the appropriate clauses:

1. APPENDIX A: City and County of Denver Equal Opportunity Clause - ALL CONTRACTS funded only with City and County of Denver monies.
2. APPENDIX B: Equal Opportunity Clause (11246) - ALL FEDERAL ASSISTED.
3. APPENDIX C: Section 3 - Assurance of Compliance - HUD ASSISTED PROJECTS.
4. APPENDIX D: Section 3 - Clause - HUD ASSISTED PROJECTS.

All amendments to the appendices shall be included by reference.

**REGULATION NO. 11 - SHOW CAUSE NOTICES:**

When the Manager has reasonable cause to believe that a contractor has violated Article III, Division 2 of Chapter 28 of the Denver Revised Municipal Code, he may issue a notice requiring the contractor to show cause, within fifteen (15) days why enforcement procedures, or other appropriate action to insure compliance, should not be instituted.

**REGULATION NO. 12 - BID CONDITIONS - AFFIRMATIVE ACTION REQUIREMENTS - EQUAL EMPLOYMENT OPPORTUNITY:**

1. APPENDIX E: The Bid Conditions - Affirmative Action Requirements - Equal Employment Opportunity as amended and published by the U.S. Department of Labor Employment Standards Administration, Office of Federal Contract Compliance, shall be inserted
2. APPENDIX F: The Bid Conditions - Affirmative Action Requirements - Equal Employment Opportunity as published by the Department of Public Works, City and County of

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF PUBLIC WORKS**

**APPENDIX A**

**CITY AND COUNTY OF DENVER EQUAL OPPORTUNITY CLAUSE -  
ALL CONTRACTS**

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination 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, creed, color, sex, age, national origin, religion, marital status, political opinion or affiliation, or mental or physical handicap.
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 to be provided, advising the said labor union or workers' representatives 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.
4. Each Contractor will comply with all provisions of Article III, Division 2 of Chapter 28 of the Revised Municipal Code, and the rules, regulations, and relevant orders of the Manager and the Director.
5. The Contractor will furnish all information and reports required by Article III, Division 2 of Chapter 28 of the Revised Municipal Code, and by rules, regulations and orders of the Manager and Director or pursuant thereto, and will permit access to his books, records, and accounts by the Manager, Director, or their designee 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 canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further City contracts in accordance with procedures authorized in Article III, Division 2, Chapter 28 of the Revised Municipal Code, or by rules, regulations, or order of the Manager.
7. The Contractor will include Regulation 12, Paragraph 2 and the provisions of paragraphs (1) through (6) in every subcontract of purchase order unless exempted by rules, regulations, or orders of the Manager issued pursuant to Article III, Division 2, Chapter 28 of the Revised Municipal Code, so that such provisions will be binding on each subcontractor or supplier. 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.

The applicant further agrees to be bound by the above equal opportunity clauses with respect to its own employment practices when it participates in City contracts. The Contractor agrees to assist and cooperate actively with the Manager and the Director in obtaining compliance of subcontractors and suppliers with the equal opportunity clause and the rules, regulations and relevant orders of the Manager, and will furnish the Manager and the Director such information as they may require for the supervision of compliance, and will otherwise assist the Manager and Director in the discharge of the City's primary responsibility for securing compliance. The Contractor further agrees to refrain from entering into any contract or contract modification subject to Article III, Division 2 of Chapter 28 of the Revised Municipal Code with a contractor debarred from, or who has not demonstrated eligibility for, City contracts.

The Contractor will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Manager and Director. In addition, the Contractor agrees that failure or refusal to comply with these undertakings the Manager may take any or all of the following actions:

- A. Cancellation, termination, or suspension in whole or in part of this contract.
- B. Refrain from extending any further assistance to the applicant under the program with respect to which the failure occurred until satisfactory assurance of future compliance has been received from such applicant.
- C. Refer the case to the City Attorney for appropriate legal proceedings.

**SUBCONTRACTS:** Each prime Contractor or Subcontractor shall include the equal opportunity clause in each of its subcontracts.

## APPENDIX B

### EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

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, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:  
  
Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination 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 considerations for employment without regard to race, color, religion, sex, or national origin.
3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives 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.
4. The contractor will comply with all provisions of Executive Order 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 11246 of September 24, 1965, and by 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 canceled, 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 procedure authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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 11246 of September 24, 1965, 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 provision, 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 administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**NOTICES TO BE POSTED PER PARAGRAPH (1) AND (3) OF THE EEO CLAUSE**

**EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW**

**Discrimination is Prohibited by  
the Civil Rights Act of 1964  
and by Executive Order No. 11246**

Title VII of the Civil Rights Act of 1964

*Administered by:* The Equal Employment Opportunity Commission

Prohibits discrimination because of Race, Color, Religion, sex, or National Origin by Employers with 25 or more employees, by Labor Organizations with a hiring hall of 25 or more members, by Employment Agencies, and b Joint Labor-Management Committees for Apprenticeship or Training.

ANY PERSON who believes that he or she has been discriminated against SHOULD CONTACT:

The Equal Employment Opportunity Commission (EEOC)  
2401 E Street, NW  
Washington, D.C. 20506

Executive Order No. 11256

*Administered by:* The Office of Federal Contract Compliance Programs

Prohibits discrimination because of Race, Color, Religion, Sex, or National Origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment, by all Federal Government Contractors and Subcontractors, and by Contractors Performing Work Under a Federal Assisted Construction Contract, regardless of the number of employees in either case.

ANY PERSON who believes that he or she has been discriminated against SHOULD CONTACT:

The Office of Federal Contract Compliance Programs  
U. S. Department of Labor  
Washington, D.C. 20210

## APPENDIX E

### Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246, as amended)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals 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:
  - Timetables:        Until Further Notice
  - Goals:
    - (a)    Minority Participation in Each Trade: 13.8 percent
    - (b)    Female Participation in Each Trade: 6.9 percent

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

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

3. The contractor shall provide written notification to the Director, OFCCP, 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; employee identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographic area in which the contract is performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is the City and County of Denver, Colorado.

## **STANDARD FEDERAL ASSURANCES**

NOTE: As used below the term "contractor" shall mean and include the "Party of the Second Part," and the term "sponsor" shall mean the "City".

During the term 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 shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination. The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, sex, creed or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitations for Subcontractors, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiations made by the contractor for work to be performed under a subcontract, including procurements or materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

4. Information and Reports. The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the sponsor, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the sponsor shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- a. Withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions. The contractor shall include the provisions of paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the sponsor or 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 supplier as a result of such direction, the contractor may request the sponsor to enter into such litigation to protect the interests of the sponsor and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States



**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION  
CONTRACT SPECIFICATIONS (41 CFR 60-4.3)  
(VERSION 2, 4/23/90)**

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
  - d. "Minority" includes:
    - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
    - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
    - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
    - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its

actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or female sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally,) the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**CITY AND COUNTY OF DENVER  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION**

**APPENDIX F**

**AFFIRMATIVE ACTION REQUIREMENTS**

**EQUAL EMPLOYMENT OPPORTUNITY**

For All Non-Exempt Construction Contracts to Be Awarded by the  
City and County of Denver, Department of Public Works.

**NOTICE**

EACH BIDDER, CONTRACTOR OR SUBCONTRACTOR (HEREINAFTER THE CONTRACTOR) MUST FULLY COMPLY WITH THE REQUIREMENTS OF THESE BID CONDITIONS AS TO EACH CONSTRUCTION TRADE IT INTENDS TO USE ON THIS CONSTRUCTION CONTRACT, AND ALL OTHER CONSTRUCTION WORK (BOTH CITY AND NON-CITY) IN THE DENVER AREA DURING THE PERFORMANCE OF THIS CONTRACT OR SUBCONTRACT. THE CONTRACTOR COMMITS ITSELF TO THE GOALS FOR MINORITY MANPOWER UTILIZATION, AS APPLICABLE, AND ALL OTHER REQUIREMENTS, TERMS AND CONDITION OF THESE BID CONDITIONS BY SUBMITTING A PROPERLY SIGNED BID.

THE CONTRACTOR SHALL APPOINT A COMPANY EXECUTIVE TO ASSUME THE RESPONSIBILITY FOR THE IMPLEMENTATION OF THE REQUIREMENTS, TERMS AND CONDITIONS OF THESE BID CONDITIONS.

/s/

Manager of Public Works  
City and County of Denver

**EQUAL OPPORTUNITY PROVISIONS (Cont'd)**

**A. REQUIREMENTS - AN AFFIRMATIVE ACTION PLAN:**

Contractors shall be subject to the provisions and requirements of these bid conditions including the goals and timetables for minority\* and female utilization, and specific affirmative action steps set forth by the Office of Contract Compliance. The contractor's commitment to the goals for minority, and female utilization as required constitutes a commitment that it will make every good faith effort to meet such goals.

**1. GOALS AND TIMETABLES:**

The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade are as follows:

GOALS FOR MINORITY PARTICIPATION FOR EACH TRADE	GOALS FOR FEMALE PARTICIPATION FOR EACH TRADE
From January 1, 1982 to Until Further Notice	From January 1, 1982 to Until Further Notice
21.7% - 23.5%	6.9%

The goals for minority and female utilization above are expressed in terms of hours of training and employment as a proportion of the total number of hours to be worked by the contractor's aggregate workforce, which includes all supervisory personnel, in each trade, on all projects for the City and County of Denver during the performance of its contract (i.e., The period beginning with the first day of work on the City and County of Denver funded construction contract and ending with the last day of work).

The hours of minority and female employment and training must be substantially uniform throughout the length of the contract in each trade and minorities and females must be employed evenly on each of a contractor's projects. Therefore, the transfer of minority or female employees from contractor to contractor or from project to project for the purpose of meeting the contractor's goals shall be a violation of these Bid Conditions.

If the Contractor counts the nonworking hours of apprentices they must be employed by the Contractor during the training period; the Contractor must have made a commitment to employ apprentices at the completion of their training subject to the availability of employment opportunities; and the apprentices must be trained pursuant to training programs approved by the Bureau of Apprenticeship and Training.

\* "Minority" is defined as including, Blacks, Spanish Surname Americans, Asian-Americans, and American Indians, and includes both men and minority women.

**2. SPECIFIC AFFIRMATIVE ACTION STEPS:**

No contractor shall be found to be in noncompliance solely on account of its failure to meet its goals, but will be given an opportunity to demonstrate that the contractor has instituted all the specific affirmative action steps specified and has made every good faith effort to make these steps work toward the attainment of its goals within the timetables, all to the purpose of expanding minority and female utilization in its aggregate workforce. A contractor, who fails to comply with its obligation under the Equal Opportunity Clause of its contract and fails to achieve its commitments to the goals for minority and female utilization has the burden of proving that it has engaged in an Affirmative Action Program directed at increasing minority and female utilization and that such efforts were at least as extensive and as specific as the following:

- a. The Contractor should have notified minority and female organizations when employment opportunities were available and should have maintained records of the organization's response.
- b. The Contractor should have maintained a file of the names and addresses of each minority and female referred to it by any individual or organization and what action was taken with respect to each such referred individual, and if the individual was not employed by the Contractor, the reasons. If such individual was sent to the union hiring hall for referral and not referred back by the union or if referred, not employed by the Contractor, the file should have documented this and their reasons.

- c. The Contractor should have promptly notified the Department of Public Works, and the Mayor's Office of Contract Compliance when the union or unions with which the Contractor has collective bargaining agreements did not refer to the contractor a minority or female sent by the contractor, or when the Contractor has other information that the union referral process has impeded efforts to meet its goals.
- d. The Contractor should have disseminated its EEO policy within its organization by including it in any employee handbook or policy manual; by publicizing it in company newspapers and annual reports and by advertising such policy at reasonable intervals in union publications. The EEO policy should be further disseminated by conducting staff meetings to explain and discuss the policy; by posting of the policy; and by review of the policy with minority and female employees.
- e. The Contractor should have disseminated its EEO policy externally by informing and discussing it with all recruitment sources; by advertising in news media, specifically including minority and female news media; and by notifying and discussing it with all subcontractors.
- f. The Contractor should have made both specific and reasonably recurrent written and oral recruitment efforts. Such efforts should have been directed at minority and female organizations, schools with substantial minority and female enrollment, and minority and female recruitment and training organizations within the Contractor's recruitment area.
- g. The Contractor should have evidence available for inspection that all tests and other selection techniques used to select from among candidates for hire, transfer, promotion, training, or retention are being used in a manner that does not violate the OFCCP Testing Guidelines in 41 CFR Part 60-3.
- h. The Contractor should have made sure that seniority practices and job classifications do not have a discriminatory effect.
- i. The Contractor should have made certain that all facilities are not segregated by race.
- j. The Contractor should have continually monitored all personnel activities to ensure that its EEO policy was being carried out including the evaluation of minority and female employees for promotional opportunities on a quarterly basis and the encouragement of such employees to seek those opportunities.
- k. The Contractor should have solicited bids for subcontracts from available minority and female subcontractors engaged in the trades covered by these Bid Conditions, including circulation of minority and female contractor associations.

NOTE: The Director and the Mayor's Office of Contract Compliance will provide technical assistance on questions pertaining to minority and female recruitment sources, minority and female community organizations, and minority and female news media upon receipt of a request for assistance from a contractor.

**3. NON - DISCRIMINATION:**

In no event may a contractor utilize the goals and affirmative action steps required in such a manner as to cause or result in discrimination against any person on account of race, color, religion, sex, marital status, national origin, age, mental or physical handicap, political opinion or affiliation.

**4. COMPLIANCE AND ENFORCEMENT:**

In all cases, the compliance of a contractor will be determined in accordance with its obligations under the terms of these Bid Conditions. All contractors performing or to perform work on projects subject to these Bid Conditions hereby agree to inform their subcontractors in writing of their respective obligations under the terms and requirements of these Bid Conditions, including the provisions relating to goals of minority and female employment and training.

**A. CONTRACTORS SUBJECT TO THESE BID CONDITIONS:**

In regard to these Bid Conditions, if the Contractor meets the goals set forth therein or can demonstrate that it has made every good faith effort to meet these goals, the Contractor shall be presumed to be in compliance with Article III, Division 2 of Chapter 28 of the Revised Municipal Code, the implementing regulations and its obligations under these Bid Conditions. In the event, no formal sanctions or proceedings leading toward sanctions shall be instituted unless the contracting or administering agency otherwise determines that the contractor is violating the Equal Opportunity Clause.

1. Where the Mayor's Office of Contract Compliance finds that a contractor failed to comply with the requirements of Article III, Division 2 of Chapter 28 of the Revised Municipal Code or the implementing regulations and the obligations under these Bid Conditions, and so informs the Manager, the Manager shall take such action and impose such sanctions, which include suspension, termination, cancellation, and debarment, as may be appropriate under the Ordinance and its regulations. When the Manager proceeds with such formal action it has the burden of proving that the Contractor has not met the goals contained in these Bid Conditions. The Contractor's failure to meet its goals shall shift to it the requirement to come forward with evidence to show that it has met the good faith requirements of these Bid Conditions.
2. The pendency of such proceedings shall be taken into consideration by the Department of Public Works in determining whether such contractor can comply with the requirements of Article III, Division 2 of Chapter 28 of the Revised Municipal Code, and is therefore a "responsible prospective contractor".
3. The Mayor's Office of Contract Compliance shall review the Contractor's employment practices during the performance of the contract, if the Division of Small Business Opportunity determines that the Contractor's Affirmative Action Plan is no longer an acceptable program, the Director shall notify the Manager.

