STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
RALEIGH, N.C.

PROPOSAL

DATE AND TIME OF BID OPENING: **OCTOBER 19, 2004 AT 2:00 PM**

CONTRACT ID	C201005
WBS	33288.3.1
FEDERAL-AID NO.	BRZ-1112(8)
COUNTY	GASTON
T.I.P. NO.	B-3840
MILES	0.227
ROUTE NO.	SR 1112
LOCATION	CULVERT OVER SOUTH CROWDER'S CREEK & APPROACHES ON SR-1112.
TYPE OF WORK	GRADING, DRAINAGE, PAVING & CULVERT.

NOTICE:

ALL BIDDERS SHALL COMPLY WITH ALL APPLICABLE LAWS REGULATING THE PRACTICE OF GENERAL CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA WHICH REQUIRES THE BIDDER TO BE LICENSED BY THE N.C. LICENSING BOARD FOR CONTRACTORS WHEN BIDDING ON ANY NON-FEDERAL AID PROJECT WHERE THE BID IS $30,000 OR MORE, EXCEPT FOR CERTAIN SPECAILITY WORK AS DETERMINED BY THE LICENSING BOARD. BIDDERS SHALL ALSO COMPLY WITH ALL OTHER APPLICABLE LAWS REGULATING THE PRACTICES OF ELECTRICAL, PLUMBING, HEATING AND AIR CONDITIONING AND REFREGIRATION CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA.

BIDS WILL BE RECEIVED AS SHOWN BELOW:

THIS IS A <u>ROADWAY & STRUCTURE</u>

5% BID BOND OR BID DEPOSIT REQUIRED

_____

PROPOSAL FORM FOR THE CONSTRUCTION OF CONTRACT NO. C201005

IN GASTON COUNTY NORTH CAROLINA

Date_____ 20___

DEPARTMENT OF TRANSPORTATION,

RALEIGH, NORTH CAROLINA

The Bidder has carefully examined the location of the proposed work to be known as Contract No. C201005; has carefully examined the plans and specifications, which are acknowledged to be part of the proposal, the special provisions, the proposal, the form of contract, and the forms of contract payment bond and contract performance bond; and thoroughly understands the stipulations, requirements and provisions. The undersigned bidder agrees to bound upon his execution of the bid and subsequent award to him by the Board of Transportation in accordance with this proposal to provide the necessary contract payment bond and contract performance bond within fourteen days after the written notice of award is received by him. The undersigned Bidder further agrees to provide all necessary machinery, tools, labor, and other means of construction; and to do all the work and to furnish all materials, except as otherwise noted, necessary to perform and complete the said contract in accordance with the 2002 Standard Specifications for Roads and Structures by the dates(s) specified in the Project Special Provisions and in accordance with the requirements of the Engineer, and at the unit or lump sum prices, as the case may be, for the various items given on the sheets contained herein.

The Bidder shall provide and furnish all the materials, machinery, implements, appliances and tools, and perform the work and required labor to construct and complete State Highway Contract No. C201005

In Gaston County, for the unit or lump sum prices, as the case may be, bid by the Bidder in his bid and according to the proposal, plans, and specifications prepared by said Department, which proposal, plans, and specifications show the details covering this project, and hereby become a part of this contract.

The published volume entitled "North Carolina Department of Transportation, Raleigh, Standard Specifications for Roads and Structures, January 2002 with all amendments and supplements thereto, is by reference incorporated into and made a part of this contract; that, except as herein modified, all the Construction and work included in this contract is to be done in accordance with the specifications contained in said volume, and amendments and supplements thereto, under the direction of the Engineer.

If the proposal is accepted and the award is made, the contract is valid only when signed either by the Contract Officer or such other person as may be designated by the Secretary to sign for the Department of Transportation. The conditions and provisions herein cannot be changed except over the signature of the said Contract Officer.

The quantities shown in the itemized proposal for the project are considered to be approximate only and are given as the basis for comparison of bids. The Department of Transportation may increase or decrease the quantity of any item or portion of the work as may be deemed necessary or expedient.

An increase or decrease in the quantity of any item will not be regarded as sufficient ground for an increase or decrease in the unit prices, nor in the time allowed for the completion of the work, except as provided for the contract.

Accompanying this bid is a bid bond secured by a corporate surety, or certified check payable to the order of the Department of Transportation, for five percent of the total bid price, which deposit is to be forfeited as liquidated damages in case this bid is accepted and the Bidder shall fail to provide the required payment and performance bonds with the Department of Transportation, under the condition of this proposal, within 14 calendar days after the written notice of award is received by him, as provided in the Standard Specifications; otherwise said deposit will be returned to the Bidder.

NORTH CAROLINA PROFESSIONAL SEAL 21076 ENGINEER RANDY A. GARRIS

9/8/04

CONTRACT: **C201005 (B-3840)**
Gaston Co.

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PROJECT SPECIAL PROVISIONS

General 7-1-95

SP1G01

CONTRACT TIME AND LIQUIDATED DAMAGES: 8-15-00R

The date of availability for this contract is November 29, 2004 except that work in jurisdictional waters and wetlands shall not begin until a meeting between the DOT, Regulatory Agencies, and the Contractor is held as stipulated in the permits contained elsewhere in this proposal. This delay in availability has been considered in determining the contract time for this project.

The completion date for this contract is December 31, 2005.

