

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

PROPOSAL

DATE AND TIME OF BID OPENING: **SEPTEMBER 19, 2006 AT 2:00 PM**

CONTRACT ID C201578

WBS 34428.3.3

FEDERAL-AID NO. STATE FUNDED

COUNTY JACKSON

T.I.P. NO. R-2409B

MILES 0.502

ROUTE NO. US 64

LOCATION US-64, EAST OF CASHIERS.

TYPE OF WORK GRADING, DRAINAGE, PAVING, GUARDRAIL, & PAVEMENT MARKINGS.

**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 SPECIALTY 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 REFRIGERATION CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA. NOT WITHSTANDING THESE LIMITATIONS ON BIDDING, THE BIDDER WHO IS AWARDED ANY PROJECT SHALL COMPLY WITH CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA FOR LICENSING REQUIREMENTS WITHIN 60 CALENDAR DAYS OF BID OPENING, REGARDLESS OF FUNDING SOURCES.

**BIDS WILL BE RECEIVED AS SHOWN BELOW:**

**THIS IS A ROADWAY PROPOSAL**

**5% BID BOND OR BID DEPOSIT REQUIRED**

PROPOSAL FORM FOR THE CONSTRUCTION OF CONTRACT NO. C201578

IN JACKSON 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. C201578; 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. C201578

In Jackson 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.

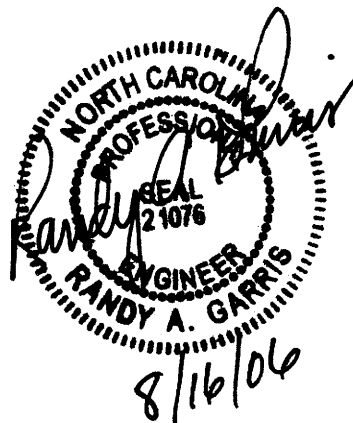
The published volume entitled "North Carolina Department of Transportation, Raleigh, Standard Specifications for Roads and Structures, January 2002 with all amendments and supplements thereto, is by reference incorporated into and made a part of this contract; that, except as herein modified, all the 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.



A circular professional engineer seal for Randy A. Garris, North Carolina, License No. 21076. The seal includes the text "NORTH CAROLINA PROFESSIONAL ENGINEER SEAL 21076 RANDY A. GARRIS". A handwritten signature is written over the seal, and the date "8/16/06" is written below it.

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**PROJECT SPECIAL PROVISIONS**

General

7-1-95

SP1G01

**CONTRACT TIME AND LIQUIDATED DAMAGES**

7-20-99

Rev 7-18-06

The date of availability for this contract is October 30, 2006, 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 August 1, 2008.

When observation periods are required by the contract, 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 Eight Hundred Dollars (\$800.00) per calendar day.

SP1G04

**INTERMEDIATE CONTRACT TIME NUMBER 1 AND LIQUIDATED DAMAGES:**

09-16-03

The Contractor shall not narrow or close a lane of traffic on **US 64 and Racquet Club Drive**, detain and/or alter the traffic flow on or during holidays, holiday weekends, special events, or any other time when traffic is unusually heavy, including the following schedules:

**HOLIDAY AND HOLIDAY WEEKEND LANE CLOSURE RESTRICTIONS:**

1. For any unexpected occurrence that creates unusually high traffic volumes, as directed by the Engineer.
2. For **New Year's Day**, between the hours of 6:00 a.m. December 31st and 9:00 a.m. January 2nd. If New Year's Day is on Saturday or Sunday, then until 9:00 a.m. the following Tuesday.
3. For **Easter**, between the hours of 6:00 a.m. Thursday and 9:00 a.m. Monday.
4. For **Memorial Day**, between the hours of 6:00 a.m. Friday and 9:00 a.m. Tuesday.

- 5. For **Independence Day**, between the hours of 6:00 a.m. the day before Independence Day and 9:00 a.m. the day after Independence Day.

If Independence Day is on a Saturday or Sunday, then between the hours of 6:00 a.m. the Thursday before Independence Day and 9:00 a.m. the Tuesday after Independence Day.

- 6. For **Labor Day**, between the hours of 6:00 a.m. Friday and 9:00 a.m. Tuesday.
- 7. For **Thanksgiving Day**, between the hours of 6:00 a.m. Tuesday and 9:00 a.m. Monday.
- 8. For **Christmas**, between the hours of 6:00 a.m. the Friday **before the week of Christmas Day** and 9:00 a.m. the following Monday **after the week of Christmas Day**.
- 9. For the **Mountain Glory Festival**, between the hours of 6:00 a.m. and 11:00 p.m. **the second Saturday of October**.
- 10. For **Leaf Season**, between the hours of 6:00 a.m. to 6:00 p.m., Monday thru Sunday, from October 1<sup>st</sup> thru November 1<sup>st</sup>.

Holidays and holiday weekends shall include New Years, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. The Contractor shall schedule his work so that lane closures are not required during these periods, unless otherwise directed by the Engineer.

The time of availability for this intermediate contract work shall be the time the Contractor begins to install all traffic control devices for daytime and nighttime lane closures according to the time restrictions listed above.

The intermediate completion time for this intermediate contract work shall be the time the Contractor is required to complete the removal of all traffic control devices for daytime and nighttime lane closures according to the time restrictions stated above and place traffic in a two-lane, two-way pattern.

The liquidated damages are Five Hundred Dollars (\$500.00) per hour. RG07

**INTERMEDIATE CONTRACT TIME NUMBER 2 AND LIQUIDATED DAMAGES:**

The Contractor shall complete the required work of installing, maintaining and removing the traffic control devices for road closures and restoring traffic to the existing traffic pattern. The Contractor shall not close **-L- (US 64) and/or -Y- (Racquet Club Drive)** during the following time restrictions:

**TIME RESTRICTIONS**

The maximum allowable time for the road closure is 10 minutes for blasting and debris removal/clean up and/or traffic shifts. The Contractor shall reopen the travel lanes to traffic until the existing traffic queue is depleted.