**B. OBLIGATIONS APPLICABLE TO CONTRACTORS:**

It shall be no excuse that the union with which the Contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority or female employees. Discrimination in referral for employment, even if pursuant to provisions of a collective bargaining agreement, is prohibited by the National Labor Relations Act, as amended, Title VI of the Civil Rights Act of 1964, as amended, and Article III, Division 2 of Chapter 28 of the Revised Municipal Code. It is the policy of the Department of Public Works that contractors have a responsibility to provide equal employment opportunity, if they wish to participate in City and County of Denver contracts. To the extent they have delegated the responsibility for some of their employment practices to a labor organization and, as a result, are prevented from meeting their obligations pursuant to Article III, Division 2, Chapter 28 of the Revised Municipal Code, such Contractors cannot be considered to be in compliance with Article III, Division 2, Chapter 28 of the Revised Municipal Code, or its implementing rules and regulations.

**C. GENERAL REQUIREMENTS:**

Contractors are responsible for informing their subcontractors in writing regardless of tier, as to their respective obligations. Whenever a Contractor subcontracts a portion of work in any trade covered by these Bid Conditions, **it shall include these Bid Conditions in such subcontracts and each subcontractor shall be bound by these Bid Conditions to the full extent as if it were the prime contractor.** The Contractor shall not, however, be held accountable for the failure of its subcontractors to fulfill their obligations under these Bid Conditions. However, the prime contractor shall give notice to the Director of any refusal or failure of any subcontractor to fulfill the obligations under these Bid Conditions. A subcontractor's failure to comply will be treated in the same manner as such failure by a prime contractor.

1. Contractors hereby agree to refrain from entering into any contract or contract modification subject to Article III, Division 2, Chapter 28 of the Revised Municipal Code with a contractor debarred from, or who is determined not to be a "responsive" bidder for the City and County of Denver contracts pursuant to the Ordinance.
2. The Contractor shall carry out such sanctions and penalties for violation of these Bid Conditions and the Equal Opportunity Clause including suspension, termination and cancellation of existing subcontracts and debarment from future contracts as may be ordered



by the Manager pursuant to Article III, Division 2, Chapter 28 of the Revised Municipal Code and its implementing regulations.

3. Nothing herein is intended to relieve any contractor during the term of its contract from compliance with Article III, Division 2, Chapter 28 of the Revised Municipal Code, and the Equal Opportunity Clause of its contract with respect to matters not covered in these Bid Conditions.
4. Contractors must keep such records and file such reports relating to the provisions of these Bid Conditions as shall be required by the Office of Contract Compliance.
5. Requests for exemptions from these Bid Conditions must be made in writing, with justification, to the Manager of Public Works, City and County Building, Room 3 79\*, Denver, Colorado 80202, and shall be forwarded through and with the endorsement of the Director.

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*\*NOTE: address stated in rule is outdated; the Manager of Public Works' address is now 201 West Colfax, Dept. 608, Denver, Colorado 80202.*

Exhibit I  
Union Pacific Railroad (UPRR) Contract Insurance Provisions

## Union Pacific Railroad (UPRR) Contract Insurance Requirements

Design-Build Team Peoria Safety Project  
Right of Entry Agreement  
6/13/2012

Design-Build Team shall, at its sole cost and expense, procure and maintain during the life of this Agreement (except as otherwise provided in this Agreement) the following insurance coverage:

**A. Commercial General Liability insurance.** Commercial general liability (CGL) with a limit of not less than \$5,000,000 each occurrence and an aggregate limit of not less than \$10,000,000. CGL insurance must be written on ISO occurrence form CG 00 01 12 04 (or a substitute form providing equivalent coverage).

The policy must also contain the following endorsement, which must be stated on the certificate of insurance (WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE):

- “Contractual Liability Railroads” ISO form CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing “Union Pacific Railroad Company Property” as the Designated Job Site.
- “Designated Construction Project(s) General Aggregate Limit” ISO Form CG 25 03 03 97 (or a substitute form providing equivalent coverage) showing the project location as described in the agreement on the form schedule.

**B. Business Automobile Coverage insurance.** Business auto coverage written on ISO form CA 00 01 (or a substitute form providing equivalent liability coverage) with a limit not less \$5,000,000 for each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).

The policy must contain the following endorsements, which must be stated on the certificate of insurance (WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE):

- Coverage For Certain Operations In Connection With Railroads” ISO form CA 20 70 10 01 (or a substitute form providing equivalent coverage) showing “Union Pacific Property” as the Designated Job Site.
- Motor Carrier Act Endorsement - Hazardous materials clean up (MCS-90) if required by law.

**C. Workers Compensation and Employers Liability insurance.** Coverage must include but not be limited to:

- Design-Build Team's statutory liability under the workers' compensation laws of the state(s) affected by this Agreement.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 disease policy limit \$500,000 each employee.

If Design-Build Team is self-insured, evidence of state approval and excess workers compensation coverage must be provided. Coverage must include liability arising out of the U. S. Longshoremen's and Harbor Workers' Act, the Jones Act, and the Outer Continental Shelf Land Act, if applicable.

**D. Railroad Protective Liability insurance.** Design-Build Team must maintain “Railroad Protective Liability” (RPL) insurance written on ISO occurrence form CG 00 35 12 04 (or a substitute form providing equivalent coverage) on behalf of Railroad as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000. The definition of “JOB LOCATION” and

“WORK” on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement.” Design-Build Team shall provide this Agreement to Design-Build Team’s insurance agent(s) and/or broker(s) and Design-Build Team shall instruct such agent(s) and/or broker(s) to procure the insurance coverage required by this Agreement. A BINDER OF INSURANCE STATING THE POLICY IS IN PLACE MUST BE SUBMITTED TO THE RAILROAD BEFORE WORK MAY COMMENCE AND UNTIL THE ORIGINAL POLICY IS FORWARDED TO UNION PACIFIC RAILROAD.

**E. Umbrella or Excess insurance.** In the event Design-Build Team utilizes Umbrella or excess policies, and these policies shall “follow form” and afford no less coverage than the primary policy.”

**F. Professional Liability Insurance.** Insurance for claims arising from the negligent acts, errors or omissions of the professional in the performance of professional services under this agreement shall be written with a limit of at least \$2,000,000 per claim, with a deductible not to exceed \$25,000.

Design-Built Team warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained for a period of 5 years beginning from the time that work under the contract is completed or the extended discovery period will be exercised for the maximum time allowed by the policy.

**G. Pollution Liability insurance.** Pollution Liability coverage must be included when the scope of the work as defined in the Agreement includes installation, temporary storage, or disposal of any “hazardous” material that is injurious in or upon land, the atmosphere, or any watercourses; or may cause bodily injury at any time.

If required, coverage may be provided in separate policy form or by endorsement to Design-Build Teams CGL or RPL. In any form coverage must be equivalent to that provided in ISO form CG 24 15 “Limited Pollution Liability Extension Endorsement” or CG 28 31 “Pollution Exclusion Amendment “ with limits of at least \$1,000,000 per occurrence and an aggregate limit of \$2,000,000.

If the scope of work as defined in this Agreement includes the disposal of any hazardous or non-hazardous materials from the job site, Design-Build Team must furnish to Railroad evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting the materials, with coverage in minimum amounts of \$1,000,000 per loss, and an annual aggregate of \$2,000,000.

## **SECTION A: Other Requirements**

**H.** All policy(ies) required above (except worker’s compensation and employers liability) must include Railroad as “Additional Insured” using ISO Additional Insured Endorsements CG 20 26, and CA 20 48 (or substitute forms providing equivalent coverage). The coverage provided to Railroad as additional insured shall, to the extent provided under ISO Additional Insured Endorsement CG 20 26, and CA 20 48 provide coverage for Railroad’s negligence whether sole or partial, active or passive, and shall not be limited by Design-Build Team's liability under the indemnity provisions of this Agreement.

**I.** Punitive damages exclusion, if any, must be deleted (and the deletion indicated on the certificate of insurance), unless (a) insurance coverage may not lawfully be obtained for any punitive damages that may arise under this agreement, or (b) all punitive damages are prohibited by all states in which this agreement will be performed.

**J.** Design-Build Team waives all rights against Railroad and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the workers compensation and employer's liability or commercial umbrella or excess liability insurance obtained by Design-Build Team required by this agreement (WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE).

**K.** Prior to commencing the work, Design-Build Team shall furnish Railroad with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements in this Agreement.

**L.** All insurance policies must be written by a reputable insurance company acceptable to Railroad or with a current Best's Insurance Guide Rating of A- and Class VII or better, and authorized to do business in the state of Colorado.

**M.** The fact that insurance is obtained by Design-Build Team will not be deemed to release or diminish the liability of Design-Build Team, including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad from Design-Build Team or any third party will not be limited by the amount of the required insurance coverage.

Exhibit J  
Contract Drawings and Technical Specifications

(Incorporated herein by reference upon City Acceptance “Statement of No Objection”)

Exhibit K  
Technical Specifications

(Incorporated by reference, as issued 9/25/12 in  
RFP package including addenda as applicable)

Exhibit L  
Technical Requirements

(Incorporated by reference, as issued 9/25/12 in  
RFP package including addenda as applicable)



**PEORIA CROSSING DESIGN-BUILD PROJECT**

**Contract #: 201309616**

**CDOT Project No.: STU C010-108 (subaccount 18529)**

**Part 2: CONSTRUCTION CONTRACT GENERAL CONDITIONS**

**Included by reference**

**TITLE 1 – DEFINITIONS**

101 CITY  
102 CONTRACT  
103 CONTRACT AMOUNT  
104 CONTRACT DOCUMENTS  
105 CONTRACT TIME  
106 CONTRACTOR  
107 CONTRACTOR PERSONNEL  
108 DAYS  
109 DEPUTY MANAGER  
110 DESIGNER  
111 FINAL COMPLETION  
112 MANAGER  
113 PRODUCT DATA  
114 PROJECT  
115 PROJECT MANAGER  
116 SAMPLES  
117 SHOP DRAWINGS  
118 SUBCONTRACTOR  
119 SUBSTANTIAL COMPLETION  
120 SUPPLIER  
121 WORK

**TITLE 2 – CITY ADMINISTRATIVE ORGANIZATIONS; LINE OF AUTHORITY**

201 DEPARTMENT OF AVIATION  
202 MANAGER OF AVIATION  
203 DEPARTMENT OF PUBLIC WORKS  
204 MANAGER OF PUBLIC WORKS  
205 BUILDING INSPECTION  
206 ZONING  
207 DIVISION OF SMALL BUSINESS OPPORTUNITY  
208 CITY AUDITOR  
209 MANAGER OF FINANCE  
210 CITY ATTORNEY  
211 OFFICE OF RISK MANAGEMENT  
212 CITY'S CONTRACT ADMINISTRATION LINE OF AUTHORITY  
213 CITY'S COMMUNICATIONS WITH THE CONTRACTOR

**TITLE 3 - CONTRACTOR PERFORMANCE AND SERVICES**

301 CONSIDERATION (CONTRACTOR'S PROMISE OF PERFORMANCE)  
302 NOTICE TO PROCEED AND COMPLETION OF THE WORK

- 303 EXACT CONTRACTOR PERFORMANCE
- 304 SUBSTITUTED PERFORMANCE
- 305 WORK PERFORMED UNDER ADVERSE WEATHER CONDITIONS
- 306 WORKING HOURS AND SCHEDULE
- 307 CONTRACTOR'S SUPERINTENDENT
- 308 COMMUNICATIONS
- 309 CONTRACTOR SUBMITTALS AND OTHER WRITTEN COMMUNICATIONS TO THE CITY
- 310 COMPETENCE OF CONTRACTOR'S WORK FORCE
- 311 NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE CONTRACT
- 312 CONDUCT OF CONTRACTOR'S PERSONNEL
- 313 SUGGESTIONS TO CONTRACTOR
- 314 WORK FORCE
- 315 CONSTRUCTION MACHINES AND STANBY EQUIPMENT
- 316 CUTTING AND PATCHING THE WORK
- 317 PERMITS AND LICENSES
- 318 CONSTRUCTION SURVEYS
- 319 PRESERVATION OF PERMANENT LAND SURVEY CONTROL MARKERS
- 320 TRADEMARKS, COPYRIGHTS AND PATENTED DEVICES, MATERIALS, AND PROCESSES
- 321 PROJECT SIGNS
- 322 PUBLICITY AND ADVERTISING
- 323 TAXES
- 324 DOCUMENTS AND SAMPLES AT THE SITE
- 325 CLEANUP DURING CONSTRUCTION
- 326 SANITARY FACILITIES
- 327 POWER, LIGHTING, HEATING, VENTILATING, AIR CONDITIONING AND WATER SERVICES

**TITLE 4 - CONTRACT DOCUMENTS (DRAWINGS AND SPECIFICATIONS)**

- 401 CONTRACT DOCUMENTS - REVIEW AND INTERPRETATION
- 402 OWNERSHIP OF CONTRACT DRAWINGS AND TECHNICAL SPECIFICATIONS
- 403 CONTRACT DRAWINGS AND TECHNICAL SPECIFICATIONS ISSUED TO THE CONTRACTOR
- 404 REQUESTS FOR INFORMATION OR CLARIFICATION
- 405 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES
- 406 SUBSTITUTION OF MATERIALS AND EQUIPMENT

**TITLE 5 - SUBCONTRACTS**

- 501 SUBCONTRACTS
- 502 SUBCONTRACTOR ACCEPTANCE

**TITLE 6 - TIME OF COMMENCEMENT AND COMPLETION**

- 601 BEGINNING, PROGRESS AND TIME OF COMPLETION
- 602 LIQUIDATED DAMAGES, ADMINISTRATIVE COSTS; ACTUAL DAMAGES
- 603 DELAY DAMAGES

**TITLE 7 - COOPERATION, COORDINATION AND RATE OF PROGRESS**

- 701 COOPERATION WITH OTHER WORK FORCES
- 702 COORDINATION OF THE WORK
- 703 COORDINATION OF PUBLIC CONTACT
- 704 RATE OF PROGRESS

**TITLE 8 - PROTECTION OF PERSONS AND PROPERTY**

- 801 SAFETY OF PERSONS
- 802 PROTECTIVE DEVICES AND SAFETY PRECAUTIONS
- 803 PROTECTION OF PROPERTY AND WORK IN PROGRESS
- 804 PROTECTION OF MUNICIPAL, PUBLIC SERVICE OR UTILITY SYSTEMS
- 805 PROTECTION OF STREET AND ROAD SYSTEM
- 806 PROTECTION OF DRAINAGE WAYS
- 807 PROTECTION OF THE ENVIRONMENT
- 808 HAZARDOUS AND EXPLOSIVE MATERIALS OR SUBSTANCES
- 809 ARCHEOLOGICAL AND HISTORICAL DISCOVERIES