When observation periods are required by the special provisions, they are not a part of the work to be completed by the completion date and/or intermediate contract times stated in the contract. Should an observation period extend beyond the final completion date, the acceptable completion of the observation period shall be a part of the work covered by the performance and payment bonds.

The liquidated damages for this contract are Two Hundred Dollars ($200.00) per calendar day. These liquidated damages will not be cumulative with any liquidated damages which may become chargeable under Intermediate Contract Time Number 1.

SP1G07

INTERMEDIATE CONTRACT TIME NUMBER 1 AND LIQUIDATED DAMAGES:

7-1-95

Except for that work required under the Project Special Provisions entitled "Planting" and/or "Reforestation", included elsewhere in this proposal, the Contractor will be required to complete all work included in this contract and shall place and maintain traffic on same by September 15, 2005.

The date of availability for this intermediate contract time is November 29, 2004.

The liquidated damages for this intermediate contract time are Four Hundred Dollars ($400.00) per calendar day.

Upon apparent completion of all the work required to be completed by this intermediate date, a final inspection will be held in accordance with Article 105-17 and upon acceptance, the Department will assume responsibility for the maintenance of all work except "Planting" and/or "Reforestation". The Contractor will be responsible for and shall make corrections of all damages to the completed roadway caused by his planting operations, whether occurring prior to or after placing traffic through the project.

SP1G13

INTERMEDIATE CONTRACT TIME NUMBER 2 AND LIQUIDATED DAMAGES:

The Contractor shall complete the work required of **Phase 1, Step 3,** as shown on Sheet TCP **2,** and shall place and maintain traffic on same.

The date of availability for this intermediate contract time will be the date the Contractor elects to begin the work.

The completion date for this intermediate contract time will be the date which is **45** consecutive calendar days after and including the date the Contractor begins this work.

The liquidated damages are Five Hundred Dollars ($500.00) per calendar day.

SAFETY INDEX RATING: **6-18-02**

Revise the 2002 Standard Specifications as follows:

Page 1-10, Article 102-2

Before the last paragraph on this page, add the following paragraph:

"All subcontractors performing work for the Department shall have received a passing grade on the Safety Index Rating form, in accordance with Article 102-2, prior to beginning work. Subcontractors can request the Safety Index Rating form from the State Contractual Services Engineer."

SP1G14

COMPREHENSIVE GRADING:

Comprehensive grading shall be performed in accordance with Section 226 of the Standard Specifications with the following exceptions:

Delete any reference to Section 230 "Borrow Excavation" from Section 226.

Borrow material shall be in accordance with Section 230.

The provisions of Article 104-5 will not be applicable to the item of "Borrow Excavation".

MAJOR CONTRACT ITEMS: **2-19-02C**

The following listed items are the major contract items for this contract (See Articles 101-54 and 104-5 of the Standard Specifications):

SP1G28

Line #	Description
6	Borrow Excavation
68	Class "A" Concrete (Culvert)

SPECIALTY ITEMS: **7-1-95**

Items listed below will be the specialty items for this contract (See Article 108-6 of the Standard Specifications).

Line #	Description
23 thru 25	Guardrail Items
30 thru 33	Signing Items
43	Pavement Markers
44 thru 63	Erosion Control Items
64	Reforestation Items

SP1G37

FUEL PRICE ADJUSTMENT: **2-19-02$_{cc}$**

Fuel Price Adjustment for items of work listed below will be made in accordance with Section 109-8 of the Standard Specifications.

The base index price for DIESEL #2 FUEL is $1.184 per gallon.

The selected item(s) of work and the fuel factor used in calculating adjustments to be made are as follows:

Line #	**Description**	Units	**Fuel Usage Factor Diesel**
6	Borrow Excavation	Gal/CY	0.29

SP1G43

SCHEDULE OF ESTIMATED COMPLETION PROGRESS: **07-20-04**

The Contractor's attention is directed to the Standard Special Provision entitled "Availability Of Funds Termination Of Contracts" included elsewhere in this proposal. The Department of Transportation's schedule of estimated completion progress for this project as required by that Standard Special Provision is as follows:

Fiscal Year	Progress (Dollar Value)
2005 (07/01/04 – 06/30/05)	85% of Total Amount Bid
2006 (07/01/05 – 06/30/06)	15% of Total Amount Bid

The Contractor shall also furnish his own progress schedule in accordance with Article 108-2 of the Standard Specifications. Any acceleration of the progress as shown by the Contractor's progress schedule over the progress as shown above shall be subject to the approval of the Engineer.

SP1G58

ELECTRONIC BIDDING: **03-16-04R**

Page 1-2, Article 101-11

Delete this article and replace with the following:

Bid (Or Proposal): The electronic offer of a Bidder via Bid Express™ to the Department to perform the work and to furnish the labor and materials at the prices quoted.

Page 1-3, Article 101-20, **Contract**

Add after the second paragraph of this article.

All references to contracts shall include electronic agreements and printed paper agreements. These may include but not be limited to the electronic bid bond, non-collusion statement, debarment certification, and award limits.

Page 1-6, Article 101-64 **Proposal Form**

Delete this article and replace with the following:

Proposal or Proposal Form: The electronic or paper form provided by the Department that the Bidder uses to develop his electronic offer to perform the work at designated bid prices.

Page 1-14, **Article 102-9**

Delete Article 102-9 in its entirety and replace with the following:

102-9 ELECTRONIC BIDDING.