The time availability for this intermediate contract time will be the time the Contractor begins to install traffic control devices required for the road closure according to the time restrictions state above.

The completion time for this intermediate contract time will be the time the Contractor is required to complete the removal of traffic control devices required for the road closures according to the time restrictions stated above and restore traffic tot he existing traffic pattern.

The liquidated damages are \$100 per 10 minute time period.

**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

**MAJOR CONTRACT ITEMS:**

**2-19-02<sub>C</sub>**

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

Line #	Description	
5	Unclassified Excavation	SP1G28

**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	
46 thru 50	Guardrail Items	
65 thru 67	Long-Life Pavement Markings	
69	Pavement Markers	
70 thru 83	Erosion Control Items	SP1G37

**FUEL PRICE ADJUSTMENT (ENGLISH):**

**11-15-05**  
Rev. 9-19-06

Revise the 2002 *Standard Specifications* as follows:

Page 1-71 Subarticle 109-8, delete this subarticle and replace with the following:

Fuel price adjustments will be made to the payments due the Contractor for contract items specified in the contract, or for extra work items specified in the supplemental agreement, when the average terminal price has fluctuated from the Base Index Price contained in the contract.

The base index price for DIESEL #2 FUEL is \$ 2.0767 per gallon.

Where any of the following are included in the contract, they will be eligible for fuel price adjustment. The item(s) of work and the fuel factor used in calculating adjustments to be made are as follows:

Description	Units	Fuel Usage Factor Diesel
Unclassified Excavation	Gal/CY	0.29
Borrow Excavation	Gal/CY	0.29
Aggregate Base Course	Gal/Ton	0.55
Asphalt Concrete Base Course, Type _____	Gal/Ton	2.90
Asphalt Concrete Intermediate Course, Type _____	Gal/Ton	2.90
Asphalt Concrete Surface Course, Type _____	Gal/Ton	2.90
Open-Graded Asphalt Friction Course	Gal/Ton	2.90
Sand Asphalt Surface Course, Type _____	Gal/Ton	2.90
Aggregate for Cement Treated Base Course	Gal/Ton	0.55
Portland Cement for Cement Treated Base Course	Gal/Ton	0.55
_____ In. Portland Cement Concrete Pavement	Gal/SY	0.245
Concrete Shoulders Adjacent to _____ In. Pavement	Gal/SY	0.245

The average terminal price is the average of the F.O.B. price for diesel fuel at the terminals in Charlotte, Wilmington and Selma, North Carolina. When the average terminal price fluctuates upward or downward from the Base Index Price, an amount will be added to or deducted from the monies due the Contractor as follows.

The current quantity for the specified contract items for which partial payment is made will be multiplied by the respective Diesel Fuel Usage Factor contained in the contract to determine the theoretical diesel fuel usage for each specified contract item. The sum of the theoretical diesel fuel usage for all specified contract items will be multiplied by the algebraic difference between the average F.O.B. price for diesel fuel at the above specified terminals and the Base Index Price contained in the contract to determine the fuel price adjustment to be made on the partial payment estimate.



The following formula will be used to calculate the appropriate payment or credit on the estimate.

$$S = (A - B)(\Sigma QF)$$

- Where:
- S = Fuel Price Adjustment for partial payment
  - B = Base Index Price
  - A = Average terminal price
  - Q = Partial payment quantity for contract item
  - F = Fuel factor for contract item

The average terminal price in effect on the first day of the month in which the partial payment period ends will be used to make payment adjustments for fuel whether or not more than one price fluctuation has occurred within a single partial payment period.

The Engineer's estimate of quantities for contract items measured by cross sections shall be utilized on the various partial payment estimates to determine fuel price adjustments. When the Engineer determines after payment for all or a portion of such contract item that is subject to a fuel price adjustment that the total quantity of work paid to date shall be adjusted to reflect more accurate quantity determinations, the Engineer will make a pro rata increase or decrease in the fuel price adjustment proportionate to the adjustment in the total quantity of work paid. The prorated fuel price adjustment for the contract item will be determined by multiplying the cumulative fuel price adjustment made for that contract item for the previous estimate period(s) by the adjusted quantity for that contract item and divided by the total quantity of work paid for the previous estimates for the contract item. Payment for the prorated fuel price adjustment will be made accordingly on the partial payment estimate that includes the adjustment in the quantity of work paid.

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:

<u>Fiscal Year</u>	<u>Progress (Dollar Value)</u>
2007 (7/1/06 – 6/30/07)	52% of Total Amount Bid
2008 (7/1/07 – 6/30/08)	46% of Total Amount Bid
2009 (7/1/08 – 6/30/09)	2% 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:**

**03-16-04**  
Rev. 04-18-06

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 document provided by the Department that the bidder uses to develop his electronic offer to perform the work at designated bid prices.

Page 1-11, Article 102-3 **Proposal Forms and Plan Holder Lists**

Delete the first, second and third paragraph and replace with the following:

The bidder shall purchase a proposal for each project for which he intends to submit a bid on NCDOT projects advertised through the Raleigh Central Office. The prospective bidder will be required to pay *the Department of Transportation* the sum stated in the invitation to bid for each copy of the proposal and each set of plans purchased. This proposal will state the location of the contemplated construction and will show a schedule of contract items with the approximate quantity of each of these items for which bid prices are invited. It will set forth the date and time for the opening of bids. The proposal will also include any special provision or requirements that vary from or are not contained in the plans or standard specifications.

**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. Obtain on-line bidding information from Bid Express® at [www.bidx.com](http://www.bidx.com) (Note: Obtain an account and valid Digital Signature from Bid Express® in order to bid electronically).