**TITLE 9 – COMPENSATION**

- 901 CONSIDERATION (CITY’S PROMISE TO PAY)
- 902 PAYMENT PROCEDURE
- 903 SCHEDULE OF VALUES IN LUMP SUM CONTRACTS
- 904 UNIT PRICE CONTRACTS
- 905 PROGRESS PERIOD
- 906 APPLICATIONS FOR PAYMENT
- 907 RELEASES AND CONTRACTORS CERTIFICATION OF PAYMENT
- 908 RETAINAGE
- 909 ADDITIONAL WITHHOLDING OF PROGRESS PAYMENTS
- 910 FINAL ESTIMATE AND PAYMENT
- 911 ACCOUNTING OF COSTS AND AUDIT

**TITLE 10 – WAGES**

- 1001 PREVAILING WAGE ORDINANCE
- 1002 POSTING OF THE APPLICABLE WAGE RATES
- 1003 RATE AND FREQUENCY OF WAGES PAID
- 1004 REPORTING WAGES PAID
- 1005 FAILURE TO PAY PREVAILING WAGES

**TITLE 11 - CHANGES IN THE WORK, CONTRACT PRICE OR CONTRACT TIME**

- 1101 CHANGE ORDER
- 1102 CITY INITIATED CHANGES
- 1103 CONTRACTOR CHANGE REQUEST
- 1104 ADJUSTMENT TO CONTRACT AMOUNT
- 1105 TIME EXTENSIONS

**TITLE 12 - CONTRACTOR CLAIMS FOR ADJUSTMENT AND DISPUTES**

- 1201 NOTICE OF INTENT TO CLAIM
- 1202 SUBMITTAL OF CLAIMS
- 1203 WAIVER OF CLAIMS

**TITLE 13 - DISPUTES**

- 1301 DISPUTES

**TITLE 14 - SITE CONDITIONS**

- 1401 DIFFERING SITE CONDITIONS
- 1402 SITE INSPECTIONS AND INVESTIGATIONS

**TITLE 15 - PERFORMANCE AND PAYMENT BONDS**

- 1501 SURETY BONDS
- 1502 PERFORMANCE BOND
- 1503 PAYMENT BOND

**TITLE 16 - INSURANCE AND INDEMNIFICATION**

- 1601 INSURANCE
- 1602 DEFENSE AND INDEMNIFICATION

**TITLE 17 - INSPECTION AND DEFECTS**

- 1701 CONSTRUCTION INSPECTION BY THE CITY
- 1702 AUTHORITY OF INSPECTORS
- 1703 OBSERVABLE DEFECTS
- 1704 DEFECTS - UNCOVERING WORK
- 1705 LATENT DEFECTS
- 1706 REMOVAL OF DEFECTIVE MATERIALS AND WORK

**TITLE 18 - WARRANTIES, GUARANTEES AND CORRECTIVE WORK**

- 1801 CONTRACTOR'S WARRANTIES, GUARANTEES AND CORRECTION OF WORK
- 1802 PERFORMANCE DURING WARRANTY PERIOD

**TITLE 19 - SUBSTANTIAL COMPLETION OF THE WORK**

- 1901 CONTRACTOR'S NOTICE OF SUBSTANTIAL COMPLETION
- 1902 INSPECTION AND PUNCH LIST
- 1903 CERTIFICATE OF SUBSTANTIAL COMPLETION
- 1904 RIGHT OF EARLY OCCUPANCY OR USE

**TITLE 20 - FINAL COMPLETION AND ACCEPTANCE OF WORK**

- 2001 CLEAN-UP UPON COMPLETION
- 2002 FINAL COMPLETION AND ACCEPTANCE OF THE WORK
- 2003 FINAL SETTLEMENT

**TITLE 21 - SUSPENSION OF WORK**

- 2101 SUSPENSION OF WORK
- 2102 SUSPENSION OF THE WORK FOR THE CITY'S CONVENIENCE
- 2103 SUSPENSION BECAUSE OF ORDER OF CITY, STATE OR FEDERAL COURT OR AGENCY
- 2104 SUSPENSION RESULTING FROM CONTRACTOR'S FAILURE TO PERFORM

**TITLE 22 - CITY'S RIGHT TO TERMINATE THE CONTRACT**

- 2201 TERMINATION OF CONTRACT FOR CAUSE
- 2202 TERMINATION OF CONTRACT FOR CONVENIENCE OF THE CITY

**TITLE 23 - MISCELLANEOUS PROVISIONS**

- 2301 PARTIES TO THE CONTRACT
- 2302 FEDERAL AID PROVISIONS
- 2303 NO WAIVER OF RIGHTS
- 2304 NO THIRD PARTY BENEFICIARY
- 2305 GOVERNING LAW; VENUE
- 2306 ABBREVIATIONS
- 2307 STATUTE OF LIMITATIONS IN C.R.S. § 13-80-102(1)(h)

**INDEX**

**DESIGN-BUILD CONTRACT**

**PEORIA CROSSING DESIGN-BUILD PROJECT**

**Contract #: 201309616**  
**CDOT Project No.: STU C010-108 (subaccount 18529)**

**Part 3:**  
**SPECIAL CONTRACT CONDITIONS**

**Table of Contents**

	<u>Page</u>	<u>SCC</u>
SC-1	Construction Specifications.....	1
SC-2	Contract Documents (Replaces General Contract Condition 104) .....	1
SC-3	Contractor Definition (Modifications for General Contract Condition 106) -.....	2
SC-4	Transportation Division / City Engineer .....	2
SC-5	City Delegation Of Authority .....	2
SC-6	Designer (Replaces General Contract Condition 110) .....	2
SC-7	Design and Construction Schedule (Replaces General Contract Condition 306 2, B, C &D).....	2
SC-8	Contractor Superintendent – (Modifies General Condition 307) .....	3
SC -9	Suggestions To Contractor (Modify General Condition 313) .....	4
SC-10	Permits and Licenses (Modify Section .1, General Condition 317) .....	4
SC-10a	Construction Surveys (Modify Section .1, General Condition 318).....	4
SC-11	Contract Documents – Review and Interpretation (Deletes General Condition 401.3).....	4
SC-12	Contract Drawings and Technical Specifications (Replaces General Condition 403).....	4
SC-13	Requests for Information or Clarification (Deletes General Contract Condition 404).....	4
SC-14	Shop Drawings, Product Data and Samples (Replaces General Contract Condition 405) .....	4
SC-15	Substitution of Materials and Equipment (Deletes General Contract Condition 406).....	5
SC-16	Subcontracts (Replaces General Contract Condition 501) .....	5
SC-17	Subcontractor Acceptance (modifies General Contract Condition 502) .....	5
SC-18	Liquidated Damages; Administrative Costs; Actual Damages (modifies General Contract Condition 602).....	5
SC-19	Cooperation with Other Work Forces (modifies General Contract Condition 701).....	6
SC-20	Coordination with Public Contact (modifies General Contract Condition 703).....	6
SC-21	Protection of Municipal, Public Service or Public Utility Systems (modifies General Contract Condition 804).....	6
SC-22	Protection of Street and Road System (modifies General Contract Condition 805).....	6
SC-23	Payments to Contractors (clarifies General Contract Condition 902) .....	6
SC-24	Change Order (modifies General Contract Condition 1101).....	11
SC-25	Adjustment to Contract Amount (modifies General Contract Condition 1104).....	11
SC-26	Surety Bonds (modifies General Contract Condition 1501).....	12
SC-27	Performance Bond (modifies General Contract Condition 1502) .....	12
SC-28	Payment Bond (modifies General Contract Condition 1503).....	12
SC-29	Construction Inspection by the City (modifies General Contract Condition 1701).....	12
SC-30	Contractor’s Warranties, Guarantees and Correction of Work (modifies General Contract Condition 1801).....	13
SC-31	Inspection and Punch List (replaces General Contract Condition 1902).....	13
Sc-32	Site Inspection and Investigations .....	13
SC-33	Contract Forms .....	13

SC-34	Disposal of Non-Hazardous Waste at DADS .....	15
SC-35	Greenprint Denver Requirements .....	15
SC-36	Prohibition on Use of CCA-Treated Wood Products .....	15
SC-37	Waiver of: Part 8 of Article 20 of Title 13, Colorado Revised Statutes .....	15
SC-38	Debarred Subcontractors Prohibited.....	15
SC-39	Attorney’s Fees.....	15
SC-40	Acceptance or Approval by City .....	15
SC-41	Spare Parts.....	16
SC-42	Start-Up .....	16
SC-43	Warranty Inspection Services.....	16
SC-44	Mitigation of Damages.....	16
SC-45	Value Engineering.....	16
SC-46	Value Added Enhancements.....	18
SC-47	Defense and Indemnification.....	18
SC-48	Terminology .....	18
SC-49	Use of the Colorado Department of Transportation’s Specifications .....	19
SC-50	Violation of Working Time Limitation .....	20

# DESIGN-BUILD CONTRACT PEORIA CROSSING PROJECT

Contract #: 201309616  
CDOT Project No.: STU C010-108 (subaccount 18529)

## SPECIAL CONTRACT CONDITIONS

The General Contract Conditions were developed and intended to apply to a traditional design-bid-build construction format. When applied to a design/build project delivery format, a number of provisions of the City's standard General Contract Conditions (the "Yellow Book") may be inapplicable or require modification to apply to a design/build delivery methodology. Without redrafting the City's standard General Contract Conditions, it is the intent of these Special Contract Conditions to modify the most clearly inapplicable or contrary provisions of the General Contract Conditions. The remaining General Contract Conditions and these Special Contract Conditions shall be interpreted and applied in a manner consistent with a design/build project delivery format. In the event of an express conflict, contradiction, or inconsistency between a word, phrase, or provision of the General Contract Conditions and a word, phrase, or provision of these Special Contract Conditions, the word, phrase, or provision of these Special Contract conditions shall prevail over the conflicting, contradictory, or inconsistent word, phrase, or provision of the General Contract Conditions.

### SC-1 Construction Specifications

Except as amended herein, all Work performed under the terms of this Contract shall be governed by the applicable provisions of the following latest editions as of the release date of the final RFP. In addition to these requirements noted below the detailed requirements of the contract performance are outlined in Section 18.0 Technical Standards, Data, Reports of the Technical Requirements.

*Standard Specifications for Construction, GENERAL CONTRACT CONDITIONS, City and County of Denver* (Commonly referred to as the "Yellow Book", 2011 Edition)

*Colorado Department of Transportation "Standard Specifications for Road and Bridge Construction"* (Sections 200 through 700 of the 2011 Edition except as amended herein by SC-49).

*Standards and Details for the City and County of Denver*, (April, 2000)

*Manual on Uniform Traffic Control Devices for Streets & Highways* (MUTCD), 2010, (As modified by CDOT supplements)

*Wastewater Management Division – Detail and Technical Specifications for Storm and Sanitary Construction*

The aforementioned documents are available for review at the Capital Projects Management Office, 201 W. Colfax Ave., Dept. 506, (5<sup>th</sup> floor), Denver, CO 80202. *The Standard Specifications for Construction, GENERAL CONTRACT CONDITIONS, City and County of Denver*, and the *Standards and Details for the City and County of Denver* are available at

[http://www.denvergov.org/dpw\\_contract\\_admin/ContractAdministration/ContractorReferenceDocuments/tabid/440535/Default.aspx](http://www.denvergov.org/dpw_contract_admin/ContractAdministration/ContractorReferenceDocuments/tabid/440535/Default.aspx)

The *Manual on Uniform Traffic Control Devices for Streets & Highways* is available for review as stated above, or can be viewed at the Federal Highway Administration Website at: [www.fhwa.dot.gov](http://www.fhwa.dot.gov), where you will also find purchase information.

The "*Colorado Department of Transportation Standard Specifications for Road and Bridge Construction*" is available for review on CDOT's website at <http://www.coloradodot.info/> and can be purchased from the Colorado Department of Transportation.

### SC-2 Contract Documents (Replaces General Contract Condition 104)

General Contract Condition 104 CONTRACT DOCUMENTS is hereby deleted in its entirety and replaced with the following:

"The Contract Documents" consist of the documents that are listed in Section 2.3 of the Design-Build Contract.

**SC-3 Contractor Definition (Modifications for General Contract Condition 106) -**

"Contractor" means the person, partnership, corporation, limited liability company, joint venture, or other entity that has contracted with the City to perform the Design-Build Construction Work as an independent contractor. The term Contractor Superintendent – may also mean Design-Build Manager.

**SC-4 Transportation Division / City Engineer**

**General Condition 204, is modified as follows:**

The Transportation Division is a unit of the Department of Public Works and is supervised by the City Engineer, who is subordinate to the Manager of Public Works. This Division is responsible for the planning, design, construction, operation and maintenance of all of the City's transportation facilities except for the City's Municipal Airport System.

**SC-5 City Delegation of Authority**

The CITY'S CONTRACT ADMINISTRATION LINE OF AUTHORITY, The Manager hereby designates the City Engineer (the "Director") as the City official responsible for those certain actions and decisions designated as the responsibility of the Deputy Manager under the General Conditions and delegates to the Director the authority necessary to undertake those responsibilities under this Contract. The Director shall have supervisory responsibility over the Project Manager. Additionally, Contractor questions concerning the Plans and Technical Specifications shall be directed to:

**City Project Director:**

**Mitch Kumar, PE**

**City Project Manager:**

**Bret Banwart, PE**

**SC-6 Designer (Replaces General Contract Condition 110)**

General Contract Condition 110 Designer is hereby deleted in its entirety and replace with the following:

"Designer," also sometimes referred to as "Architect", "Engineer" "Lead Engineer," "Lead Design Engineer," "Design Professional," "Designer of Record" or "Engineer of Record," means the engineer who designs the project and prepares the specifications or directs the effort of designing the project and preparing the specifications. The Designer is identified in the Contract Documents and is an employee of the Contractor or is retained by the Contractor as an independent contractor under a professional services agreement with the Contractor.

**SC-7 Design and Construction Schedule (Replaces General Contract Condition 306 .2 B, C and D)**

General Contract Condition 306 .2 B, C, and D. WORKING HOURS AND SCHEDULE are replaced with the following and E is incorporated as follows:

B. Within 10 calendar days of the issuance date of NTP, the Contractor shall submit to the Project Manager a Cost Loaded Schedule. The Cost Loaded Schedule shall have a data date of the effective date of the NTP. A Cost Loaded Schedule narrative shall accompany the Cost Loaded Schedule.

The Cost Loaded Schedule shall depict how the Contractor plans to complete the design and construction work for the Project and shall show all those activities that define the Critical Path. The Cost Loaded Schedule shall provide for the adequate planning of the Project, as well as the Project Manager's monitoring and evaluation of progress and analysis of time impacts. The Contractor shall not attribute any negative float to any activity depicted on the Cost Loaded Schedule. The Project Manager will be allowed 10 calendar days to review and accept the Contractor's submittal of the Cost Loaded Schedule. Should the Project Manager reject the Contractor's submittal of the Cost Loaded Schedule, the Contractor shall resubmit a revised schedule within 10 calendar days of receipt of the Project Manager's review comments, at which time a new 10 calendar day review period by the Project Manager will begin.