The Bidder shall submit bids electronically using the following guidelines:

1. The prequalified Bidder shall have a fully executed *Non-Collusion Affidavit and Debarment Certification* on file in the Contract Office prior to submitting his bid. If the Bidder cannot provide the debarment certification required, he shall provide an explanation as shown in the certification. The explanation will not necessarily result in denial of participation in a contract. Non-collusion and debarment certification forms shall be downloaded at http://www.NCDOT.org/business. Forms shall be executed in accordance with Section 102-8. The affidavit and certification shall be received in the Contract Office by 5 p.m. the last business day before the bid letting. The Contract Office address is shown at the end of this provision.

   If the prequalified Bidder's *status* changes, he shall immediately submit a new fully executed non-collusion affidavit and debarment certification with an explanation of the change.

   Failure to have a fully executed non-collusion affidavit and debarment certification on file in the Contract Office prior to placing bids will cause those bids to be non-responsive.

2. Obtain on-line bidding information from Bid Express™ at www.bidx.com (Note: Obtain an account and valid Digital Signature from Bid Express™ in order to bid electronically).

3. An electronic corporate surety bid bond for at least 5% of the total amount bid shall accompany each electronic bid, or the Contractor may submit a certified check or cashier's check in lieu of an electronic bid bond. The certified check or cashier's check shall be for at least 5% of the total amount bid and shall be received by 5 p.m. the last business day before the bid letting and shall be delivered to the address shown at the end of this provision.

   Contact either or both of the following bond management companies in order to acquire the necessary service to submit an electronic bid bond.

   a. Surety 2000 (www.surety2000.com)
   b. Surepath (www.insurevision.com)

4. Debarment Certification – The Bidder shall provide a debarment certification in the electronic bid submittal. If a Bidder cannot provide the debarment certification required, he shall provide an explanation in the Bid Express ™ miscellaneous folder within the .ebs file. The explanation will not necessarily result in denial of participation in a contract. Failure to furnish a certification or an explanation will be grounds for rejection of a bid.

5. Zero (0) is considered a valid bid. Do Not enter zero (0) in any unit price field unless zero (0) is the intended bid for that item.

6. Include all addenda in the submitted electronic bid. Bid Express™ will not accept a bid which does not contain all addenda. Section 103-2 (Correction of Bid Errors) will not apply to On-Line Electronic Bidding. All addenda and attachments will be considered part of the bid.

7. The electronic bid may be changed and resubmitted as many times as desired prior to the advertised bid opening time specified in the Invitation to Bid. The latest time stamped electronically submitted bid prior to the advertised bid opening time will constitute the Bid.

8. The provisions of Section 102-8 will apply to the preparation of bids except that the bid shall be submitted via Bid Express™ On-Line Bid Submission.

9. All bids shall be submitted with an electronically affixed digital signature. For the purpose of this provision, affixing a digital ID to the bid shall be the equivalent of signing before a notary public and placing in force the non-collusion affidavit and debarment certification on file with the Department.

10. By submitting an electronic bid, the Bidder certifies that he has read, understands, accepts, acknowledges and agrees to comply with all statements, conditions and Specifications in the electronic bid submittal.

11. Bids will be decrypted, opened, printed to paper and read publicly at the time and place specified in the invitation to bid.

12. The successful Bidder if award be made shall submit a fully executed *Execution of Contract, Non-Collusion Affidavit and Debarment Certification* signature sheet, and payment and performance bonds within 14 calendar days of receipt of award letter.

13. The Department will not be responsible if a Bidder cannot submit his bid to Bid Express™ and claims will not be accepted for this. In the event of technical difficulties, the Department reserves the right to postpone the reading of bids for up to 4 hours past the advertised bid opening time.

14. The pre-bid *Non-Collusion Affidavit, Debarment Certification signature* sheet, *Execution of Contract, Non-Collusion Affidavit, Debarment Certification* signature sheet, certified check or cashier's check in lieu of electronic bid bond, payment and performance bonds shall be delivered to the Contract Office at the address shown herein:

Physical Address
State Contract Officer
Project Services Unit
Century Center Bldg. B
1020 Birch Ridge Drive
Raleigh, NC 27610

Mailing Address:
State Contract Officer
NC Department of Transportation
Contracts and Proposals
1591 Mail Service Center
Raleigh, NC 27699-1591

SP1G60

DISADVANTAGED BUSINESS ENTERPRISE **07-17-01$_R$**

POLICY

It is the policy of the North Carolina Department of Transportation that Disadvantaged Business Enterprises shall have the opportunity to participate in the performance of contracts financed in whole or in part by Federal Funds in order to create a level playing field.

The Contractor is also encouraged to give every opportunity to allow DBE participation in Supplemental Agreements.

OBLIGATION

The Contractor, subcontractor, and sub-recipient 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 26 in the award and administration of federally 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 Department deems necessary.