2. 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 <http://www.surety2000.com/>
  - b. Surepath <http://www.insurevision.com/>
3. 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<sup>®</sup> 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.
  4. 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.
  5. Article 103-2 Correction of Bid Errors will not apply to On-Line Electronic Bidding.
  6. All addenda and attachments will be considered part of the bid. Include all addenda in the submitted electronic 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 Article 102-8 will apply to the preparation of bids except that the bid shall be submitted via Bid Express<sup>®</sup> 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 Prequalification Office of 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<sup>®</sup> 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 *Execution of Contract, Non-Collusion Affidavit, Debarment Certification* signature sheet, payment and performance bonds and certified check or cashier's check in lieu of electronic bid bond, 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

**MINORITY AND WOMEN BUSINESS**

**07-17-01**

**POLICY**

It is the policy of the North Carolina Department of Transportation that minority and women businesses shall have the maximum opportunity to participate in the performance of contracts financed by Non-Federal Funds.

The Contractor is also encouraged to give every opportunity to allow MB/WB participation in Supplemental Agreements.

**OBLIGATION**

The Contractor and any subsequent Subcontractor shall ensure that minority and women businesses have the maximum opportunity to participate in the performance of the work included in this contract. The Contractor and any subsequent Subcontractor shall take all necessary and reasonable steps to ensure that minority and women businesses have the maximum opportunity to compete for and perform a portion of the work included in this contract and shall not discriminate on the basis of race, color, national origin or sex. Failure on the part of the Contractor to carry out the requirements set forth herein shall constitute a breach of contract and after proper notification, may result in award disqualification, termination of the contract, disqualification from bidding, or other appropriate remedy.

## GOALS

Pursuant to the requirements of North Carolina General Statute 136-28.4, the following goals for participation are established for this contract:

Minority Business Enterprises 2%  
Women Business Enterprises 4%

The Contractor shall exercise all necessary and reasonable steps to ensure that Minority Businesses (MB) and Women Businesses (WB) participate in at least the percents of the contract as set forth above as goals for this contract.

## LISTING OF MB AND WB SUBCONTRACTORS

All bidders, at the time the bid proposal is submitted, must also submit a listing of MB and WB 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 MB and WB participation of the contract. In the event the bidder has no MB and WB 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 MB AND WB PARTICIPATION INDICATED ON THE APPROPRIATE FORM WILL NOT BE READ PUBLICLY DURING THE OPENING OF BIDS. These bids will not be considered for award by the Department and they will be returned to the bidder. Bidders have the option of submitting their MB and WB participation in an abbreviated format as required in Paragraph A below, or the bidders may submit their MB and WB participation in the additional detail required by Paragraph B below. In the event the bidder elects to submit MB and WB 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 MB and WB submittal as required by Paragraph B below.

Only those MB and WB firms with current certification by the Department will be considered acceptable for listing in the bidders submittal of MB and WB participation.

A. The contractor shall indicate on the form for listing of MB and WB Subcontractors the following required information:

## REQUIRED INFORMATION

- (1) The names of MB and WB firms committed to participate in the contract;
- (2) The Contract Item Numbers of work to be performed by each MB and WB firm; and
- (3) The total dollar amount to be paid to each MB and WB based on agreed upon 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 required below along with the bid proposal.

#### REQUIRED INFORMATION

- (1) The names of MB and WB firms committed to participate in the contract;
- (2) The Contract Item Numbers and Contract Item Descriptions and agreed upon prices of work to be performed by each MB and WB firm; and
- (3) The total dollar amount to be paid to each MB and WB based on agreed upon 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 Department will not allow any substitutions, deletions, or other alterations to the listing of firms committed for MB and WB participation and/or the respective listed contract item numbers after opening of bids. The Department will not allow adjustments to total dollar amount of MB and/or WB participation after the opening of bids which would result in the MB and/or WB 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 MB or WB 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 bid of the lowest responsive bidder exceeds \$500,000 and if the MB and/or WB participation submitted in response to Paragraph B exceeds the algebraic sum of the MB and WB goals by \$1000 or more, the excess will be placed on deposit by the Department for future use by the bidder. Separate accounts will be maintained for MB and WB participation and these may accumulate for a period not to exceed 24 months.

If the MB and WB participation submitted in response to Paragraph A/B does not meet or exceed the MB and WB contract goals, the apparent lowest responsive bidder must submit information to satisfy the North Carolina Department of Transportation that sufficient reasonable 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 MB and WB 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 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; and (2) disqualify the Contractor and any affiliated companies for award of all contracts for which bids have been received and opened.

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 MBs and WBs of subcontracting opportunities;
- (2) Whether the bidder provided written notice to a reasonable number of specific MBs and WBs that their interest in the contract is being solicited and whether the firms solicited could have reasonably been expected to quote the work in the contract;
- (3) Whether the bidder followed up on initial solicitations of interests by contacting MBs and WBs to determine with certainty whether they were interested;
- (4) Whether the bidder selected portions of the work to be performed by MBs and WBs in order to increase the likelihood of meeting the contract goals;
- (5) Whether the bidder provided interested MBs and WBs with adequate information about the plans, specifications and requirements of the contract;
- (6) Whether the bidder negotiated in good faith with interested MBs and Wbs not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities;
- (7) Whether quotations were received from interested MB and WB firms but rejected as unacceptable without sound reasons why the quotations were considered unacceptable;
- (8) Whether the bidder made efforts to assist interested MBs and WBs in obtaining any required insurance or bonding that may be required by the bid proposal or by the bidder;
- (9) Whether the bidder specifically negotiated with Subcontractors to assume part of the responsibility to meet the contract MB and WB goal when the work to be sublet includes potential for MB and WB participation.

In the event one bidder is the apparent low bidder on two non-federally funded projects 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 MB participation on the two projects so long as the overall MB goal value of both projects is achieved.

In the event one bidder is the apparent low bidder on two non-federally funded projects 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 WB participation on the two projects so long as the overall WB goal value of both projects is achieved.

Where the apparent lowest responsive bidder fails to submit sufficient participation by MB firms to meet the contract goal, as part of the good faith effort the Department will consider allowing the bidder to withdraw funds to meet the MB goal so long as there are adequate funds available from the bidders MB bank account.