C. The schedule submitted by the Contractor shall comply with the following requirements.

The Cost Loaded Schedule shall follow these scheduling requirements:

1. No constraints shall be included except on milestones, and the start and finish activities,



2. Negative lags shall not be used at any time,
3. Each activity shall have at least one predecessor and one successor,
4. Submittal, procurement and fabrication activities shall be included,
5. Highlight the critical path on reports,
6. Include milestone activities for completion of all investigations, Design and Construction Work, and Final Acceptance Deadline.
7. Indicate the interdependence of activities (how the start of a given activity depends on the completion of preceding activities) and the sequence of work (how failure to complete a given activity may restrain the start of following activities).
8. Activities with duration times in excess of 15 calendar days shall be kept to a minimum.
9. Include any coordination and cooperation requirements, construction restrictions or other requirements of the Contract. The schedule shall include sufficient work calendars to identify specific activities requiring multiple shifts/day, multiple crews/shift, extended workweeks, or work at times other than what may be considered regular days or hours.
10. Include activities for all Design and Construction Work required by the Contract, including detailed activities for preliminary and final design work plus associated review requirements, permit processes, utilities coordination, demolition, construction, quality control, subcontractors, vendors, and suppliers. In addition, the schedule shall include, as a minimum, activities for the procurement, fabrication, required testing time frames, delivery of critical or special materials and equipment, as well as all submittal activities required by the Contract.
11. Describe by location and sequence activities so that the Design and Construction Work is readily identifiable and the progress of each activity can be measured. Activity duration shall be logical and consistent and shall be based on realistic and available resources of the Contractor and allow for a clear depiction of the progression of the work.
12. Substantial Completion and the Final Acceptance Deadline for each activity in the network, the Contractor shall determine the Contract value. Administrative activities, City activities and milestones shall have an assigned cost of zero. The summation of the costs of all activities shall be equal to the Contractor's contract price for the Project. These costs are to be incorporated into the Primavera schedule and the anticipated daily earnings computed for both early and late starts. These earnings are to be graphically displayed in a time-cost chart ("S" curve).

The Project Manager's acceptance of a Contractor schedule shall not constitute a change of any portion of the Contract nor will it constitute approval. Failure of the Contractor to include any element of work required by the Contract in its schedules shall not relieve the Contractor from completing the Design and Construction Work within the time limit specified for Substantial Completion and Final Acceptance Deadline. If the Contractor fails to define any element of work, activity or logic, and the omission or error is discovered by either the Contractor or the Project Manager, it shall be corrected by the Contractor in regard to the next monthly update or revision of the schedule.

The Contractor shall not incorporate any changes or delays in the Cost Loaded Schedule without the Project Manager's approval.

- D Float or slack is defined as the amount of time between the early start date and the late start date, or the early finish date and the late finish date, of any activities in the schedule. Float or slack is not time for the exclusive use or benefit of either the Contractor or the City. The Contractor may equitably allocate all or portions of said float or slack for use of the Contractor if such allocation is not likely to adversely affect the Contractual Milestone or Substantial Completion date of the Project, or adversely affect the schedules of the City.
- E The Contractor shall, once a month, submit a progress report and an updated schedule in a form acceptable to the Project Manager.

**SC-8 Contractor Superintendent – (Modifies General Condition 307)**

Delete and replace with the following:

The Contractor shall employ and designate to the Deputy Manager in writing a competent Design-Build Manager, Design Manager, Project Quality Manager, and Superintendent. The qualifications of these staff shall be acceptable to

the Deputy Manager. The Design-Build Manager and Superintendent shall serve on a full-time basis at the Work site and shall be authorized to act on behalf of the Contractor in all matters related to the Work. The same person(s) shall continue in their defined roles until the Work has been completed, unless the Deputy Manager requests that they be replaced, or they cease to be employed by the Contractor or they become sick or disabled.

**SC -9 Suggestions To Contractor (Modify General Condition 313)**

Replace with the following:

Any plan of action, method of work, or construction procedure suggested orally or in writing to the Contractor by any City employee, agent or representative, which is not set out in Change Orders or other written directives issued in accordance with the Contract Documents, if adopted or followed by the Contractor in whole or in part, shall be performed at the sole risk and responsibility of the Contractor.

**SC-10 Permits and Licenses (Modify Section .1, General Condition 317 as below)**

- .1 The Contractor is required to possess the appropriate contractor and engineering licenses issued by the Department of Public Works and the State of Colorado, respectively, pertaining to the Work to be performed. The Contractor is also required to obtain all necessary permits for the project. These Public Works permits can be obtained at no cost, but they must be obtained by the Contractor.

**SC-10a Construction Surveys (Modify Section .1, General Condition 318)**

General Condition 318 shall be deleted and modified as follows:

- .1 The City will provide all reference documents as shown in these Contract Drawings by coordinates and/or elevation. However, the City does not take responsibility for the accuracy of this survey data. The Contractor must validate that this data is accurate and ensure that all elements of the Work are correctly located.

**SC-11 Contract Documents – Review and Interpretation (Deletes General Condition 401.3)**

General Contract Condition 401.3 is hereby deleted in its entirety.

**SC-12 Contract Drawings and Technical Specifications (Replaces General Condition 403)**

General Contract Condition 403 is modified as follows:

- .1 The contractor is responsible for keeping an accurate record of drawings and specifications to record the construction of the work in its As Built condition at the Project Construction Site. The contractor shall daily record all changes and deviations in a neat and legible manner on the RFC plans. Any deviation from the RFC plans or technical specifications and the work done, no matter how insignificant, must be recorded. Underground utility structures encountered in performing the Work shall be correctly located on such drawings through physical ties or dimensions to permanent monuments or structures. When the Work is completed, the contractor must deliver a single set of Record Drawings that accurately reflect the as built condition of the project elements and Technical Specifications along with electronic copies to the Project Manager. These drawings (including electronic copies) must be provided and be approved by the Project Manager before final payment can be made. Electronic copies must be completely useable by the City (AutoCad with binded reference files) and the CDOT (MicroStation with merged reference files). Additionally, Contractor shall provide TMoss field notes and ROW plans.

**SC-13 Requests for Information or Clarification (Deletes General Contract Condition 404)**

General Contract Condition 404 REQUESTS FOR INFORMATION OR CLARIFICATION is hereby replaced in its entirety with the following:

The contractor is required to include the City in all documented RFIs.

**SC-14 Shop Drawings, Product Data and Samples (Replaces General Contract Condition 405)**

General Contract Condition 405 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES is hereby deleted in its entirety and replaced with the following:

- .1 The Contractor shall submit all Shop Drawings, as defined in these General Conditions, to the Designer, with a copy to the Project Manager. The Project Manager will review the shop drawings within seven (7) days following

receipt of the shop drawings. The Project Manager will indicate its review with the following messages: Does not object; Does not object, but conditioned as noted, or, Objects.

- .2 The Contractor shall prepare, review, certify, endorse and submit, to the Designer, with reasonable promptness, and in such sequence as to cause no delay in the Work, all Shop Drawings, required by the Contract Documents. The Contractor shall prepare and deliver to the City a submittal schedule for Shop Drawings, as required by the Contract Documents. All such drawings and other material shall contain identifying nomenclature and each submittal shall be accompanied by a transmittal identifying in detail all enclosures. Facsimile reproductions of Contract drawings shall not be used, in whole or in part, for the direct submittal of Shop Drawings unless specifically approved by the Project Manager.
- .3 By preparing, certifying, and submitting Shop Drawings, the Contractor represents that the Contractor has determined and verified all materials, field measurements, and field construction criteria related thereto, and has checked and coordinated the information contained within such submittals with the requirements of the Work, the Project, the Contract Documents and previously reviewed and accepted submittals.
- .4 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the City's review. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data, or Samples by the City's review of them. Review of a specific item by the City shall not indicate the City's acceptance thereof. City review of the Shop Drawings shall not be construed as approval of the adequacy of the documents and shall not constitute a waiver of any remedies the City may have in law or inequity.
- .5 All re-submittals shall either on their face, or in the accompanying transmittal, clearly indicate all revisions that have been made since the previous submittal.
- .6 The Project Manager may review the Contractor's submittal such as Shop Drawings, for conformance with the Contract Documents. Review by the Project Manager shall not relieve the Contractor of its responsibilities under the Contract Documents.

**SC-15 Substitution of Materials and Equipment (Deletes General Contract Condition 406)**

General Contract Condition 406 SUBSTITUTION OF MATERIALS AND EQUIPMENT is deleted in its entirety.

**SC-16 Subcontracts (Replaces General Contract Condition 501)**

In accordance with General Contract Condition 501 SUBCONTRACTS, no limit shall apply to that percentage of the Work, which may be sublet providing that the subcontractors receive prior approval in accordance with General Contract Condition 502 SUBCONTRACTOR ACCEPTANCE.

**SC-17 Subcontractor Acceptance (modifies General Contract Condition 502)**

General Contract Condition 502 SUBCONTRACTOR ACCEPTANCE is modified as follows:

- .3 The Contractor shall submit within 30 days of award a statement signed by an officer or principal of the Contractor certifying that the Contractor has investigated the qualifications and background of each proposed Subcontractor and certifying under oath that, to the best of his or her knowledge, none of the bases for rejection listed above exist. In lieu of this certification, the Contractor may identify, for each proposed Subcontractor, any of the issues listed above applicable to that subcontractor and attach to that statement a list of all judicial and administrative proceedings in the last five (5) years in which any proposed Subcontractor is or was a party, the proceedings involving any of the issues listed above or in which any proposed Subcontractor filed for bankruptcy.

**SC-18 Liquidated Damages; Administrative Costs; Actual Damages (modifies General Contract Condition 602)**

General Contract Condition 602 LIQUIDATED DAMAGES; ADMINISTRATIVE COSTS; ACTUAL DAMAGES is modified as follows:

The Work shall be prosecuted in accordance with the Construction Schedule established in the scope of work including the Contractual Milestone as defined by these contract documents. The Contractor shall anticipate situations which would cause any Subcontractor difficulty in completing its portion of the Work within the time described in the Construction Schedule. If the Work is not completed on or before the Contractual Milestone and the Substantial Completion Date, as set forth in the table below, then in any of the above described events, the Contractor shall pay to the City as liquidated damages, and not as a penalty, an amount to be assessed as follows:

<u>Schedule Milestone</u>	<u>Liquidated Damages</u>	<u>Substantial Milestone</u>
1. Contractual Milestone	\$15,000/day	June 1, 2014
2. Substantial Completion	\$1,000/day	August 7, 2014

Contractor shall rely on a mutually agreed upon site access, exit routes and site logistics plan as approved by City.

Notwithstanding any other provision of this Agreement, in no event shall Contractor's liability for Liquidated damages to the City under this Agreement exceed the total cumulative sum of Five Million Dollars (\$5,000,000).

**SC-19 Cooperation with Other Work Forces (modifies General Contract Condition 701)**

General Contract Condition 701 COOPERATION WITH OTHER WORK FORCES is modified as follows:

- .4 If the Contractor, through its acts or omissions, causes loss, damage or delay to the Work or other property, the Contractor shall, upon due notice, promptly use its best efforts to remedy such loss, damage or delay, at no additional cost to the City.
- .5 If the Contractor, through its acts or omissions, causes loss, damage or delay to the work or property of any other Contractors, Subcontractors, tenants, government agencies, and municipal, public service or utility systems, the Contractor shall, upon due notice, promptly use its best efforts to remedy such loss, damage or delay, or otherwise settle with such other person or entity by agreement or otherwise, at no additional cost to the City.

**SC-20 Coordination with Public Contact (modifies General Contract Condition 703)**

General Contract Condition 703 COORDINATION WITH PUBLIC CONTACT is modified as follows:

- .4 Delete this section. (Remove the requirement for City Tours).

**SC-21 Protection of Municipal, Public Service or Public Utility Systems (modifies General Contract Condition 804)**

General Contract Condition 804 PROTECTION OF MUNICIPAL, PUBLIC SERVICE OR PUBLIC UTILITY SYSTEMS is modified as follows:

Add the following list of AGENCY CONTACTS:

<b>SYSTEM</b>	<b>AGENCY TO CONTACT</b>	
UPRR	Kelly Abaray	303-405-5039
City of Aurora	Duane Launder	303-739-7300
RTD	Steve Zgorgzynski	303-299-2877

**SC-22 Protection of Street and Road System (modifies General Contract Condition 805)**

General Contract Condition 805 PROTECTION OF STREET AND ROAD SYSTEM is modified as follows:

(delete Item .1 and replace as follows:

- .1 The City's street and road system will include the City of Aurora street and road system included within this project – and includes but is not limited to permanent or temporary highway, street, alley, bikeway, pedestrian pathway, bridge and other road or related structures.

**SC-23 Payments to Contractors (clarifies General Contract Condition 902)**

The application for payment shall be submitted through Textura® Corporations Construction Management Website. Contractor recognizes and agrees that it shall be required to use the Textura Construction Payment Management System for this Project. Contractor further agrees that, to the fullest extent possible within the CPM System, the City shall be entitled to all non-Confidential records, reports, data and other information related to the project that are available to Contractor through the CPM System, including, but not limited to, information related to Contractor and subcontractor billings. To that end, Contractor agrees that it will activate any available settings within the CPM System that are necessary to grant the City access to such non-Confidential information related to the contract and the project. Applications for payment shall be based on the Contract Unit Prices or the approved Schedule of Values described in GC 903.1

In accordance with General Contract Condition 902, PAYMENT PROCEDURE, the party(ies) responsible for review of all Pay Applications shall be:

<u>Agency/Firm</u>	<u>Responsible Manager</u>	<u>Telephone</u>
Public Works/Engineering Division	<u>Bret Banwart</u>	(720) 865-3135

In accordance with General Contract Condition 906, APPLICATIONS FOR PAYMENT, each Application submitted shall include the following:

1. The estimate of Work completed shall be based on the approved schedule of values or unit prices, as applicable, and the percent of the Work complete.
2. Each Application for Payment shall include each and every independent subcontractor's payroll information including pay dates and pay amounts.
3. The Contractor shall also submit to the Auditor and other appropriate officials of the City in a timely fashion, information required by General Contract Condition 1004, REPORTING WAGES PAID.

In accordance with General Contract condition 907, RELEASES AND CONTRACTORS CERTIFICATION OF PAYMENT, Applications for Payment must be accompanied by completed Partial or Final Claim Release Form, as appropriate, from EACH subcontractor and supplier, **AND/OR** the Contractors' Certification of Payment Form. The forms, Final/Partial Release and Certificate of Payment (Subcontractor/Supplier) and the Contractor's Certification of Payment, both of which must be used are as follows:

DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

FINAL/PARTIAL RELEASE AND CERTIFICATE OF PAYMENT  
(SUBCONTRACTOR/SUPPLIER)

\_\_\_\_\_  
(CITY PROJECT NAME AND NUMBER)

Date: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(NAME OF CONTRACTOR)

Subcontract #: \_\_\_\_\_.

\_\_\_\_\_  
(NAME OF SUBCONTRACTOR/SUPPLIER)

Subcontract Value: \$ \_\_\_\_\_.