GOALS

The following goal for participation by Disadvantaged Business Enterprise (DBE) is established for this contract:

Disadvantaged Business Enterprises 13%

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

LISTING OF DBE SUBCONTRACTORS

All bidders, at the time the bid proposal is submitted, must also submit a listing of DBE participation on the appropriate form (or facsimile thereof) contained elsewhere in this proposal in order for the bid to be considered responsive. Bidders must indicate the total dollar value of DBE participation for the contract. In the event the bidder has no DBE participation, he is still required to indicate this on the forms by entering the word or number zero. Blank forms will not be deemed to represent zero participation. BIDS SUBMITTED WHICH DO NOT HAVE DBE PARTICIPATION INDICATED ON THE APPROPRIATE FORM WILL NOT BE READ PUBLICLY DURING THE OPENING OF BIDS. The Department will not consider these bids for award and they will be returned to the bidder. Bidders have the option of submitting their DBE participation in an abbreviated format as required in Paragraph A below, or the bidder may submit their DBE participation in the additional detail required by Paragraph B below. In the event the bidder elects to submit DBE participation in accordance with Paragraph A and is determined to be the apparent lowest responsive bidder, that bidder must deliver to the Department no later than 12:00 noon of the sixth day following the opening of bids, a detailed DBE submittal as required by Paragraph B below.

Only those DBE firms with current certification by the Department will be considered acceptable for listing in the bidder submittal of DBE participation.

A. The Contractor shall indicate on the form for listing of DBE subcontractors contained elsewhere in this proposal the following required information:

REQUIRED INFORMATION

(1) The names and addresses of DBE firms committed to participate in the contract

(2) The Contract Item Numbers of work to be performed by each DBE firm; and

(3) The total dollar amount to be paid to each DBE based on agreed upon unit prices.

Failure to indicate the required information on the specified form will cause the bid to be considered nonresponsive and it may be rejected.

B. In lieu of submitting the information required by (A) above, the bidder may submit the detailed information that required below along with the bid proposal.

REQUIRED INFORMATION

(1) The names and addresses of DBE firms committed to participate in the contract

(2) The Contract Item Numbers and Contract Item Descriptions and agreed upon unit prices of work to be performed by each DBE firm; and

(3) The total dollar amount to be paid to each DBE based on agreed upon unit prices.

Failure to indicate the required information on the specified form will cause the bid to be considered nonresponsive and it may be rejected.

The bidder is required to submit written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal and written confirmation from each DBE, listed in the proposal, indicating their participation in the contract.

The Department will not allow any substitutions, deletions, or other alterations to the listing of firms committed for DBE participation and/or the respective listed contract item numbers after opening of bids. The Department will not allow adjustments to total dollar amount of DBE participation after the opening of bids that would result in the DBE participation being less than the contract goal. The only exceptions to the requirements of this paragraph will be: (1) to allow for replacement of a DBE firm that had been decertified after opening of bids, and (2) to allow alteration of the listed contract item numbers subject to the Bidder submitting sufficient documentation to verify an obvious error in the initial submittal.

C. If the DBE participation submitted in the bid by the apparent lowest responsive bidder in response to Paragraph A/B does not meet or exceed the DBE contract goal, the apparent lowest responsive bidder must submit information to satisfy the North Carolina Department of Transportation that sufficient Good Faith efforts have been made to meet the contract goals. One complete set and nine (9) copies of this information must be received in the office of the State Contractual Services Engineer no later than 12:00 noon of the sixth day following opening of bids. Where the information submitted includes repetitious solicitation letters it will be acceptable to submit a sample representative letter along with a distribution list of the firms being solicited. Documentation of DBE quotations shall be a part of the good faith effort submittal as necessary to demonstrate compliance with the factors listed below which the Department considers in judging good faith efforts. This documentation may include written subcontractor quotations, telephone log notations of verbal quotations, or other types of quotation documentation.

Where the bidder fails to provide this information by the deadline, the Department may impose one or more of the following sanctions: (1) disqualify the contractor and any affiliated companies from further bidding for a period of time of no more than 90 days from the date of disqualification as established in notification by certified mail, (2) disqualify the Contractor and any affiliated companies for award of all contracts for which

bids have been received and opened, (3) disqualify the Contractor from the contract in question.

The following factors are what the Department will consider in judging whether or not the bidder has made adequate good faith effort:

(1) Whether the bidder attended any pre-bid meetings that were scheduled by the Department to inform DBEs of subcontracting opportunities.

(2) Whether the bidder provided solicitations through all reasonable and available means (e.g. advertising in newspapers owned and targeted to the Disadvantaged) at least 10 days prior to bid opening. Whether the bidder provided written notice to all DBEs listed in the NCDOT DBE directory, within the Divisions and surrounding Divisions where the project is located, that specialize in the areas of work (as noted in the DBE Directory) that the bidder will be subcontracting.

(3) Whether the bidder followed up initial solicitations of interests by contacting DBEs to determine with certainty whether they were interested. If a reasonable amount of DBEs within the targeted Divisions do not provide an intent to quote or no DBEs specialize in the subcontracted areas, the bidder must notify DBEs outside of the targeted Divisions that specialize in the subcontracted areas, as well as call the project Compliance Officer in the Office of Civil Rights to give notification of the bidder inability to get DBE quotes.

(4) Whether the bidder selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the contract goals. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise perform these work items with its own forces.

(5) Whether the bidder provided interested DBEs with adequate and timely information about the plans, specifications and requirements of the contract

(6) Whether the bidder negotiated in good faith with interested DBEs not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities. Any rejection should be so noted in writing with a description as to why an agreement could not be reached.