Where the apparent lowest responsive bidder fails to submit sufficient participation by WB firms to meet the contract goal, as part of the good faith effort the Department will consider allowing the bidder to withdraw funds to meet the WB goal so long as there are adequate funds available from the bidders WB bank account.

Where the apparent lowest responsive bidder fails to submit sufficient participation by MB and WB 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 Department may reject the bid.

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.

## DIRECTORY OF CERTIFIED BUSINESSES

Included with this Proposal is a list of Businesses which have been certified by the North Carolina Department of Transportation. Only those MB firms with current certification may be used to meet the contract MB goal. Only those firms with current certification may be used to meet the contract WB goal.

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

## REPLACEMENT OF MBs AND WBs

### (A) Performance Related

If any MB or WB Subcontractor indicated on the form for listing of MB and WB Subcontractors, contained elsewhere in this proposal, does not perform satisfactorily to the extent indicated or anticipated, the Contractor shall take all necessary, reasonable steps to replace the MB Subcontractor with another MB Subcontractor and/or the Contractor shall take all necessary, reasonable steps to replace the WB Subcontractor with another WB Subcontractor.



Any substitution of MB or WB firms after award of the contract shall be approved by the Department. The Contractor shall submit any requests for substitutions through the Resident Engineer and the request must provide a valid basis or reason for the proposed substitution.

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

- (a) Copies of written notification to MBs/WBs that their interest is solicited in subcontracting the work defaulted by the previous MB or WB Subcontractor or in subcontracting other items of work in the contract.
- (b) Efforts to negotiate with MBs and WBs for specific subbids including at a minimum:
  - (1) The names, addresses, and telephone numbers of MBs and WBs that were contacted;
  - (2) A description of the information provided to MBs and WBs regarding the plans and specifications for portions of the work to be performed; and
  - (3) A statement of why additional agreements with MBs and WBs were not reached.
- (c) For each MB or WB contacted but rejected as unqualified, the reasons for the Contractor's conclusion.
- (d) Efforts made to assist the MBs and WBs contacted, if needed, in obtaining bonding or insurance required by the Contractor.

Failure of the Contractor to demonstrate reasonable efforts to replace a MB or WB firm that does not perform as intended or anticipated, shall be just cause to disqualify the Contractor from further bidding for a period of up to 6 months after notification by certified mail.

(B) Decertification

1. If the Department has approved a Request for Subcontract for a particular MB or WB Subcontractor and that MB or WB Subcontractor is subsequently decertified by the Department; then the Department will not require the Prime Contractor to solicit replacement MB or WB participation equal to the remaining work to be performed by the decertified firm.

2. If a Prime Contractor has listed a MB or WB firm in his low bid submittal and the MB or WB firm is decertified prior to the Department approving a Request for Subcontract for the named MB or WB firm, the Prime Contractor may be required to make a good faith effort to:
  - (a) Replace the decertified firm with a certified firm, or
  - (b) To obtain replacement MB or WB participation in other areas of work.

## DEFINITIONS

For purposes of this provision, the following definition will apply:

Minority Business or MB means a small business concern, which is owned and controlled by one or more minorities. Except that such term shall not include any concern or group of concerns controlled by the same minority or minorities which has average annual gross receipts over the preceding 3 fiscal years in excess of \$14,000,000, as adjusted by the Department for inflation. For the purposes of this part, owned and controlled means a business:

- (a) Which is at least 51 percent owned by one or more minorities or in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more minorities; and
- (b) Whose management and daily business operations are controlled by one or more such individuals.

Minority is defined as a citizen or lawful permanent resident of the United States and who is:

- (1) Black (a person having origins in any of the black racial groups of Africa);
- (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
- (3) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);
- (4) American Indian

Women Business or WB means a small business concern, which is owned and controlled by one or more women. Except that such term shall not include any concern or group of concerns controlled by the same woman or women which has average annual gross receipts over the preceding 3 fiscal years in excess of \$14,000,000, as adjusted by the Department for inflation. For the purposes of this part, owned and controlled means a business:

- (a) Which is at least 51 percent owned by one or more women or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (b) Whose management and daily business operations are controlled by one or more of the women who own it.

#### COUNTING MB/WB PARTICIPATION TOWARD MEETING THE MB/WB GOAL

- (1) If a firm is determined to be an eligible MB or WB firm and certified by the Department, the total dollar value of the participation by the MB or WB will be counted toward the appropriate MB or WB goal. The total dollar value of participation by a certified MB or WB will be based upon prices agreed upon by the Prime Contractor and MB or WB Subcontractor.
- (2) The Contractor may count toward its MB or WB goal a portion of the total dollar value of participation with a joint venture, eligible under the standards of this provision, equal to the percentage of the ownership and controls of the MB or WB partner in the joint venture.
- (3)
  - (a) The Contractor may count toward its MB or WB goal only expenditures to MBs or WBs that perform a commercially useful function in the work of a contract. A MB or WB 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 MB or WB is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, and other relevant factors.
  - (b) Consistent with normal industry practices, a MB or WB may enter into subcontracts. If a MB or WB 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 MB or WB shall be presumed not to be performing a commercially useful function. The MB or WB may present evidence to rebut this presumption to the Department. The Department's decision on the rebuttal of this presumption shall be final.
- (4) A Contractor may count toward its MB or WB goal 60 percent of its expenditures for materials and supplies required to complete the contract and obtained from MB or WB regular dealer and 100 percent of such expenditures to a MB or WB 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 MB or WB goal the following expenditures to MB or WB firms that are not manufacturers or regular dealers:
- (a) The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - (b) The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - (c) The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract provided that the fee or commission is determined by the Department to be reasonable and not excessive as compared with fees customarily allowed for similar services.

## REPORTS

Within 30 days after receipt of materials, supplies, or services from MBs or WBs, not otherwise documented by Request for Subcontracts (RS-1A/RS-1B), the Contractor shall furnish to the Engineer appropriate documentation (canceled checks, paid invoices, etc.) to verify expenditures with MB and WB concerns. The documentation should also indicate the percentage (60% or 100%) of expenditures claimed for MB or WB credit.