Last Progress Payment: \$ \_\_\_\_\_.

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

Check Applicable Box:

[ ] DBE

Total Paid to Date: \$ \_\_\_\_\_.

Date of Last Work: \_\_\_\_\_.

The Undersigned hereby certifies that all costs, charges or expenses incurred by the undersigned or on behalf of the undersigned for any work, labor or services performed and for any materials, supplies or equipment provided on the above referenced Project or used in connection with the above referenced Subcontract (the "Work Effort") have been duly paid in full.

The Undersigned further certifies that each of the undersigned's subcontractors and suppliers that incurred or caused to be incurred, on their behalf, costs, charges or expenses in connection with the undersigned's Work Effort on the above referenced Project have been duly paid in full.

In consideration of \$\_\_\_\_\_ representing the Last Progress Payment referenced above and in further consideration of the Total Paid to Date, also referenced above, and other good and valuable consideration received and accepted by the undersigned this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Undersigned hereby releases and discharges the City and County of Denver (the "City"), the above referenced City Project, the City's premises and property and the above referenced Contractor from all claims, liens, rights, liabilities, demands and obligations, whether known or unknown, of every nature arising out of or in connection with the performance of the work effort.

As additional consideration for the payments referenced above, the undersigned agrees to defend, indemnify and hold harmless the City, its officers, employees, agents and assigns and the above-referenced Contractor from and against all costs, losses, damages, causes of action, judgments under the subcontract and expenses arising out of or in connection with any claim or claims against the City or the Contractor which arise out of the Undersigned's performance of the Work Effort and which may be asserted by the Undersigned or any of its suppliers or subcontractors of any tier or any of their representatives, officers, agents, or employees.

It is acknowledged that this release is for the benefit of and may be relied upon by the City and the referenced Contractor.

The foregoing shall not relieve the undersigned of any obligation under the provisions of the Undersigned's subcontract, as the subcontract may have been amended, which by their nature survive completion of the Undersigned's work effort including, without limitation, warranties, guarantees, insurance requirements and indemnities.

STATE OF COLORADO ) s.  
CITY OF \_\_\_\_\_)


\_\_\_\_\_  
(Name of Subcontractor)

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

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

Notary Public/Commissioner of Oaths  
My Commission Expires

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

 <b>DENVER</b> <small>THE MILE HIGH CITY</small>	<b>City and County of Denver</b>  <b>Division of Small Business Opportunity</b>  <b>Contractor's/Consultant's Certification of Payment (CCP)</b>	Office of Economic Development <b>Compliance Unit</b> 201 W. Colfax Ave., Dept. 907 Denver, CO 80202 Phone: 720.913.1999 Fax: 720.913.1803
Prime Contractor or Consultant:	Project Manager:	
Phone:		
Pay Application #:	Pay Period:	Amount Requested: \$
Project #:	Project Name:	
Current Completion Date:	Percent Complete:	Prepared By:

		(I) - Original Contract Amount: \$						(II) - Current Contract Amount: \$	
	DBE/ NON	A Original Contract Amount	B % Bid (A/I)	C Current Contract Amount including Amendments	D % Revised (C/II)	E Requested Amount of this Pay Application	F Amount Paid on the Previous Pay Application #	G Net Paid To Date	H Paid % Achieved (G/II)
Prime/Subcontractor/Supplier Name									
<b>Totals</b>									

The undersigned certifies that the information contained in this document is true, accurate and that the payments shown have been made to all subcontractors and suppliers used on this project and listed herein. Please use an additional form, if more space is necessary.

Prepared By (Signature):	Date:
Page _____ of _____	



Office of Economic Development  
Division of Small Business Opportunity  
Compliance Unit  
201 West Colfax Avenue, Dept. 907  
Denver, CO 80202  
Phone: 720-913-1999  
Fax: 720.913-1803

**Instructions for Completing the  
Contractor/Consultant  
Certification of Payment Form**

**Note:** The attached Contractor/Consultant Certification of Payment form must be completed by the Contractor/Subconsultant and all subcontractors/subconsultant or suppliers used on the project at **any tier** and submitted with each pay application. The Contractor/Consultant is responsible for the accuracy of all information provided and is required to have each subcontractor/subconsultant or supplier fill out the appropriate forms. Please be sure to complete all information requested at the top of the form, including the name of the person who prepared this form.

If you reproduce this form, you must continue to list each of the originally listed firms, as well as any additional firms used during the performance period of the contract.

If you have any questions, please call the Compliance Unit of DSBO at 720.913.1999.

**Instructions for Completing the Contractor/Consultant Certification of Payment Form, per Column**

**Contractor/Subcontractor or Subconsultant/Supplier Name:** In the space provided, list all subcontractors/subconsultants and suppliers used on the project. For all MBE/WBEs use the exact name listed in the DSBO Directory.

**MBE/WBE/NON:** For each name listed, indicate whether the entity is a certified MBE/WBE.

**Column A:** Provide the contract amount, as listed at bid time, for the Contractor/Consultant and each subcontractor/subconsultant or supplier.

**Column B:** Provide the percentage portion of each listed subcontractor/subconsultant or supplier contract amount (Column A) compared to the total original contract amount in (I).

**Column C:** Provide the original contract amount (Column A) for each subcontractor/subconsultant or supplier plus any awarded alternate and/or change order amounts applicable. If an alternate/change order does not apply to the listed firm, re-enter the original contract amount (Column A).

**Column D:** Provide the percent portion of each listed subcontractor/subconsultant or supplier contract amount (Column C) compare to the current total contract amount in (II).

**Column E:** Provide the amount requested for work performed or materials supplied by each listed subcontractor/subconsultant or supplier for this pay application. The sum of the items in this column should equal the estimated amount requested for this pay application.

**Column F:** Provide the amount paid to each subcontractor/subconsultant or supplier on the previous pay application. Enter the previous pay application number in the column heading. The sum of the items listed in this column should equal the warrant amount paid to the Contractor/Consultant on the previous pay application. The amounts paid to the subcontractor/subcontractor or suppliers should be the actual amount of each check issued.

**Column G:** Provide the net paid to date for the Contractor/Subconsultant and each listed subcontractor/subconsultant or supplier.

**Column H:** Provide the percent portion of the net paid to date (Column G) for the Contractor/Subconsultant and each listed subcontractor/subconsultant or supplier of the current total contract amount in (II).

Rev. MBE/WBE Pre-Pre Conf. Instruction for Contractor/Consultant Certification of Payment 1/07-dm



**SC-24 Change Order (modifies General Contract Condition 1101)**

General Contract Condition 1101 CHANGE ORDER is modified as follows:

- .3 No revision or change furnished or requested by either party to the other in connection with the preparation, submission, review, comment, approval, or identification of the Design Development Documents or Construction Documents will be considered a change entitling the Contractor to a change in the Contract Time, unless such change shall be expressly evidenced by a Change Order.
- .4 Changes in design and construction required to conform to the requirements of the Design-Build Criteria and Scope, unless the Design-Build Criteria and Scope have been modified by Change Order, shall be completed by Contractor without any increase in the Contract amount or adjustment to the date for Contractual Milestone, Substantial Completion, and Final Completion regardless of the stage of completion of design and/or construction and regardless of whether any design or construction has been otherwise approved by the City. Changes to the Contract Documents, including, without limitation, changes in the Contract Amount or extensions of the date for Substantial Completion, shall only be by Change Order issued by the City.

**SC-25 Adjustment to Contract Amount (modifies General Contract Condition 1104)**

General Contract Condition 1104 ADJUSTMENT TO CONTRACT AMOUNT .2 is modified as follows:

**E. Mark Up For Overhead And Profit**

- (1) The total markup for overhead and profit (on change orders, shall not exceed 15% of the actual costs set forth in GC 1104.2.A-D, regardless of the tier(s) of subcontractors.
- (2) Neither General Contractors nor Subcontractors shall receive markup on markup.
- (3) All of the Contractor's and Subcontractor's field and office overhead and supervision costs are included in the markups listed above
- (4) Neither the Contractor nor Subcontractor of any tier, nor the City in the case of a credit, will apply or attempt to apply these percentage adjustments in a way that would pyramid either the cost or credit because of the involvement of a Subcontractor or sub-subcontractor. Written justification and approval shall be required for any percentages exceeding a total of fifteen percent (15%).
- (5) Contractor Fee. The Contractor shall be allowed a three and one-half percent (3.5%) markup on the actual price charged by a Subcontractor who actually performs the Work . The Contractor shall not be entitled to any additional markup except as allowed under E (1) above for Work actually performed by the Contractor.

**F. Bonds, Insurance, Permits and Taxes** The actual increases or decreases in the cost of premiums for bonds and **insurance**, permit fees, and sales, use or similar taxes related to the Work.

**1104.3 Totals as Equitable Adjustment** The Contractor agrees that the total of the above items constitute an equitable adjustment for any and all costs or damages resulting from a change.

**1104.4 No Equitable Adjustment for Obstruction by Contractor** No equitable adjustment shall be made as a result of costs resulting from any act, hindrance, obstacle, obstruction, interference or omission of the Contractor, its Subcontractors, Suppliers, or surety, or any other entity or individual acting on behalf of the Contractor.

**1104.5 Calculation of Certain Equitable Adjustments**

- A (Not Used)
- B An equitable adjustment shall not include increased costs for delay resulting from the Contractor's failure to continue performance during determination of any Contractor Change Request or claim or dispute resolution.

#### **SC-26 Surety Bonds (modifies General Contract Condition 1501)**

General Contract Condition 1501 SURETY BONDS is modified as follows:

- .4 The Performance and Payment Bonds required under GC 1502 and 1503 shall remain in full force and effect throughout the three (3) year general warranty period following final acceptance. This obligation of the Contractor shall continue notwithstanding the making or acceptance of final payment under GC 2003.

#### **SC-27 Performance Bond (modifies General Contract Condition 1502)**

General Contract Condition 1502 PERFORMANCE BOND is modified as follows:

The Contractor must procure and pay for a performance bond which, when executed by the Contractor and surety, shall be a guarantee for the faithful performance and completion of the Work in strict accordance with the terms of the Contract. The performance bond shall also be a guarantee for the repair or replacement of all Work found to be defective or otherwise unacceptable during the Contract Time and through any warranty and guarantee periods. This bond shall be in the amount of one hundred percent (100%) of the dollar value of the construction portion of the Contract. The Contractor shall utilize the Performance Bond Form included in the Contract Documents.

#### **SC-28 Payment Bond (modifies General Contract Condition 1503)**

General Contract Condition 1503 PAYMENT BOND is modified as follows:

The Contractor must procure and pay for a payment bond which, when executed by the Contractor and surety, shall be a guarantee that all those performing labor or furnishing materials, supplies, rental items, tools, and equipment for the performance of the Work under the Contract shall be paid. This bond shall be in the amount of one hundred percent (100%) of the dollar value of the construction portion of the Contract, and it shall meet the requirements of CRS §38-26-101, *et seq*, as amended. The Contractor shall utilize the Payment Bond Form included in the Contract Documents.

#### **SC-29 Construction Inspection by the City (modifies General Contract Condition 1701)**

General Contract Condition 1701 CONSTRUCTION INSPECTION BY THE CITY is modified as follows:

- .1 Except as modified in the Technical Specifications and Quality Management Plan to be developed with the Contractor *persons who are employees* of the City or who are under contract to the City will be assigned to inspect and test the Work. These persons may perform any tests and observe the Work to determine whether or not designs, materials used, manufacturing and construction processes and methods applied, and equipment installed satisfy the requirements of the drawings and specifications, accepted Shop Drawings, Product Data and Samples, and the General Contractor's warranties and guarantees. The Contractor shall permit these inspectors unlimited access to the Work and provide means of safe access to the Work, which cost shall be included as a Cost of the Work without any increase to the Contract Amount. In addition, Contractor shall provide whatever access and means of access are needed to off-site facilities used to store or manufacture materials and equipment to be incorporated into the Work and shall respond to any other reasonable request to further the inspector's ability to observe or complete any tests. Such inspections shall not relieve the Contractor of any of its quality control responsibilities or any other obligations under the Contract. All inspections and all tests conducted by the City are for the convenience and benefit of the City. These inspections and tests do not constitute acceptance of the materials or Work tested or inspected, and the City may reject or accept any Work or materials at any time prior to the inspections pursuant to G.C. 2002, whether or not previous inspections or tests were conducted by the inspector or a City representative.
- .2 When any unit of government or political subdivision, utility or railroad corporation is to pay a portion of the cost of the Work, its respective representatives shall have the right to inspect the Work. This inspection shall not make any unit of government or political subdivision, utility or railroad corporation a party to the Contract, and shall not interfere with the rights of either party.

**SC-30 Contractor's Warranties, Guarantees and Correction of Work (modifies General Contract Condition 1801)**

General Contract Condition 1801 CONTRACTOR'S WARRANTIES, GUARANTEES AND CORRECTION OF WORK is modified as follows:

- 4 The Contractor's warranties and guarantees for all Work components shall continue for the following periods:
  - A For Contracts executed under the authority of the Manager of Public Works, for a period of three (3) years after the date of final acceptance or for such longer period of time as may be prescribed by the terms of any special warranties and guarantees required by the Contract Documents.
  - B (Not Used)

The obligations of this GC 1801.14 shall survive termination of the Contract under the provisions of Title 22.

**SC-31 Inspection and Punch List (replaces General Contract Condition 1902)**

General Contract Condition 1902 INSPECTION AND PUNCH LIST is hereby deleted in its entirety and replaced with the following:

Within ten (10) Days after receipt of the Contractor's Notice of Substantial Completion of the Work, the Designer, Project Manager, Contractor, and such other representatives as the Project Manager deems appropriate, shall make an inspection of the Work to determine whether the Work has been completed in accordance with the Contract Documents and to review the Contractor's punch list. If, in the sole opinion of the Project Manager, the Work has not been completed to the required stage under this Title 19, the parties shall cease the inspection, and all costs associated with such premature inspection, including any compensation for the City's additional costs, shall be deducted from the payments then or thereafter due the Contractor. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City. If the Work has been completed to the required stage under this Title 19, a punch list shall be prepared by the Contractor as supplemented by those items observed and noted during the inspection. Failure to include any items on the punch list shall not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

**SC-32 Site Inspection and Investigations**

Prior to submitting a bid, the bidder is invited to inspect the work site and its surroundings. Although the bidder is not required to make such an inspection before bidding, for purposes of the Contract it shall be conclusively presumed that by failing to make such an inspection, the bidder has waived the right to later claim additional compensation or time extensions for conditions which would have been evident had the site been inspected.

Since the bid information cannot be guaranteed, the Contractor shall have assumed the risks attendant to successful performance of the Work and shall never make claim for additional compensation or time extensions on the grounds that the nature or amount of work to be done was not understood by the bidder at the time of the bidding.