(7) Whether quotations were received from interested DBE firms but rejected as unacceptable without sound reasons why the quotations were considered unacceptable. The fact that the DBE firms quotation for the work is not the lowest quotation received will not in itself be considered as a sound reason for rejecting the quotation as unacceptable. The fact that the bidder has the ability and/or desire to perform the contract work with its own forces will not be considered as sound reason for rejecting a DBE quote. Nothing in this provision shall be construed to require the Contractor to accept unreasonable quotes in order to satisfy contract goals.

(8) Whether the bidder specifically negotiated with subcontractors to assume part of the responsibility to meet the contract DBE goal when the work to be sublet includes potential for DBE participation.

(9) Whether the bidder made any efforts and/or offered assistance to interested DBEs in obtaining the necessary equipment, supplies, materials, insurance, and/or bonding to satisfy the work requirements in the bid proposal.

(10) Any other evidence that the bidder submits which show that the bidder has made reasonable Good Faith efforts to include DBE participation.

In the event one bidder is the apparent low bidder on more that one project within the same letting located in the same geographic area of the state, as a part of the good faith effort the Department will consider allowing the bidder to combine the DBE participation as long as the overall goal value of all projects is achieved.

Where the apparent lowest responsive bidder fails to submit sufficient participation by DBE firms to meet the contract goal and upon a determination by the Goal Compliance Committee based upon the information submitted that the apparent lowest responsive bidder failed to make sufficient reasonable efforts to meet the contract goal, the bidder will be offered the opportunity to meet in person for administrative reconsideration. A committee appointed by the Department will hear administrative reconsideration. Members of this committee will be officials who did not take part in the original determination by the Goal Compliance Committee. The bidder will have the opportunity to present written documentation or argument concerning the issue of whether it met the goal or made an adequate good faith effort. The bidder will receive a written decision on the reconsideration. Explaining the basis for finding that the bidder did or did not meet the goal or made adequate Good Faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department.

In the event that the Department does not award the contract to the apparent lowest responsive bidder, the Department reserves the right to award the contract to the next lowest responsive bidder that can satisfy the Department that the contract goal can be met or that adequate good faith efforts have been made to meet the goal.

DBE DIRECTORY

Included with this Proposal is a list of Disadvantaged Business Enterprises (DBE) which have been certified as such by the North Carolina Department of Transportation. Only those DBE firms with current certification may be listed in the proposal.

The listing of an individual firm in the Department's directory shall not be construed as an endorsement of the firms' capability to perform certain work.

REPLACEMENT OF DBEs

(A) Performance Related

If any DBE Subcontractor submitted on the form for listing of DBE Subcontractors, contained elsewhere in this proposal, is terminated or fails to complete its work on the contract for any reason, the Contractor shall take all necessary, reasonable steps to replace the DBE Subcontractor with another DBE Subcontractor to perform at least the same amount of work of the contract as the DBE that was terminated.

To demonstrate necessary, reasonable Good Faith efforts, the Contractor shall document the steps he has taken to replace any DBE Subcontractor who is unable to perform successfully with another DBE Subcontractor. Such documentation shall include but not be limited to the following:

(a) Copies of written notification to DBEs that their interest is solicited in subcontracting the work defaulted by the previous DBE subcontractor or in subcontracting other items of work in the contract.

(b) Efforts to negotiate with DBEs for specific subbids including, at a minimum:

(1) The names, addresses, and telephone numbers of DBEs who were contacted;

(2) A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed; and

(c) For each DBE contacted but rejected as unqualified, the reasons for the Contractor' conclusion.

(d) Efforts made to assist the DBEs contacted, if needed, in obtaining bonding or insurance required by the Contractor.

The contractor will not terminate a DBE subcontractor listed in the proposal for convenience or perform the work with its own forces or those of an affiliate without the written approval of the Engineer. If the Contractor fails to demonstrate reasonable efforts to replace a DBE firm that does not perform as intended or completes the work with its own forces without the Engineer's approval, the Contractor will be disqualified from further bidding for a period of up to 6 months after notification by certified mail.

(B) Decertification

1. If a Prime Contractor has listed a DBE firm in his low bid submitted and that DBE Subcontractor is subsequently decertified by the Department after a Request for Subcontract has been approved, then the Department will not require the Prime Contractor to solicit replacement DBE participation equal to the remaining work to be performed by the decertified firm. The participation equal to the remaining work performed by the decertified firm will count toward the contract goal but may not be counted toward the overall program goal.

2. If a Prime Contractor has listed a DBE firm in his low bid submittal and the DBE firm is decertified prior to the Department approving a Request for Subcontract for the named DBE firm, the Prime Contractor shall take all necessary and reasonable steps to replace the DBE subcontractor with another DBE subcontractor to perform at least the same amount of work to meet the contract goal or demonstrate that it has made a Good Faith effort to do so.

DEFINITIONS

For purposes of this provision the following definitions will apply:

(1) Socially and economically disadvantaged individuals means a person who has a net worth of $750,000.00 or less and is a citizen or lawful permanent resident of the United States and who is:

(a) A Black American

(b) A Hispanic American

(c) A Subcontinent Asian American

(d) A Native American

(e) An Asian-Pacific American

(f) A Woman

(g) Members of other groups, or other individuals found to be economically and socially disadvantaged by the Small Business Administration under Section 8(d) of the Small Business Act, as amended (15 U.S.C. 637(d)).

(h) Members of other groups, or other individuals found to be economically and socially disadvantaged by the N. C. Department of Transportation under the Criteria for Disadvantaged Business Enterprises as published by the Department.