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

The RS-1-D certification forms may be obtained from the Departments Resident Engineer.

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

**REPORTING MINORITY BUSINESS ENTERPRISE OR WOMEN BUSINESS ENTERPRISE PARTICIPATION**

When payments are made to Minority Business Enterprise firms or Women 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 MB/WB Enterprise firm the following:

- DOT Project Number
- Payee Contractor Name
- Receiving Contractor or Material Supplier
- MB/WB 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.

SP1G67

**PROMPT PAYMENT:**

**6-19-01c**

**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 subcontractor, 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 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. If any retainage is held on subcontractors, all retainage shall be released within seven calendar days of release by the Department.

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.

SP1G76

**PARTIAL PAYMENTS**

**1-01-02**

The 2002 Standard Specifications are revised as follows:

Page 1-69, Subarticle 109-4(A)

In the first line of the third paragraph change the amount of "\$200,000.00" to read "\$500,000.00".

SP1G82

**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

**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****03-15-05**

Rev. 04-18-06

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:

Submit a hydrologic analysis (Skaggs Method) or equivalent 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  
Effective hydraulic conductivity or permeability  
Average drainable porosity or available water capacity  
Required buffer width, including safety factor

2. If wetlands or streams are present within 400 feet and the contractor does not propose to excavate below the seasonal high water table or the water level in the adjacent stream, no documentation will be required.

3. 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, revised 12/1/05, from Roadside Environmental Unit web site:

[http://www.ncdot.org/doh/operations/dp\\_chief\\_eng/roadside/fieldops/downloads/Files/SkaggsMethodBuffers.pdf](http://www.ncdot.org/doh/operations/dp_chief_eng/roadside/fieldops/downloads/Files/SkaggsMethodBuffers.pdf)

Copies may also be obtained from Room 558, Transportation Building, 1 S. Wilmington Street, Raleigh, NC 27601.

SP1G111

**SUBSURFACE INFORMATION:**

7-1-95

Subsurface information is available on the roadway portion of this project only.

SP1G115

**BORROW AND WASTE SITE RECLAMATION PROCEDURES**

02-15-05

The Department's Borrow and Waste Site Reclamation Procedures for Contracted Projects have been revised and are available on the website at:

<http://www.ncdot.org/doh/construction/ps/contracts/borrowwastesite20jan05.doc>

In accordance with Article 230-4 and Section 802 of the *Standard Specifications*, the Contractor shall utilize these revised procedures for all borrow and waste sites on this project.

SP1G120

**PAYMENTS FOR MATERIALS - PORTABLE CONCRETE BARRIER:**

7-1-95

When so authorized by the Engineer, partial materials payments will be made up to 90 percent of the delivered cost of portable concrete barrier, provided that these materials have been delivered on the project and stored in an acceptable manner, and further provided the documents listed in Subarticle 109-5(C) of the *Standard Specifications* have been furnished to the Engineer.

The provisions of Subarticle 109-5(B) of the *Standard Specifications* will apply to the portable concrete barrier.

SP1G121

**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:**

**6-19-01R**

All Contractors' personnel, all subcontractors and their personnel, and any material suppliers and their personnel shall wear a reflective vest or outer garment conforming to the requirements of MUTCD 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**

Rev. 05-16-06

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 the North Carolina Department of Transportation shall approve exceptions to this provision in writing.

SP1G150

**DISQUALIFICATION OF BIDDERS**

11-16-04

The 2002 *Standard Specifications* are revised as follows:

Page 1-17 Article 102-16, replace No.12 with the following:

- 12. Failure to submit the documents required by Article 109-10 within 60 days after request by the Engineer.

Page 1-18 Article 102-16, add the following after Number 15.

- 16. False information submitted on any application, statement, certification, report, records and/or reproduction.

Conviction of any employee of company, of any applicable state or federal law, may be fully imputed to the business firm with which he is or was associated or by whom he was employed or with the knowledge or approval of the business firm or thereafter ratified by it.

- 17. Being debarred from performing work with other city, state, and federal agencies.
- 18. Failure to perform guaranty work within the terms of the contract.

SP1G155

**FORCE ACCOUNT WORK**

10-18-05

Revise the *Standard Specifications* as follows:

Page 1-67, Article 109-3, delete this article and replace with the following:

All force account work shall be performed as directed by the Engineer including the numbers and types of equipment, the numbers and classifications of labor and foremen, and material requirements.

All work to be paid for on a force account basis will be paid for in the following manner:

- (A) **Labor** For all authorized labor and foremen in direct charge of the specific operations, the Contractor will receive the rate of base (actual) wages (or scale) actually being paid by the Contractor for each hour that the labor and foremen are actually engaged in the specific force account work.

In addition to reimbursement for each hour that the labor and foremen are actually engaged in the specific force account work, the Contractor may receive compensation for travel time to and from the project if and only if the labor and foremen needed are outside a 75 mile radius as included in Section 109-3(B). The base location will be established and approved by the Engineer prior to performing the specific force account work. If the approved labor and foremen travel to another project upon completion of the specific force account work, payment for travel time may not exceed the travel time that would

have been required to return to the point of origin in accordance with Section 109-3(B). When travel time is approved by the Engineer, it shall be included in the total hours approved and worked for that specific week. The Engineer will approve the mode of travel.

Prior to beginning the specific force account work, the Contractor shall submit in writing for the Engineer's approval a list of all wage rates applicable to the work. Approval will not be granted where these wage rates are not actually representative of wages being paid elsewhere on the project for comparable classes of labor performing similar work.

Payment for overtime will be allowed when approved by the Engineer prior to performing the specific force account work. Overtime for labor and foremen will be paid based on the company's policy for overtime payment. Verification of such payment will be tracked by submission of weekly payrolls as required on federal projects and as requested on all other projects. Failure to submit payrolls as required or requested shall act as a bar to the Contractor for payment of overtime for labor and foremen. If the labor or foremen is employed partly on specific force account work and partly on other work, the amount of overtime to be reimbursed will be prorated based upon the number of hours worked on the specific force account work during the payroll period.