**SC-33 Contract Forms**

In accordance with the terms and conditions of the Contract Documents, the City requires the use of certain form documents in complying with or satisfying various obligations, notifications and conditions in contracting with the City or performing Work hereunder. These form documents are referenced by title throughout the Contract Documents for mandatory use as directed. The following are the forms that shall be detached and utilized in accordance with the Contract Documents:

1. Performance and Payment Bond

The following are forms that will be issued by the City during construction:

1. Certificate of Contract Release (Attached on the following page)



**Department of Public Works**  
Engineering Department

201 W. Colfax Avenue  
Denver, CO 80202  
[www.denvergov.org/PublicWorks](http://www.denvergov.org/PublicWorks)

Date

Name

Company

Street

City/State/Zip

(SAMPLE)

RE: Certificate of Contract Release for  
CITY OF DENVER CONTRACT NO. 201309616 PEORIA CROSSING DESIGN/BUILD

Certificate of Contract Release

Received this date of the City and County of Denver, as full and final payment of the cost of the improvements provided for in the foregoing contract, \_\_\_\_\_ dollars and \_\_\_\_\_ cents (\$\_\_\_\_\_), in cash, being the remainder of the full amount accruing to the undersigned by virtue of said contract; said cash also covering and including full payment for the cost of all extra work and material furnished by the undersigned in the construction of said improvements, and all incidentals thereto, and the undersigned hereby releases said City and County of Denver from any and all claims or demands whatsoever, regardless of how denominated, growing out of said contract.

And these presents are to certify that all persons performing work upon or furnishing materials for said improvements under the foregoing contract have been paid in full and this payment to be made is the last or final payment.

\_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
Date Signed

If there are any questions, please contact me by telephone at (720) 913-XXXX. Please return this document via facsimile at (720) 913-1805 and mail to original to the above address.



**PEORIA CROSSING DESIGN-BUILD PROJECT**  
Contract #: 201309616

SCC-14

#### **SC-34 Disposal of Non-Hazardous Waste at DADS**

In accordance with the Landfill Agreement made between the City and Waste Management of Colorado, Inc., bidders will be required to haul dedicated loads (non-hazardous entire loads of waste) to the Denver-Arapahoe Disposal Site (“DADS”) for disposal. DADS is located at Highway 30 and Hampden Avenue in Arapahoe County, Colorado. The City will pay all fees associated with such disposal but the Contractor shall be responsible for the costs of transporting the loads. Non-hazardous waste is defined as those substances and materials not defined or classified as hazardous by the Colorado Hazardous Waste Commission pursuant to C.R.S. §25-15-101(6), as amended from time to time, and includes construction debris, soil and asbestos. Bidders shall not use Gun Club Road between I-70 and Mississippi Avenue as a means of access to DADS.

#### **SC-35 Greenprint Denver Requirements**

**GREENPRINT DENVER** In accordance with the City and County of Denver Executive Order 123: Greenprint Denver Office and Sustainability Policy, as amended, Contractor shall adhere to pertinent sections of Executive Order 123. This includes but is not limited to: all construction and renovation of buildings shall follow instructions and memorandum for high performance buildings; horizontal projects shall include the use of fly ash concrete and recycled aggregate where possible; and, all projects shall recycle construction and demolition waste, and install materials that contain recycled content whenever possible Non-hazardous solid waste that is eligible for reuse or recycling is not subject to the DADS disposal requirement defined in SC-34.

A completed “Greenprint Denver Closeout Form for Construction Projects” shall be delivered to the Project Manager as a submittal requirement of Final Acceptance.

#### **SC-36 Prohibition on Use of CCA-Treated Wood Products**

The use of any wood products pressure-treated with chromated copper arsenate (CCA) is prohibited. Examples of CCA-treated wood products include wood used in play structures, decks, picnic tables, landscaping timbers, fencing, patios, walkways and boardwalks.

#### **SC-37 Waiver of: Part 8 of Article 20 of Title 13, Colorado Revised Statutes**

The Contractor specifically waives all the provisions of Part 8 of Article 20 of Title 13, Colorado Revised Statutes regarding defects in the Work under this Construction Contract.

#### **SC-38 Debarred Subcontractors Prohibited**

The Contractor is prohibited from hiring any subcontractor currently debarred by the City in accordance with section 20-77 of the Denver Revised Municipal Code. Without limiting the foregoing, the Contractor is prohibited from hiring any subcontractor ineligible under any of the Federal Provisions of this Contract, including those in Part 4 of the Contract.

#### **SC-39 Attorney’s Fees**

Colorado Revised Statute 38-26-107 requires that in the event any person or company files a verified statement of amounts due and unpaid in connection with a claim for labor and materials supplied on this project, the City shall withhold from payments to the Contractor sufficient funds to insure the payment of any such claims. Should the City and County of Denver be made a party to any lawsuit to enforce such unpaid claims or any lawsuit arising out of or relating to such withheld funds, the Contractor agrees to pay to the City its costs and a reasonable attorney’s fee which cost shall be included as a Cost of the Work.

Because the City Attorney Staff does not bill the City for legal services on an hourly basis, the Contractor agrees a reasonable fee shall be computed at the rate of one hundred dollars per hour of City Attorney time.

#### **SC-40 Acceptance or Approval by City**

Pursuant to the Design-Build Contract, and the other contract documents, the City may be required to review various documents, design, specifications and other information submitted by the Contractor and /or Designer.

It is expressly understood and agreed by the Contractor that under no circumstances shall any review by the City, or its agents or representative relieve the Contractor or the Designer, or any engineer, architect or other consultant retained by, through or under the Contractor, of any liability, obligation, or responsibility, whether by statute, regulation, contract, custom or otherwise, for the design and construction of the Project and the compliance of the Work with the requirements of this Contract, including without limitation, compliance with the Design-Build Criteria and Scope, except to the extent amended by Change Order. The City's acceptance or approval of any deviation or omission from, or conflict or contradiction with the Design-Build Criteria and Scope must be in writing and an appropriate Change Order issued modifying the requirements of the Design-Build Criteria and Scope.

#### **SC-41 Spare Parts**

Prior to Substantial Completion, the Contractor shall deliver new, unopened containers of maintenance supplies, tools, spare parts, extra stocks of materials, finish materials, paint, and similar physical items to the City for those items typically requiring repair or replacement during the first two (2) years of building operation in quantities as directed by the City. Such maintenance supplies, tools, spare parts, extra stocks of materials, and similar physical items may include, but not necessarily be limited to, any special manufactured items, paint, devices or parts that are not available through regular procurement procedures and shall be delivered to the Project and placed in a location as directed by the City.

#### **SC-42 Start-Up**

The Contractor, with the assistance of operating personnel made available by the City, will direct the checkout of utilities and operations of systems and equipment for readiness, perform initial start-up and testing procedures, and instruct operating personnel in the operation of said utilities, systems and equipment.

#### **SC-43 Warranty Inspection Services**

At the time of final acceptance and during the three (3) year general warranty period, the Contractor shall provide quarterly, or as otherwise agreed to by the City, on-site review and inspection services. At the end of the thirty-fifth (35<sup>th</sup>) month after commencement of the three (3) year general warranty period, the City Project Manager and Contractor shall visit the Project to conduct a final review and inspection of the completed construction to identify additional warranty Work required of the Contractor prior to expiration of the three (3) year general warranty period. The Contractor shall provide for the City's review and approval a written report of the findings of the Contractor, a list of all warranty work to be completed, and a schedule for that completion.

#### **SC-44 Mitigation of Damages**

- 1 Notwithstanding any right or obligation of the City or the Contractor to suspend, abandon, terminate, or otherwise delay or stop Work under this Contract, or to impose Liquidated Damages under this Contract, each party shall have an affirmative duty to take any and all reasonable actions to mitigate loss or damage to each party as a result of such suspension, abandonment, termination, or other delay or stoppage of Work, or imposition of Liquidated Damages.
- 2 The duty to mitigate damages shall apply to both the City and the Contractor, jointly and severally, regardless of fault.
- 3 Neither the City nor the Contractor shall take any steps or perform any act or refuse or fail to perform any act that would unreasonably interfere with or preclude the other party from taking reasonable action to mitigate losses. No provision of this Contract shall be applied, interpreted, or invoked in a manner that would unreasonably interfere with or preclude the other party from taking such reasonable action to mitigate losses.

#### **SC-45 Value Engineering**

The parties desire to have flexibility in determining how best to deliver the Work within the parameters established by the Contract Documents. The Contractor is encouraged to develop and deliver value engineering proposals that reduce the project cost yet fulfill the intent of the contract documents. City's Approval of Value

Engineering Change Proposals (VECP)s is required with respect to any proposed changes in the Contract Requirements. Changes in Contract Requirements may be submitted as VECPs in the manner proposed below.

A VECP is a proposal developed and documented by the Contractor which:

1. Proposes to modify or require a change in any of the Contract Requirements in order to be implemented (including any changes to the Design); and
2. Reduces the cost of the Project without impairing essential functions or characteristics of the Project (including service life, economy of operation, ease of maintenance, desirability and safety) as determined by City in its sole discretion, and provided that it is not based solely upon a change in quantities, performance or reliability or a relaxation of the Contract requirements.

The Contractor is encouraged to submit VECPs whenever it identifies potential savings. The City may also request the Contractor to develop and submit a specific VECP. The Contractor has the right to refuse to consider such City-initiated VECPs.

When the Contractor initiates a VECP, the Contractor will be required to develop and submit a VECP proposal that provides a comprehensive description of the following information.

1. A statement that the submission is a VECP, a narrative description of the proposed change, the advantages and disadvantages of the proposed change and a description of how the proposed change will prevent any deleterious effect in function, service life, economy of operation, ease of maintenance or safety.
2. Description of the existing Contract requirements, which are involved in the proposed change.
3. Identification of the Contract requirements (with reference to specific Sections), which must be changed if the VECP is approved.
4. A description of any previous use or tests of the proposal and the conditions and results. If the proposal was previously submitted on another City or CDOT project, indicate the date, contract number and the action taken by City or CDOT.
5. Date or time by which a Change Order adopting the VECP must be issued in order to obtain the maximum cost reduction, noting any effect on the Contract Schedule and if, in any way the proposal approval would jeopardize the required completion date.
6. A complete cost analysis including current pricing for the existing Contract requirements compared to the Contractor's cost estimate of the proposed changes. The Contractor shall provide any additional information requested by City in a timely manner. Additional information could include results of field investigations and surveys, design computations, and field change sheets.

Upon receipt of a VECP, City will process it, may request more information, and require a recalculation of quantities or other cost information, but will not be liable for any delay in acting upon any proposal. The Contractor may withdraw all or part of any VECP at any time prior to Approval by City.

City may approve, in its sole discretion, in whole or in part, by Change Order, any VECP submitted. The decision of City to reject or approve a VECP shall be at the sole discretion of City and shall be final and not subject to partnering, dispute resolution, or appeal. The Contractor shall have no claim for any additional costs or delays resulting from the delayed processing or rejection of a VECP, including development costs, loss of anticipated profits, or increased material or labor costs. Until a Change Order is issued on a VECP, the Contractor shall remain obligated to perform in accordance with the Contract Documents.

If City Approves a VECP submitted by the Contractor, the Contract Price shall be adjusted in accordance with the following:

The Contract Price shall be reduced by an amount equal to the sum of: (i) 100 percent of any additional costs incurred by City resulting from the VECP; plus (ii) 50 percent of the estimated net savings.

Estimated Net Savings shall mean: (i) the difference between the cost of performing the Work according to the Contract Documents using current estimates and the actual cost to perform it according to the proposed change; less (ii) the costs of studying and preparing the VECP as proven by the Contractor and Approved by City in accordance with the Change Order procedures set forth herein; less (iii) any additional costs

incurred by City (including costs relating to any Relocations and ROW and implementation costs) resulting from the VECP. The Contractor's profit shall not be considered part of the cost.

All Approved or disapproved VECPs and Negotiated Changes will become the property of City, and shall contain no restrictions imposed by the Contractor on their use or disclosure. City retains the right to use, duplicate, and disclose in whole or in part any data necessary for the utilization of the proposal on any other or subsequent projects without any obligation to the Contractor. This provision is not intended to deny rights provided by law with respect to patented materials or processes.

#### **SC-46 Value Added Enhancements**

During the contract period, project funding may be available to the City. The sources of this funding will include the difference between the contractor's cost for the Base project and the original funding for the project or additional funding becoming available regardless of source. Based on the amount of available funds, City shall select from the City's list of prioritized projects as submitted in the Proposal, specific Value Added Enhancements as a City Initiated Change by issuing a Change Request. The Change Request with the price submitted with the proposal used as the cost basis. Contractor will provide full justification of each change. City shall have the right to approve or deny. If the parties are not able to develop a mutual agreeable cost and schedule change order, City at its option may proceed with Change Directive or elect to not undertake the work under this agreement.

#### **SC-47 Defense and Indemnification**

General Condition 1602, INDEMNIFICATION, is modified to read in full as follows:

##### **1602 DEFENSE AND INDEMNIFICATION**

- (a) To the fullest extent permitted by law, the Contractor hereby agrees to defend, indemnify, and hold harmless City, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or related to the work performed under this Contract that are due to the negligence or fault of the Contractor or the Contractor's agents, representatives, subcontractors, or suppliers ("Claims"). This indemnity shall be interpreted in the broadest possible manner consistent with the applicable law to indemnify the City.
- (b) Contractor's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether suit has been filed and even if Contractor is not named as a Defendant.
- (c) Contractor will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.
- (d) Insurance coverage requirements specified in this Contract shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.
- (e) This defense and indemnification obligation shall survive the expiration or termination of this Contract.

#### **SC-48 Terminology**

Terminology used in Colorado Department of Transportation (CDOT) Standards and Specifications and City and County of Denver (City) Standards and Specifications may differ but shall be considered interchangeable where appropriate. Examples are Department of Public Works (City) and Department (CDOT), Project Manager (City) and Engineer (CDOT), Traffic Maintenance Plan (City) and Traffic Control Plan (CDOT).



**SC-49 Use of the Colorado Department of Transportation’s Specifications**

The Colorado Department of Transportation’s Standard Specifications for Road and Bridge Construction section 200 through 700, and as specifically provided in this SC-49 for 100 sections, shall be used for this contract.,

- A. All Sections 200 through 700 are revised as follows:** Delete all Method of Measurement and Basis of Payment specifications.
- B. Include Section 101. References to Subsections 101.09, 101.28, 101.47 and 101.54** are hereby amended as follows, to replace references to CDOT positions with the applicable City positions:
  - “Engineer”, “Resident Engineer,” “Project Engineer,” and “Area Engineer” are replaced by “the City Project Manager.”
  - “Region Transportation Director” is replaced by “the City Engineer.”
  - “Chief Engineer” is replaced by “the City’s Manager of Public Works.”
- C. References to Sections 102, 103, and 104** in Sections 200 through 700 are revised as follows:

CDOT	CITY
Section	Contract Condition
104.02(a)	Title 14
104.02 (b),(c)	Title 11, 21
104.03	Title 11
104.04	Title 8 and the Technical Requirements

- D. References to Section 105 in Section 200 through 700,** are revised as follows:

<u>CDOT</u>	<u>CITY</u>
Section	Contract Condition
105(1)	Title 17
105.01	Titles 2 and 3
105.02	Title 4 and Section 2 of the Contract Documents
105.03	Title 3 and performance conditions throughout the Contract
105.04	Title 3 and performance conditions throughout the Contract
105.05	Title 3 and performance conditions throughout the Contract
105.06	Title 3 and performance conditions throughout the Contract
105.07	Title 3 and performance conditions throughout the Contract
105.08	Title 3 and performance conditions throughout the Contract
105.09	Section 2.4 of Contract Form
105.10	Titles 7 and 8
105.11	Title 7
105.12	Title 7
105.13	Title 3, Special Condition 10a (revision of GC 318)
105.14	Title 2 and/or as amended by SC-5 and/or per per 1.1 & 1.2 of Contract Form
105.15	Title 17 and Quality Control Requirements
105.16	Title 17
105.17	Title 8 and Title 3
105.18	Title 8
105.19	Title 8 and Title 3
105.20	Title 8 and Title 3
105.21	Titles 19 and 20
105.22	Title 13 and Section 7.1 of Contract Form
105.23	Title 3 and Section 7.1 of Contract Form
105.24	Title 12

(1) – References to Incentive/ Disincentives Payment. There are no incentive payments only disincentive payments on this project.