(2) Disadvantaged Business Enterprise (DBE) means a for-profit small business concern.

(a) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and

(b) Whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it,

COUNTING DBE PARTICIPATION TOWARD MEETING THE DBE GOAL

(1) If a firm is determined to be an eligible DBE firm and certified by the Department, the total dollar value of the participation by the DBE will be counted toward the goal. The total dollar value of participation by a certified DBE will be based upon the value of work actually performed by the DBE and the actual payments to DBE firms by the contractor.

(2) When a DBE performs as a participant in a joint venture, the contractor may count toward its DBE goal a portion of the total value of participation with the DBE in the joint venture, that portion of the total dollar value being a distinct clearly defined portion of work that the DBE performs with its forces.

(3) (a) The Contractor may count toward its DBE goal only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(b) Consistent with normal industry practices, a DBE may enter into subcontracts. Work that a DBE subcontracts to another DBE firm may be counted toward the contract goal. Work that a DBE subcontracts to a non-DBE firm does not count toward the contract goal. If a DBE Contractor or Subcontractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. The Departments decision on the rebuttal of this presumption is subject to review by the Federal Highway Administration but is not administratively appealable to USDOT.

(c) The following factors will be used to determine if a DBE trucking firm is performing a commercially useful function.

(1) The DBE firm must be responsible for the management and supervision of entire trucking operation
(2) The DBE must itself own and operate at least one fully licensed, insured and operational truck
(3) The DBE will receive full credit for all trucks it owns, insures, operates, and employs drivers
(4) The DBE will receive full credit for all trucks leased from a certified DBE firm
(5) The DBE will only receive credit for the fees or commission for trucks leased from a non-DBE firm
(6) Others may use trucks during the term of the lease so long as the lease gives priority to the DBE for the use of the truck(s).

The DBE may present evidence to rebut this presumption to the Department for commercially useful functions.

(4) A Contractor may count toward its DBE goal 60 percent of its expenditures for materials and supplies required to complete the contract and obtained from DBE regular dealer and 100 percent of such expenditures to a DBE manufacturer.

(a) For purposes of this provision, a manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.

(b) For purposes of this provision, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section.

(5) A contractor may count toward its DBE goal the following expenditures to DBE firms that are not manufacturers or regular dealers:

(a) The fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goal, provided the fees or commissions are determined to be reasonable and not excessive as compared with fees and commissions customarily allowed for similar services.

(b) The fees or commissions charged for assistance in the procurement of the materials and supplies, or for transportation charges for the delivery of materials or supplies required on a job site (but not the cost of the materials and supplies themselves), toward DBE goals, provided the fees are not from a manufacturer or regular dealer and provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

REPORTS

All requests for subcontracts involving DBE subcontractors shall be accompanied by a certification executed by both the Prime Contractor and the DBE subcontractor attesting to the agreed upon unit prices and extensions for the affected contract items. This document shall be on the Department's Form RS-1-D, or in lieu of using the Department's Form, copies of the actual executed agreement between the Prime Contractor and the DBE subcontractor may be submitted. In any event, the Department reserves the right to require copies of actual subcontract agreements involving DBE Subcontractors.

The RS-1-D certification forms may be obtained from the Department's Resident Engineer.

These certifications shall be considered a part of the project records, and consequently will be subject to penalties under Federal Law associated with falsifications of records related to projects.

REPORTING DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION

When payments are made to Disadvantaged Business Enterprise firms, including material suppliers, contractors at all levels (prime, subcontractor, or second tier subcontractor) shall provide the Engineer with an accounting of said payments. This accounting shall be furnished the Engineer for any given month by the end of the following month. Failure to submit this information accordingly may result in (1) withholding of money due in the next partial pay estimate; or (2) removal of an approved Contractor from the prequalified bidders list or the removal of other entities from the approved subcontractors list. The accounting shall list for each payment made to a Disadvantaged Business Enterprise firm the following:

DOT Project Number
Payee Contractor Name
Receiving Contractor or Material Supplier
DBE Certification Basis, e.g., Woman Owned, Native American, African American, etc.
Amount of Payment
Date of Payment

A responsible fiscal officer of the payee contractor, subcontractor, or second tier subcontractor who can attest to the date and amounts of the payments shall certify that the accounting is correct. A copy of an acceptable report may be obtained from the Engineer.

SP1G61

RETAINAGE AND PROMPT PAYMENT: **1-01-02**

Retainage:

The Department will not deduct and hold any retainage from the Prime Contractor on this project.

The 2002 Standard Specifications shall be revised as follows:

Sub-Article 109-4(A), pages 1-69 and 1-70

Delete the second, third, fourth, and fifth paragraphs of this subarticle.

Insert the following:

"The Department will withhold an amount sufficient to cover anticipated liquidated damages, as determined by the Engineer."

Prompt Payment of Monies Due Subcontractors, Second Tier Subcontractors and Material Suppliers and Release of Retainage

Contractors at all levels; prime, subcontractor, or second tier contractor, shall within seven calendar days of receipt of monies, resulting from work performed on the project or services rendered, pay subcontractors, second tier subcontractors, or material suppliers, as appropriate. This seven-day period begins upon knowledgeable receipt by the contracting firm obligated to make a subsequent periodic or final payment. These prompt payment requirements will be met if each firm mails the payment to the next level firm by evidence of postmark within the seven-day period.