An additive amount equal to the Contractor's actual labor burden rate, up to a maximum of 60 percent, will be paid to the Contractor for all base (actual) wages paid to labor and foremen for the specific force account work. No additive will be provided for overtime payments. The labor burden rate(s) will include costs associated with the employee's actual base wages benefits, including FICA, unemployment contributions, Social Security and Medicare taxes and company fringe benefits. Company fringe benefits are the actual costs paid to, or on behalf of, workmen by reason of health and welfare benefits, pension fund benefits, or other benefits, when such amounts are required by prevailing wage laws generally applicable to the classes of labor employed on the work. The Contractor's actual labor burden rate(s) shall be submitted to and approved by the Engineer prior to beginning the work. When the Contractor cannot verify actual labor burden rate(s), an amount equal to 35 percent of the total base (actual) wage paid for labor and foremen will be added to the total base wages paid to the Contractor. These percentage additives will be full compensation for overhead, benefits, contingencies, and all other costs associated with labor for the specific force account work.

- (B) Subsistence and Travel Allowances** The Contractor may receive payment for actual costs paid to, or on behalf of, labor and foremen by reason of subsistence and travel allowances under certain circumstances. When the Contractor is required to mobilize a crew for specific operations, the Engineer may approve reimbursement of subsistence, including meals and overnight lodging, if the specific force account work is determined to be outside of the scope of the original contract and the distance from the Contractor's base location to the project is more than 75 miles. Should the Contractor utilize forces currently working at the location of the specific force account work, the Engineer may approve the payment of subsistence, including meals and overnight lodging, if the work is determined to be outside of the scope of the original contract, the forces currently working at the location have routinely stayed overnight during the life of the project, and

the distance from the Contractor's base location to the project is more than 75 miles. The Engineer will approve the mode of travel.

Payment will be made to the Contractor for subsistence, including meals and overnight lodging, paid in accordance with the Contractor's usual policy for authorized labor and foremen in direct charge of the specific operations.

Subsistence will be limited to the lesser of actual amount paid or the current maximum in-state rate for State employees. Verification of such costs paid to, or on behalf of, labor and foremen shall be submitted to the Engineer. If the labor or foremen are partly employed on specific force account work and partly on other work, the amount of subsistence to be reimbursed will be prorated based upon the number of hours worked on the specific force account work during the payroll period.

- (C) **Materials** For materials authorized and accepted by the Engineer and used, the Contractor will receive the actual cost of such materials, including sales tax and transportation charges paid by him (exclusive of equipment rentals as hereinafter set forth), to which costs 15 percent will be added. The Contractor shall furnish records to the Engineer to verify the quantities of materials used in the specific force account work, prices of the materials, sales tax, and costs of transportation for the materials.

If materials used in the specific force account work are not specifically purchased for such work but are taken from the Contractor's stock, the Contractor shall furnish an affidavit certifying that such materials were taken from his stock, the quantity was actually used in the specific force account work, and the price and transportation cost claimed represent the actual cost to the Contractor.

- (D) **Equipment** For all equipment authorized by the Engineer to be used on the specific force account work the Contractor will receive rental payment. Hourly rental rates paid for equipment in use, which is Contractor owned or rented from another Contractor, will not exceed 1/176<sup>th</sup> of the monthly rate listed in the *Rental Rate Blue Book for Construction Equipment* that is current at the time the specific force account work is performed.

In determining the hourly rate, the regional adjustment factor and the rate adjustment factor for equipment age, as set forth in the current *Blue Book*, will both be applied to the basic rate. An additive payment equal to 100 percent of the *Blue Book* estimated operating cost per hour will also be paid for all hours equipment is in use. This additive payment will be full compensation for fuel, lubricants, repairs, servicing (greasing, fueling, and oiling), small tools, and other incidentals.

If rental rates for the equipment actually being used in the work are not listed in the *Blue Book*, the Contractor will receive the prevailing rental rates being paid for such equipment in the area where the project is located. An additive payment equal to 15 percent of the prevailing rental rate will also be paid for all hours equipment is in use. This additive payment will be full compensation for fuel, lubricants, repairs, servicing (greasing, fueling, and oiling), small tools, and other incidentals.

Hourly rental rates for equipment held in ready as directed by the Engineer will be 50 percent of the rate paid for equipment in use. An additive payment will not be made for equipment held in ready. When equipment is in use less than 40 hours for any given week and is held in ready as directed by the Engineer, payment for held in ready time will be allowed for up to 40 hours, less hours in use. When payment is made for equipment held in ready as directed by the Engineer, the payment for held in ready time will be allowed for up to 8 hours in a day less hours in use.

Hourly rental rates for idle equipment held in ready in accordance with Article 104-4 will be 50 percent of the rate paid for equipment in use. Hourly rental rates for idle equipment held in ready in accordance with Article 104-4 that is rented from a commercial rental agency will be paid for in accordance with the invoice rate for the equipment. An additive payment will not be made for idle equipment. When equipment is in use less than 40 hours for any given week and is held in ready as idle equipment in accordance with Article 104-4, payment for idle equipment time will be allowed for up to 40 hours, less hours in use. When payment is made for idle equipment held in ready in accordance with Article 104-4, the payment for idle equipment time held in ready will be allowed for up to 8 hours in a day less hours in use.

In the event the Contractor does not possess or have readily available such equipment necessary for the performance of the work and such equipment is rented from a commercial rental agency, the Contractor will receive payment based on the approved invoice rate for the equipment.

An additive payment equal to 15 percent of the calculated hourly invoice rate will also be paid for all hours equipment is in use. This additive payment will be full compensation for fuel, lubricants, repairs, servicing (greasing, fueling and oiling), small tools, and other incidentals. The commercial rental agency shall not be the Contractor or an affiliate of the Contractor.