**E Include Section 106 Control of Material.**

**F References to Sections 107, 108, and 109 in Sections 200 through 700 are redirected as follows:**

CDOT Section	CITY Contract Condition	
107.01	Title 3 and Title 8	
107.02	Title 3 107.03	Title 3
107.04	Title 3	
107.05	Title 23	
107.06	Title 3 and Title 8	
107.07	Titles 3 and 8	
107.08	Title 8	
107.09	Title 8	
107.10	Title 8	
107.11	Title 8	
107.12	Title 8	
107.13	Title 8	
107.14	Title 8	
107.15	Title 16	
107.16	Title 19	
107.17	Titles 3 and 8	
107.19	Technical Requirements Section 8, Right of Way, and Section 1.2.2 of the Instruction to Proposers.	
107.20	There is not a corresponding City condition beyond indemnity per GC-Title 16	
107.21	Titles 17, 18, 19 and 20	
107.22	Title 23	
107.23	Title 8 and the technical requirements	
107.24	Title 8 and performance conditions throughout the Contract	
107.25	Title 8 and performance conditions throughout the Contract	
108	Titles 3, 5, 6, 7, 8, 11109.01	Not applicable
109.02	Title 9	
109.03	Not applicable	
109.04	Titles 11 and 21	
109.05	Not applicable	
109.06	Title 9 and SC-23	
109.07	Title 9	
109.09	Title 20	
109.10	Titles 11, 12 and 13	

**SC-50 Violation of Working Time Limitation**

If there is a violation of the working time limitations for traffic control as set forth in the Street Occupancy Permit in Denver (and equivalent in Aurora), a written notice to stop work will be imposed on the Contractor at the start of the next working day. Work shall not resume until the Contractor assures the Engineer, in writing, that there will not be a reoccurrence of the working time violation. If more violations take place, the Engineer will notify the Contractor in writing that there will be a price reduction charge for each incident in accordance with this specification. This incident price reduction charge will be deducted from any money due the Contractor. This price reduction will not be considered a penalty but will be a price reduction for failure to perform traffic control in compliance with the Contract. There will be no modification to the Contractual Milestone, Substantial Completion, or Final Completion dates if a written notice to stop work results from the Contractor’s violation of the Denver Street Occupancy Permit or City of Aurora equivalent.

An incident is any violation up to 30 minutes in duration. Each 30 minutes or increment thereof will be considered as an incident. A price reduction will be assessed for each successive or cumulative 30 minute period in violation of the working time limitations, as determined by the Project Manager. The price reduction for each incident will increase at a progressive rate starting with \$150 for the second incident and increasing to \$1200 for the fifth and subsequent incidents in accordance with the following schedule. A 15 minute grace period will be allowed at the beginning of the second incident on the project before the price reduction is applied. This 15 minute grace period applies only to the second incident.

The number of incident charges will be accumulative throughout the duration of the Contract.

**PRICE REDUCTION SCHEDULE**

<b>Incident</b>	<b>Incident Rate</b>	<b>Total Price Reduction</b>
1 <sup>st</sup>	Notice to Stop Work	----
2 <sup>nd</sup>	\$150	\$150
3 <sup>rd</sup>	300	450
4 <sup>th</sup>	600	1,050
5 <sup>th</sup>	1,200	2,250
6 <sup>th</sup>	1,200	3,450
Etc.	1,200	4,650
	Etc.	Etc.

**DESIGN-BUILD CONTRACT  
PEORIA CROSSING DESIGN-BUILD PROJECT**

**Contract #: 201309616  
CDOT Project No.: STU C010-108 (subaccount 18529)**

**PART 4: FEDERAL REQUIREMENTS**

The Project is funded in whole or in part by federal funding, made available through the Federal Highway Administration (“FHWA”) and administered by the Colorado Department of Transportation (“CDOT”). As such, performance under this Design-Build Contract is subject to the “Federal Requirements” contained or referenced in the Contract Documents, including but not limited to this Part 4. Some specific Federal Requirements may be incorporated into the Technical Requirements, Technical Specifications, or the Contract Special Conditions. The Contractor shall thoroughly review and shall strictly comply with all Federal Requirements in performing its Work under this Design-Build Contract.

The following sections constitute this Part 4, Federal Requirements. As used in this Part 4, the phrase “Standard Specifications” means the CDOT “Standard Specifications for Road and Bridge Construction” (Sections 200 through 700 of the 2011 Edition), which are incorporated into the Contract Documents in SC-1 through SC-50.

**Contents of Federal Requirements:**

- Contract Special Provision: ON-THE-JOB TRAINING - Federal-Aid Construction
- Projects FHWA-1273 Electronic version — March 10, 1994

## **Contract Special Provision: ON-THE-JOB TRAINING - Federal-Aid Construction**

### **NOTICE**

This is a standard special provision that revises or modifies CDOT's *Standard Specifications for Road and Bridge Construction*. It has gone through a formal review and approval process and has been issued by CDOT's Project Development Branch with formal instructions regarding its use on CDOT construction projects. It is to be used as written without change. Do not use modified versions of this special provision on CDOT construction projects, and do not use this special provision on CDOT projects in a manner other than that specified in the instructions unless such use is first approved by the Standards and Specifications Unit of the Project Development Branch. The instructions for use on CDOT construction projects appear below.

Other agencies that use the *Standard Specifications for Road and Bridge Construction* to administer construction projects may use this special provision as appropriate and at their own risk.

### **INSTRUCTIONS FOR USE ON CDOT CONSTRUCTION PROJECTS:**

Use this standard special provision in all Federal-aid projects.

This training special provision is an implementation of 23 U.S.C. 140 (a). The Contractor shall meet the requirements of the FHWA 1273 for all apprentices and trainees.

As part of the Contractor's Equal Employment Opportunity Affirmative Action Program, training shall be provided on projects as follows:

1. The Contractor shall provide on the job training aimed at developing full journey workers in the skilled craft identified in the approved training plan. The Contractor shall provide at a minimum, required training hours listed in the Project Special Provisions for each project.
2. The primary objective of this specification is to train and upgrade women and minority candidates to full journey worker status. The Contractor shall make every reasonable effort to enroll and train minority and women workers. This training commitment shall not be used to discriminate against any applicant for training whether or not the applicant is a woman or minority.
3. The Contractor may employ temporary workers from CDOT supportive services providers to meet OJT requirements. Information pertaining to supportive services providers may be obtained by calling the CDOT OJT Coordinator at the number shown on the link <http://www.coloradodot.info/business/equal-opportunity/training.html>
4. An employee shall not be employed or utilized as a trainee in a skilled craft in which the employee has achieved journey status.
5. The minimum length and type of training for each skilled craft shall be as established in the training program selected by the Contractor and approved by the Department and the Colorado Division of the Federal Highway Administration (FHWA), or the U. S Department of Labor (DOL), Office of Apprenticeship or recognized state apprenticeship agency. To obtain assistance or program approval contact:

CDOT Center for Equal Opportunity  
4201 East Arkansas Avenue  
Denver, CO 80222  
[eo@dot.state.co.us](mailto:eo@dot.state.co.us)  
1-800-925-3427

6. The Contractor shall pay the training program wage rates and the correct fringe benefits to each approved trainee employed on the project and enrolled in an approved program. The minimum trainee wage shall be no less than the wage for the Guardrail Laborer classification as indicated in the wage decision for the project.
7. The CDOT Regional Civil Rights Manager must approve all proposed apprentices and trainees for the participation to be counted toward the project goal and reimbursement. Approval must occur before training begins. Approval for the apprentice or trainee to begin work on a CDOT project will be based on:
  - A. Evidence of the registration of the trainee or apprentice into the approved training program.
  - B. The completed Form 838 for each trainee or apprentice as submitted to the Engineer.
8. Before training begins, the Contractor shall provide each trainee with a copy of the approved training program, pay scale, pension and retirement benefits, health and disability benefits, promotional opportunities, and company policies and complaint procedures.
9. Before training begins, the Contractor shall submit a copy of the approved training program and CDOT Form 1337 to the Engineer. Progress payments may be withheld until this is submitted and approved and may be withheld if the approved program is not followed
10. On a monthly basis, the Contractor shall provide to the Engineer a completed On the Job Training Progress Report (Form 832) for each approved trainee or apprentice on the project. The Form 832 will be reviewed and approved by the Engineer before reimbursement will be made. The Contractor will be reimbursed for no more than the OJT Force Account budget. At the discretion of the Engineer and if funds are available, the Engineer may increase the force account budget and the number of reimbursable training hours through a Change Order. The request to increase the force account must be approved by the Engineer prior to the training.
11. Upon completion of training, transfer to another project, termination of the trainee or notification of final acceptance of the project, the Contractor shall submit to the Engineer a “final” completed Form 832 for each approved apprentice or trainee.
12. All forms are available from the CDOT Center for Equal Opportunity, through the CDOT Regional Civil Rights Manager, or on CDOT’s website at <http://www.coloradodot.info/business/bidding/Bidding%20Forms/Bid%20Winner%20Forms>
13. Forms 838 and 832 shall be completed in full by the Contractor. Reimbursement for training is based on the number of hours of on the job training documented on the Form 832 and approved by the Engineer. The Contractor shall explain discrepancies between the hours documented on Form 832 and the corresponding certified payrolls.
14. The OJT goal (# of training hours required) for the project will be included in the Project Special Provisions and will be determined by the Regional Civil Rights Manager after considering:

- A. Availability of minorities, women, and disadvantaged for training;
- B. The potential for effective training;
- C. Duration of the Contract;
- D. Dollar value of the Contract;
- E. Total normal work force that the average bidder could be expected to use;
- F. Geographic location;
- G. Type of work; and
- H. The need for additional journey workers in the area
- I. The general guidelines for minimum total training hours are as follows:

<b>Contract dollar value</b>	<b>Minimum total training hours to be provided on the project</b>
Up to 1 million	0
>1 - 2 million	320
>2 - 4 million	640
>4 - 6 million	1280
>6 - 8 million	1600
>8 - 12 million	1920
>12 - 16 million	2240
>16 - 20 million	2560
For each increment of \$5 million, over \$20 million	1280

- 15. The number of training hours for the trainees to be employed on the project shall be as shown in the Contract. The trainees or apprentices employed under the Contract shall be registered with the Department using Form 838, and must be approved by the Regional Civil Rights Manager before training begins for the participation to be counted toward the OJT project goal. The goal will be met by an approved trainee or apprentice working on that project; or, if a Contractor's apprentice is enrolled in a DOL approved apprenticeship program and registered with CDOT using Form 838 and working for the Contractor on a non-CDOT project. The hours worked on the non-CDOT project may be counted toward the project goal with approved documentation on Form 832. Training hours will be counted toward one project goal.
- 16. Subcontractor trainees who are enrolled in an approved Program may be used by the Contractor to satisfy the requirements of this specification.
- 17. The Contractor will be reimbursed \$2.00 per hour worked for each apprentice or trainee working on a CDOT project and whose participation toward the OJT project goal has been approved

18. The Contractor shall have fulfilled its responsibilities under this specification if the CDOT Regional Civil Rights Manager has determined that it has provided acceptable number of training hours.
19. Failure to provide the required training will result in the following disincentives: A sum representing the number of training hours specified in the Contract, minus the number of training hours worked as certified on Form 832, multiplied by the journey worker hourly wages plus fringe benefits [(A hours – B hours worked) x (C dollar per hour + D fringe benefits)] = Disincentives Assessed. Wage rate will be determined by averaging the wages for the crafts listed on Form 1337. The Engineer will provide the Contractor with a written notice at Final Acceptance of the project informing the Contractor of the noncompliance with this specification which will include a calculation of the disincentives to be assessed.

**FHWA-1273 Electronic version — March 10, 1994**

**Required Contract Provisions Federal-Aid Construction Contracts**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Payment of Predetermined Minimum Wage
- V. Statements and Payrolls
- VI. Record of Materials, Supplies, and Labor
- VII. Subletting or Assigning the Contract
- VIII. Safety: Accident Prevention
- IX. False Statements Concerning Highway Projects
- X. Implementation of Clean Air Act and Federal Water Pollution Control Act
- XI. Certification Regarding Debarment, Suspension Ineligibility, and Voluntary Exclusion
- XII. Certification Regarding Use of Contract Funds for Lobbying

**Attachments**

- A. Employment Preference for Appalachian Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. These contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
2. Except as otherwise provided for in each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions.



3. A breach of any of the stipulations contained in these Required Contract Provisions shall be sufficient grounds for termination of the contract.
4. A breach of the following clauses of the Required Contract Provisions may also be grounds for debarment as provided in 29 CFR 5.12:
  - Section I, paragraph 2;
  - Section IV, paragraphs 1, 2, 3, 4, and 7;
  - Section V, paragraphs 1 and 2a through 2g.
5. Disputes arising out of the labor standards provisions of Section IV (except paragraph 5) and Section V of these Required Contract Provisions shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor (DOL) as set forth in 29 CFR 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the DOL, or the contractor's employees or their representatives.
6. Selection of Labor: During the performance of this contract, the contractor shall not:
  - a. discriminate against labor from any other State, possession, or territory of the United States (except for employment preference for Appalachian contracts, when applicable, as specified in Attachment A), or
  - b. employ convict labor for any purpose within the limits of the project unless it is labor performed by convicts who are on parole, supervised release, or probation.

## II. NONDISCRIMINATION

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The Equal Opportunity Construction Contract Specifications set forth under 41 CFR 60-4.3 and the provisions of the American Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:
  - a. The contractor will work with the State highway agency (SHA) and the Federal Government in carrying out EEO obligations and in their review of his/her activities under the contract.
  - b. The contractor will accept as his operating policy the following statement:
 

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

2. EEO Officer: The contractor will designate and make known to the SHA contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.
3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
  - a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
  - b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
  - c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.
  - d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
  - e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.
4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
  - a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.
  - b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, he is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with EEO contract provisions. (The DOL has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)
  - c. The contractor will encourage his present employees to refer minority group applicants for employment. Information and procedures with regard to referring minority group applicants will be discussed with employees.
5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer,

demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of his avenues of appeal.