This provision for prompt payment shall be incorporated into each subcontract or second tier subcontract issued for work performed on the project or for services provided.

The Contractor may withhold up to 3% retainage if any subcontractor does not obtain a payment and performance bond for their portion of the work. If any retainage is held on subcontractors, all retainage shall be released within seven calendar days of satisfactory completion of all work. For the purpose of release of retainage, satisfactory completion is defined as completion of all physical elements and corresponding documentation as defined in the contract, as well as agreement between the parties as to the final quantities for all work performed in the subcontract. The Department will provide internal controls to expedite the determination and processing of the final quantities for the satisfactorily completed subcontract portions of the project.

Failure of any entity to make prompt payment as defined herein may result in (1) withholding of money due to that entity in the next partial payment until such assurances are made satisfactory to this provision; or (2) removal of an approved contractor from the prequalified bidders list or the removal of other entities from the approved subcontractors list.

SP1G73

CERTIFICATION FOR FEDERAL-AID CONTRACTS: **03-21-90**

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

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

(2) 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.

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 Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The prospective 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 subrecipients shall certify and disclose accordingly.

SP1G85

DOMESTIC STEEL AND IRON PRODUCTS: **7-1-95**

All steel and iron products which are permanently incorporated into this project shall be produced in the United States except minimal amounts of foreign steel and iron products may be used provided the combined project cost of the bid items involved does not exceed one-tenth of one percent (0.1 percent) of the total amount bid for the entire project or $2,500.00, whichever is greater. This minimal amount of foreign produced steel and iron products permitted for use by this Special Provision is not applicable to fasteners. Domestically produced fasteners are required for this project.

All steel and iron products furnished as "domestic products" shall be melted, cast, formed, shaped, drawn, extruded, forged, fabricated, produced, or otherwise processed and manufactured in the United States. Raw materials including pig iron and processed pelletized and reduced iron ore used in manufacturing "domestic" steel products may be imported; however, all manufacturing processes to produce the products, including coatings, must occur in the United States.

Before each steel or iron product is incorporated into this project or included for partial payment on a monthly estimate, the Contractor shall furnish the Resident Engineer a notarized certification certifying that the product conforms to the above requirements of this Special Provision. The Resident Engineer will forward a copy of each certification to the Materials and Tests Unit.

Each purchase order issued by the Contractor or a subcontractor for steel and iron products to be permanently incorporated into this project shall contain in bold print a statement advising the supplier that all manufacturing processes to produce the steel or iron shall have occurred in the United States. The Contractor and all affected subcontractors shall maintain a separate file for steel products permanently incorporated into this project so that verification of the Contractor's efforts to purchase "domestic" steel and iron products can readily be verified by an authorized representative of the Department or the Federal Highway Administration.

SP1G97

U.S. DEPARTMENT OF TRANSPORTATION HOTLINE: **11-22-94**

To report bid rigging activities call:

1-800-424-9071

The U.S. Department of Transportation (DOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m. eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the "hotline" to report such activities.

The "hotline" is part of the DOT's continuing effort to identify and investigate highway construction contract fraud and abuse is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

SP1G100

SUBMISSION OF RECORDS - FEDERAL-AID PROJECTS: **03-21-95**

The Contractor's attention is directed to the Standard Special Provision entitled "Required Contract Provisions -Federal-Aid Construction Contracts" contained elsewhere in this proposal.

This project is located on a roadway classified as a local road or rural minor collector so the requirements of Paragraph IV - Payment of Predetermined Minimum Wage - Paragraph V - Statements and Payrolls; and Paragraph VI - Records of Materials, Supplies, and Labor are exempt from this contract.

SP1G103

SUBMISSION OF RECORDS - FEDERAL-AID PROJECTS: **12-15-98**

The Contractor's attention is directed to the Standard Special Provisions entitled "Required Contract provisions - Federal-Aid Construction Contracts" contained elsewhere in this proposal.

This project is NOT located on the National Highway System, therefore, federal form FHWA-47 IS NOT required.

SP1G109

COMPENSATION AND RECORD KEEPING **03-16-04**

Revise the *2002 Standard Specifications* as follows:

104-8 Compensation and Record Keeping

Change Article (A), subarticle 1. with the following:

In line 3 and line 6, change $15,000.00 to $25, 000.00.

SP1G110

CONTRACTOR BORROW SOURCE **10-19-04**

Revise the *2002 Standard Specifications* as follows:

Page 2-17, Article 230-4(C) Contractor Furnished Sources, add the following;

If the Contractor proposes a borrow source, the environmental assessment shall include wetland and stream delineation extending 400 feet beyond the proposed borrow source limits.

1. If wetlands or streams are present within 400 feet of the borrow source and the contractor proposes to dewater:

   a. Submit a hydrologic analysis (Skaggs Method) to determine if lateral effects will permanently impact or cause degradation to wetlands or streams. The analysis shall be performed by an environmental or hydraulics engineer with expertise in this discipline and shall consist of, but not be limited to:

      Hydric soil type
      Average profile depth to restrictive soil layer
      Average hydraulic conductivity or permeability
      Average drainable porosity or available water capacity
      Required buffer width, including safety factor

   b. Attach a conservation easement specifying that the completed pit impoundment, shall not be drained, ditched, used for irrigation, or any other manner that would degrade wetlands and streams.

   c. Provide copy of recorded conservation easement to Engineer prior to commencement of any work on proposed pit.