No compensation will be made for the use of equipment not authorized by the Engineer.

The Contractor will be reimbursed for the actual transportation costs for equipment which the Contractor is directed to furnish. Such payment will be limited to transportation costs from the nearest source of available equipment. If equipment is not returned to the point of origin, but is transported to another location, transportation costs will not exceed the cost of return to the point of origin. Rental for such equipment will not be paid when the equipment is being transported. The Contractor shall furnish records to the Engineer to verify the actual transportation costs for equipment.

The Contractor shall provide to the Engineer for approval a listing of all equipment and attachments to be utilized in the prosecution of the work. The list shall include the manufacturer's name, type, model, serial number, and year of manufacture. The list shall also include the invoice rate for equipment rented from a commercial rental agency. It shall be the Contractor's responsibility to verify the age of the equipment in a manner acceptable to the Engineer. Where such verification is not available, the rate adjustment factor used will be for the oldest equipment listed in the Blue Book.

The above prices and payments will be full compensation for fuel, lubricants, cutting edges, all repairs, and all other operating and maintenance costs other than operator's wages.

- (E) **Owner-Operated Equipment** For all owner-operated equipment authorized by the Engineer to be used on the specific force account work, the Contractor will receive rental payment equal to the existing contract rate(s) with no additive as provided in Items 109-3(A), 109-3(B), 109-3(D) and 109-3(H). When existing contract rate(s) have not been established, the contractor shall submit the proposed rate(s) for the owner-operated equipment with sufficient documentation as deemed necessary by the Engineer for approval.

For fully maintained and operated trucks used for the specific force account work, the Contractor will receive rental payment equal to the existing contract rate(s) with no additive as provided in Items 109-3(A), 109-3(B), 109-3(D) and 109-3(H). When existing contract rate(s) have not been established, the prevailing industry rate(s) for fully maintained and operated trucks will be used for the specific force account work with approval of the Engineer.

For the purposes of force account work, owner-operated equipment, including fully maintained and operated trucks, will be considered subcontractors. No additional additives other than those allowed under Item 109-3(G) will be allowed.

- (F) **Miscellaneous** No additional allowance will be made for general superintendence, the use of manually powered tools, or other costs for which no specific allowance is herein provided.
- (G) **Subcontracting** For administrative costs of the Contractor in connection with approved subcontract work at any level and the use of owner-operated equipment at any level, the Contractor will receive an additive amount in accordance with the rate schedule shown below of the total cost of such subcontracted work. The total cost of such subcontracted work will include applicable labor and additive, bond and insurance, materials, and equipment costs incurred by the subcontractor; overhead and profit computed in accordance with Items 109-3(A) through 109-3(D), 109-3(F), 109-3(H) and 109-3(I); and costs for owner-operated equipment, including fully maintained and operated trucks in accordance Item 109-3(E). No additional additives will be allowed.

<u>Total Cost of Subcontract Work</u>	<u>Rate Schedule</u>
\$0 - \$10,000	10%
Above \$10,000	\$1,000 + 5% Above \$10,000

- (H) **Overhead and Profit** An additive payment equal to 10 percent of the specific force account total will be paid to the Contractor. This specific force account total is exclusive of the portion of the work included with Item 109-3(C), Materials, Item 109-3(E), Owner-Operated Equipment and Item 109-3(G), Subcontracting. This payment will be full compensation for all costs including but not limited to home office and field overhead, burdens, and profit associated with the specific force account work.

An additive payment equal to 10 percent of the specific force account total for approved subcontract work will also be paid to the subcontractor for overhead and profit. This specific force account total for subcontract work is exclusive of the portion of the work included with Item 109-3(C), Materials and Item 109-3(E), Owner-Operated Equipment. This payment will be full compensation for all costs including but not limited to home office and field overhead, burdens, and profit associated with the specific force account subcontracted work. No additional additives will be allowed.

- (I) **Bond and Insurance** For property damage and liability insurance premiums and bond premiums on the specific force account work, the Contractor will receive the actual cost. The Contractor shall furnish satisfactory evidence to the Engineer of the rate or rates paid for such insurance and bond.

An annualized composite percentage may be used to determine the cost for bond and insurance. Insurance costs will be limited to the direct costs associated with the specific force account work. The Contractor shall furnish satisfactory evidence to the Engineer of the annualized composite percentage for the bond and insurance.

- (J) **General** The Engineer will maintain the payment records of work performed on a force account basis. The Contractor shall compare records of work with the Engineer at the end of each day on which such work is in progress.

Any contention the Contractor may have for an extension in the completion date, intermediate completion date, or intermediate completion time, due to performance of specific force account work will be considered as provided in Article 108-10.

SP1G165

**CONTROL OF EROSION, SILTATION, AND POLLUTION**

10-18-05

Rev. 12-20-05

Revise the *Standard Specifications* as follows:

Page 1-50, Subarticle 107-13(A) Delete the last paragraph and insert the following:

Following completion of any construction phase or operation, on any graded slope or any area greater than one acre, the Contractor shall provide ground cover sufficient to restrain erosion within 21 calendar days or within a time period specified by the *Sedimentation and Pollution Control Act*. The ground cover shall be either temporary or permanent and the type specified in the contract.

SP1G170



**REJECTION OF BIDS**

**12-20-05**

Revise the *2002 Standard Specifications* as follows:

Page 1-17, Article 102-15, add the following after the third paragraph:

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 specialty 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 refrigeration contracting as contained in *Chapter 87 of the General Statutes of North Carolina*. Notwithstanding the limitations on bidding, the bidder who is awarded any project shall comply with *Chapter 87 of the General Statutes of North Carolina* for licensing requirements within 60 calendar days of bid opening, regardless of funding sources.