6. Training and Promotion:

- a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision.
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use his/her best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

- a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- b. The contractor will use best efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

- c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the SHA and shall set forth what efforts have been made to obtain such information.
  - d. In the event the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The DOL has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the SHA.
8. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment.
- a. The contractor shall notify all potential subcontractors and suppliers of his/her EEO obligations under this contract.
  - b. Disadvantaged business enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The contractor will use his best efforts to solicit bids from and to utilize DBE subcontractors or subcontractors with meaningful minority group and female representation among their employees. Contractors shall obtain lists of DBE construction firms from SHA personnel.
  - c. The contractor will use his best efforts to ensure subcontractor compliance with their EEO obligations.
9. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the SHA and the FHWA.
- a. The records kept by the contractor shall document the following:
    - 1. The number of minority and non-minority group members and women employed in each work classification on the project;
    - 2. The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women;
    - 3. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees; and
    - 4. The progress and efforts being made in securing the services of DBE subcontractors or subcontractors with meaningful minority and female representation among their employees.
  - b. The contractors will submit an annual report to the SHA each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on

Form FHWA-1391. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data.

### III. NONSEGREGATED FACILITIES

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$10,000 or more.)

- a. By submission of this bid, the execution of this contract or subcontract, or the consummation of this material supply agreement or purchase order, as appropriate, the bidder, Federal-aid construction contractor, subcontractor, material supplier, or vendor, as appropriate, certifies that the firm does not maintain or provide for its employees any segregated facilities at any of its establishments, and that the firm does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The firm agrees that a breach of this certification is a violation of the EEO provisions of this contract. The firm further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability
- b. As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, timeclocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religion, national origin, age or disability, because of habit, local custom, or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g., disabled parking).
- c. The contractor agrees that it has obtained or will obtain identical certification from proposed subcontractors or material suppliers prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more and that it will retain such certifications in its files.

### IV. PAYMENT OF PREDETERMINED MINIMUM WAGE

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural minor collectors, which are exempt.)

#### 1. General:

- a. All mechanics and laborers employed or working upon the site of the work will be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account [except such payroll deductions as are permitted by regulations (29 CFR 3) issued by the Secretary of Labor under the Copeland Act (40 U.S.C. 276c)] the full amounts of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment. The payment shall be computed at wage rates not less than those contained in the wage determination of the Secretary of Labor (hereinafter “the wage determination”) which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor or its subcontractors and such laborers and mechanics. The wage determination (including any additional classifications and wage rates conformed under paragraph 2 of this Section IV and the DOL poster (WH-1321) or Form FHWA-1495) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. For the purpose of this Section, contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act (40 U.S.C. 276a) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section IV, paragraph 3b, hereof. Also, for the purpose of this Section, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the

particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraphs 4 and 5 of this Section IV.

- b. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference in this contract.

2. Classification:

- a. The SHA contracting officer shall require that any class of laborers or mechanics employed under the contract, which is not listed in the wage determination, shall be classified in conformance with the wage determination.
- b. The contracting officer shall approve an additional classification, wage rate and fringe benefits only when the following criteria have been met:
  - 1. the work to be performed by the additional classification requested is not performed by a classification in the wage determination;
  - 2. the additional classification is utilized in the area by the construction industry;
  - 3. the proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; 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 the U.S. DOL) and Helpers:

a. Apprentices:

1. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the DOL, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State apprenticeship agency recognized by the Bureau, or if a person is employed in his/her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State apprenticeship agency (where appropriate) to be eligible for probationary employment as an apprentice.
2. The allowable ratio of apprentices to journeyman-level employees on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate listed in the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor or subcontractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman-level hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.
3. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator for the Wage and Hour Division determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

4. In the event the Bureau of Apprenticeship and Training, or a State apprenticeship agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor or subcontractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the comparable work performed by regular employees until an acceptable program is approved.

b. Trainees:

1. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the DOL, Employment and Training Administration.
2. The ratio of trainees to journeyman-level employees on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.
3. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress, expressed as a percentage of the journeyman-level hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman-level wage rate on the wage determination which provides for less than full fringe benefits for apprentices, in which case such trainees shall receive the same fringe benefits as apprentices.
4. In the event the Employment and Training Administration withdraws approval of a training program, the contractor or subcontractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Helpers:

1. 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 (Programs of the U.S. DOT):

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



6. Withholding:

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

7. Overtime Requirements:

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers, mechanics, watchmen, or guards (including apprentices, trainees, and helpers described in paragraphs 4 and 5 above) shall require or permit any laborer, mechanic, watchman, or guard in any workweek in which he/she is employed on such work, to work in excess of 40 hours in such workweek unless such laborer, mechanic, watchman, or guard receives compensation at a rate not less than one-and-one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek.

8. Violation:

Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph 7 above, the contractor and any subcontractor responsible thereof shall be liable to the affected employee for his/her unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, watchman, or guard employed in violation of the clause set forth in paragraph 7, in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by the clause set forth in paragraph 7.

9. Withholding for Unpaid Wages and Liquidated Damages:

The SHA shall upon its own action or upon written request of any authorized representative of the DOL withhold, or cause to be withheld, from any monies payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 8 above.

V. STATEMENTS AND PAYROLLS

(Applicable to all Federal-aid construction contracts exceeding \$2,000 and to all related subcontracts, except for projects located on roadways classified as local roads or rural collectors, which are exempt.)

1. Compliance with Copeland Regulations (29 CFR 3):

The contractor shall comply with the Copeland Regulations of the Secretary of Labor which are herein incorporated by reference.

## 2. Payrolls and Payroll Records:

- a. Payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of 3 years from the date of completion of the contract for all laborers, mechanics, apprentices, trainees, watchmen, helpers, and guards working at the site of the work.
- b. The payroll records shall contain the name, social security number, and address of each such employee; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalent thereof 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. 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.

## VI. RECORD OF MATERIALS, SUPPLIES, AND LABOR

1. On all Federal-aid contracts on the National Highway System, except those which provide solely for the installation of protective devices at railroad grade crossings, those which are constructed on a force account or direct labor basis, highway beautification contracts, and contracts for which the total final construction cost for roadway and bridge is less than \$1,000,000 (23 CFR 635) the contractor shall:
  - a. Become familiar with the list of specific materials and supplies contained in Form FHWA-47, “Statement of Materials and Labor Used by Contractor of Highway Construction Involving Federal Funds,” prior to the commencement of work under this contract.
  - b. Maintain a record of the total cost of all materials and supplies purchased for and incorporated in the work, and also of the quantities of those specific materials and supplies listed on Form FHWA-47, and in the units shown on Form FHWA-47.
  - c. Furnish, upon the completion of the contract, to the SHA resident engineer on Form FHWA-47 together with the data required in paragraph 1b relative materials and supplies, a final labor summary of all contract work indicating the total hours worked and the total amount earned.
2. At the prime contractor’s option, either a single report covering all contract work or separate reports for the contractor and for each subcontract shall be submitted.

## VII. SUBLETTING OR ASSIGNING THE CONTRACT

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the State. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor’s own organization (23 CFR 635).
  - a. “Its own organization” shall be construed to include only workers employed and paid directly by the prime contractor and equipment owned or rented by the prime contractor, with or without

operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime contractor.

- b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid on the contract as a whole and in general are to be limited to minor components of the overall contract.
2. The contract amount upon which the requirements set forth in paragraph 1 of Section VII is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the SHA contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the SHA contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the SHA has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

#### VIII. SAFETY: ACCIDENT PREVENTION

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the SHA contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333).

## IX. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

### NOTICE TO ALL PERSONNEL ENGAGED ON FEDERAL-AID HIGHWAY PROJECTS

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

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

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

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

Shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.”

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

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.
2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section X in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

#### XI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

##### 1. Instructions for Certification - Primary Covered Transactions:

(Applicable to all Federal-aid contracts - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
- d. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- f. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the nonprocurement portion of the “Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs” (Nonprocurement List) which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph f of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

Certification Regarding Debarment, Suspension, Ineligibility  
and Voluntary Exclusion—Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - b. Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1b of this certification; and
  - d. Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

## 2. Instructions for Certification - Lower Tier Covered Transactions:

(Applicable to all subcontracts, purchase orders and other lower tier transactions of \$25,000 or more - 49 CFR 29)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “primary covered transaction,” “participant,” “person,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



\* \* \* \* \*

Certification Regarding Debarment, Suspension, Ineligibility  
and Voluntary Exclusion—Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

XII. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

(Applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 - 49 CFR 20)

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
  - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
  - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

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

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

**ATTACHMENTS**

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

**I. GENERAL**

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

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

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

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

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

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

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

**II. NONDISCRIMINATION**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**6. Training and Promotion:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### III. NONSEGREGATED FACILITIES

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

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

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

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

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

#### 1. Minimum wages

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

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

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

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

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

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

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

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

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

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

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

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

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

## 2. Withholding

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

## 3. Payrolls and basic records

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

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

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

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

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

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

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

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

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

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

#### 4. Apprentices and trainees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**10. Certification of eligibility.**

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

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

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

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

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

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

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

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

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



## VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

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

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

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

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

## VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \* \* \*

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

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

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Contractors Performance Capability Statement**

**COLORADO DEPARTMENT OF TRANSPORTATION – Form 605  
CONTRACTORS PERFORMANCE CAPABILITY STATEMENT**

Project #  
STU C010-108

1. List names of partnerships or joint ventures  none

List decreases in the contractors fiscal or workmanship qualifications compared to the last prequalification statement submitted to CDOT. (Attach additional sheets if necessary)

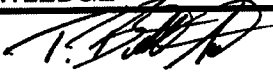
a. Key personnel changes  none

b. Key equipment changes  none

c. Fiscal capability changes (legal actions, etc.)  none

d. Other changes that may affect the contractors ability to perform work  none

**I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE**

Contractor's firm or company name	By 	Date
SEMA Construction, Inc.	Title District President	12/07/12

2 <sup>nd</sup> Contractor's firm or company name (if joint venture)	By	Date
	Title	

## Anti-Collusion Affidavit

Form 606

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b>	Project No.: <b>STU C010-108</b>
<b>ANTI-COLLUSION AFFIDAVIT</b>	Location: <b>Denver, Colorado</b>

I hereby attest that I am the person responsible within my firm for the final decision as to the price(s) and amount of this bid or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf and on behalf of my firm.

I further attest that:

1. The price(s) and amount of this bid have been arrived at independently, without consultation, communication or agreement for the purpose or with the effect of restricting competition with any other firm or person who is a bidder or potential prime bidder.
- 2A. Neither the price(s) nor the amount of this bid have been disclosed to any other firm or person who is a bidder or potential prime bidder on this project, and will not be so disclosed prior to bid opening.
- 2B. Neither the prices nor the amount of the bid of any other firm or person who is a bidder or potential prime bidder on this project have been disclosed to me or my firm.
- 3A. No attempt has been made to solicit, cause or induce any firm or person who is a bidder or potential prime bidder to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or non-competitive bid or other form of complementary bid.
- 3B. No agreement has been promised or solicited for any other firm or person who is a bidder or potential prime bidder on this project to submit an intentionally high, noncompetitive or other form of complementary bid on this project.
4. The bid of my firm is made in good faith and not pursuant to any consultation, communication, agreement or discussion with, or inducement or solicitation by or from any firm or person to submit any intentionally high, noncompetitive or other form of complimentary bid.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase or sale of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from bidding or to submit any intentionally high, noncompetitive or other form of complementary bid or agreeing or promising to do so on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person whether in connection with this or any other project, in consideration for my firm's submitting any intentionally high, noncompetitive or other form of complementary bid, or agreeing or promising to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, or other conduct inconsistent with any of the statements and representations made in this affidavit.
8. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as a fraudulent concealment from the Colorado Department of Transportation, of the true facts relating to the submission of bids for this contract.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Contractors firm or company name: <b>SEMA Construction, Inc.</b>	By:	Date: <b>Dec 7, 2012</b>
	Title: <b>Rocky Mountain District President</b>	
2 <sup>nd</sup> Contractors firm or company name:	By:	Date:
	Title:	
Sworn to before me this <u>7th</u> day of <u>December</u> 2012		
Notary Public		
My commission expires: <u>9/28/13</u>		
NOTE: THIS DOCUMENT MUST BE SIGNED IN INK.		

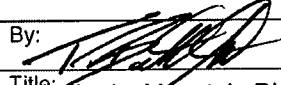
## Assignment of Antitrust Claims

<b>COLORADO DEPARTMENT OF TRANSPORTATION</b> <b>ASSIGNMENT OF ANTITRUST CLAIMS</b>	Project No.: STU C010-108
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Contractor and Colorado Department of Transportation (CDOT) recognize that in actual economic practice antitrust violations ultimately impact CDOT. Therefore, for good cause and as consideration for executing this contract and for receiving payments hereunder:

1. Contractor hereby irrevocably assigns to CDOT any and all claims it may now have or which may hereafter accrues to it under federal or state antitrust laws in connection with the particular project, goods or services purchased or acquired by CDOT pursuant to this contract.
2. Contractor hereby expressly agrees:
  - a. That, upon becoming aware that a third party has commenced a civil action asserting on Contractor's behalf an antitrust claim which has been assigned to CDOT hereunder, Contractor shall immediately advise in writing:
    - (1) Such third party that the antitrust claim has been assigned to CDOT, and
    - (2) CDOT that such civil action is pending and the date on which, in accordance with subparagraph a.(1) above, Contractor notified such third party that the antitrust claim had been assigned to CDOT.
  - b. To take no action which will in any way diminish the value of the claims or rights assigned or dedicated to CDOT hereunder; and
  - c. Promptly to pay over to CDOT its proper share of any payment under an antitrust claim brought on Contractor's behalf by any third party and which claim has been assigned to CDOT hereunder.
3. Further, Contractor agrees that in the event it hires one or more subcontractors to perform any of its duties under the contract, Contractor shall require that each such subcontractor:
  - a. Irrevocably assign to CDOT (as a third party beneficiary) any and all claims that such subcontractor may have or which may thereafter accrue to the subcontractor under federal or state antitrust laws in connection with any goods or services provided by the subcontractor in carrying out the subcontractor's obligations to Contractor;
  - b. Upon becoming aware that a third party has commenced a civil action on the subcontractor's behalf asserting an antitrust claim which has been assigned to CDOT hereunder, shall immediately advise in writing:
    - (1) Such third party that the antitrust claim has been assigned to CDOT, and
    - (2) Contractor and CDOT that such civil action is pending and the date on which, in accordance with subparagraph b.(1) above, the subcontractor notified such third party that the antitrust claim had been assigned to CDOT;
  - c. Take no action which will in any way diminish the value of the claims or rights assigned or dedicated to CDOT hereunder; and
  - d. Promptly pay over to CDOT its proper share of any payment under an antitrust claim brought on the subcontractor's behalf by any third party and which claim has been assigned or dedicated to CDOT pursuant hereto.

I, acting in my capacity as officer of a bidder (bidders if a joint venture) do agree to the above assignment of antitrust claims.

Contractors firm or company name:  SEMA Construction, Inc.	By: 	Date: Dec 7, 2012
	Title: Rocky Mountain District President	
2 <sup>ND</sup> Contractors firm or company name:	By:	Date:
	Title:	