2. If wetlands or streams are not present within 400 feet, no additional documentation will be required.

During Department review of the proposed borrow area, the hydrologic analysis will be submitted to the U. S. Army Corps of Engineers for evaluation.

Obtain copy of Skaggs Method for Determining Lateral Effects of a Borrow Pit on Adjacent Wetlands from Roadside Environmental Unit web site:
http://www.doh.dot.state.nc.us/operations/dp_chief_eng/roadside/fieldops/
Copies may also be obtained from Room 558, Transportation Building, 1 S. Wilmington Street, Raleigh, NC 27601.

SP1G111

SUBSURFACE INFORMATION: **07-01-95**

There is no subsurface information available on this project. The Contractor shall make his own investigation of subsurface conditions.

SP1G112

PLANT AND PEST QUARANTINES: (IMPORTED FIRE ANT, GYPSY MOTH, WITCHWEED, AND OTHER NOXIOUS WEEDS) **03-18-03**

Within quarantined area:
This project may be within a county regulated for plant and/or pests. If the project or any part of the Contractor's operations is located within a quarantined area, thoroughly clean all equipment prior to moving out of the quarantined area. Comply with federal/state regulations by obtaining a certificate or limited permit for any regulated article moving from the quarantined area.

Originating in a quarantined county:
Obtain a certificate or limited permit issued by the N.C. Department of Agriculture/United States Department of Agriculture. Have the certificate or limited permit accompany the article when it arrives at the project site.

Contact:
Contact the N.C. Department of Agriculture/United States Department of Agriculture at 1-800-206-9333, 919-733-6932, or http://www.ncagr.com/plantind/ to determine those specific project sites located in the quarantined area or for any regulated article used on this project originating in a quarantined county.

Regulated Articles Include:
1. Soil, sand, gravel, compost, peat, humus, muck, and decomposed manure, separately or with other articles. This includes movement of articles listed above that may be associated with cut/waste, ditch pulling, and shoulder cutting.
2. Plants with roots including grass sod.
3. Plant crowns and roots.
4. Bulbs, corms, rhizomes, and tubers of ornamental plants.
5. Hay, straw, fodder, and plant litter of any kind.
6. Clearing and grubbing debris.
7. Used agricultural cultivating and harvesting equipment.
8. Used earth-moving equipment.
9. Any other products, articles, or means of conveyance, of any character, if determined by an inspector to present a hazard of spreading imported fire ant, gypsy moth, witchweed or other noxious weeds.

SP1G130

SAFETY VESTS: **6-19-01**

All Contractors' personnel, all subcontractors and their personnel, and any material suppliers and their personnel must wear an OSHA approved reflective vest or outer garment at all times while on the project.

SP1G139

DIRECTOR OF CONSTRUCTION IN LIEU OF CHIEF ENGINEER **03-16-04**

Revise the 2002 Standard Specifications as follows:

Wherever the term *Chief Engineer* or *Chief Engineer of Operations* occurs in the Specifications, the actions and responsibilities referred to will be performed by the Director of Construction, Division of Highways, North Carolina Department of Transportation, acting directly or through his duly authorized representative.

Revision to Definitions of Terms

Page 1-4, Article 101-35

101-35 ENGINEER

The Chief Engineer of Operations, and/or Director of Construction, Division of Highways, North Carolina, Department of Transportation, acting directly or through their duly authorized representative.

SP1G143

TWELVE MONTH GUARANTEE: **07-15-03**

A. The Contractor shall guarantee materials and workmanship against latent and patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve months following the date of final acceptance of the work for maintenance and shall replace such defective materials and workmanship without cost to the Department. The Contractor will not be responsible for damage due to faulty design, normal wear and tear, for negligence on the part of the Department, and/or for use in excess of the design.

B. Where items of equipment or material carry a manufacturer's guarantee for any period in excess of twelve months, then the manufacturer's guarantee shall apply for that particular piece of equipment or material. The Department's first remedy shall be through the manufacturer although the Contractor is responsible for invoking the warranted repair work with the manufacturer. The Contractor's responsibility shall be limited to the term of the manufacturer's guarantee. NCDOT would be afforded the same warranty as provided by the Manufacturer.

This guarantee provision shall be invoked only for major components of work in which the Contractor would be wholly responsible for under the terms of the contract. Examples would include pavement structures, bridge components, and sign structures. This provision shall not be used as a mechanism to force the Contractor to return to the project to make repairs or perform additional work that the Department would normally compensate the Contractor for. In addition, routine maintenance activities (i.e. mowing grass, debris removal, ruts in earth shoulders,) are not parts of this guarantee.

Appropriate provisions of the payment and/or performance bonds shall cover this guarantee for the project.

To ensure uniform application statewide the Division Engineer will forward details regarding the circumstances surrounding any proposed guarantee repairs to the Chief Engineer for review and approval prior to the work being performed.

SP1G145

OUTSOURCING OUTSIDE THE USA **09-21-04**

All work on consultant contracts, services contracts, and construction contracts shall be performed in the United States of America. No work shall be outsourced outside of the United States of America.

Outsourcing for the purpose of this provision is defined as the practice of subcontracting labor, work, services, staffing, or personnel to entities located outside of the United States.

The Secretary of Transportation shall approve exceptions to this provision in writing.

SP1G150