SP1G175

**EROSION & SEDIMENT CONTROL/STORMWATER CERTIFICATION:** **01-17-05**

Rev. 04-18-06

**I. General**

The purpose of this certification program is to assure that all responsible parties involved in the construction of this project are properly trained and have the skills necessary to fulfill all environmental commitments required of this project. It is intended that the contractor/subcontractor representatives work jointly with the Department on the project to assure that all plan and contract requirements are met, that necessary adjustments are made and that all devices and features are installed in a timely manner. In the case of difference of opinion or interpretation of plan or contract requirements between the Contractor and the Engineer, the Engineer’s determination and decision will be final.

Schedule and conduct construction activities in a manner that will minimize soil erosion and the resulting sedimentation and turbidity of surface waters. Comply with the requirements herein regardless of whether or not a National Pollutant Discharge Elimination System (NPDES) permit for the work is required.

Establish a chain of responsibility for operations and subcontractor’s operations to ensure that the *Erosion and Sediment Control Stormwater (E&SC/SW) Pollution Prevention Plan* is implemented and maintained over the life of the contract.

- (A) *Certified Supervisor* –Provide a certified E&SC/SW Supervisor to manage the Contractor and subcontractor(s) operations, insure compliance with Federal, State and Local ordinances and regulations, and to manage the Quality Control Program.

- (B) *Certified Foreman* – Provide certified, trained foremen for each construction operation that increases the potential for soil erosion or the possible sedimentation and turbidity of surface waters.

## II. Roles and Responsibilities

- (A) *Certified E&SC/SW Supervisor* - The Certified Supervisor shall be responsible for ensuring E&SC/SW is adequately implemented and maintained on the project and conducting the quality control program. The Certified Supervisor shall be on the project within 24 hours from initial exposure of an erodible surface to the project's final acceptance when questions or concerns arise with E&SC/SW issues. Perform the following duties:

- (1) *Manage Operations* - Coordinate and schedule the work of subcontractors so E&SC/SW measures are fully executed for each operation and in a timely manner over the duration of the contract.

Oversee the work of subcontractors so that appropriate E&SC/SW preventive measures are conformed to at each stage of the work.

Prepare the required weekly erosion control punchlist and present it to the Engineer.

Attend all weekly or monthly construction meetings to discuss the findings of the NPDES inspection log and other related issues.

Implement the E&SC/SW site plans requested.

Provide for E&SC/SW methods for Contractor's temporary work not shown on the plans, such as, but not limited to work platforms, temporary construction, pumping operations, plant and storage yards, and cofferdams.

Acquire applicable permits and comply with requirements for borrow pits, dewatering, and any temporary work conducted by the Contractor in jurisdictional areas.

Conduct all E&SC/SW work in a timely and workmanlike manner.

Fully install E&SC/SW work prior to suspension of the work.

Coordinate with the Department, Federal, State and Local Regulatory agencies on resolution of E&SC/SW issues due to the Contractor's operations.

Ensure that proper cleanup occurs from vehicle tracking on paved surfaces and/or any location where sediment leaves the Right-of-Way.

Have available a set of erosion control plans that has been properly updated to reflect necessary plan and field changes for use and review by Department personnel as well as regulatory agencies.

- (2) Requirements set forth under the NPDES Permit - The Department's NPDES permit outlines certain objectives and management measures pertaining to construction activities. The permit references *NCG010000, General Permit to Discharge Stormwater* under the NPDES, and states that the Department shall incorporate the applicable requirements into its delegated E&SC/SW Program. Some of the requirements are, but are not limited to:

Control project site waste to prevent contamination of surface or ground waters of the state (i.e. construction materials, concrete washout, chemicals, litter, fuels, lubricants, coolants, hydraulic fluids, any other petroleum products, and sanitary waste).

Inspect E&SC/SW devices at least once every 7 calendar days, twice weekly for 303(d) impaired streams, and within 24 hours after a significant rainfall event of 0.5 inches within 24 hours.

Maintain an onsite rain gauge and a record of rainfall amounts and dates

Maintain E&SC/SW inspection records for review by Department and Regulatory personnel upon request.

Implement approved reclamation plans on all borrow pits and waste sites.

Maintain a log of turbidity test results as outlined in the Department's Procedure for Monitoring Borrow Pit Discharge.

Provide secondary containment for bulk storage of liquid materials.

Provide training for employees concerning general E&SC/SW awareness, the NPDES Permit requirements, and the requirements of the *General Permit, NCG010000*.

Report violations of the NPDES permit to the Engineer so that the DWQ Regional Office can be notified within 24 hours. The Supervisor will immediately notify the Engineer of any violations so that proper notification can be made to DWQ.

- (3) Quality Control Program - Maintain a quality control program to control erosion, prevent sedimentation and follow provisions of permits. The quality control program shall:

Follow permit requirements related to the Contractor and subcontractors' construction activities.

Ensure that all operators and/or subcontractor(s) on site have the proper E&SC/SW certification.

Notify the Engineer when the required certified E&SC/SW personnel are not available on the job site when needed.

Conduct the inspections required by the NPDES permit.

Take corrective actions in the proper timeframe as required by the NPDES permit for problem areas identified during the NPDES inspections.

Incorporate erosion control into the work in a timely manner and stabilize disturbed areas with mulch/seed or vegetative cover on a section-by-section basis.

Maintain temporary E&SC/SW devices.

Remove temporary erosion or sediment control devices when they are no longer necessary as agreed upon by the Engineer.

The Contractor's quality control and inspection procedures shall be subject to review by the Engineer. Maintain NPDES inspection records at the project site. Make NPDES inspection records available at all times for verification by the Engineer.

- (B) *Certified Foreman* - At least one Certified Foreman shall be onsite for each type of work listed herein during the respective construction activities to control erosion, prevent sedimentation and follow permit provisions:

Foreman in charge of grading activities

Foreman in charge of bridge or culvert construction over jurisdictional areas

Foreman in charge of utility activities

The Contractor may request to use the same person as the Level II Supervisor and Level II Foreman. This person shall be on site whenever construction activities as described above are taking place. This request shall be approved by the Engineer prior to work beginning.

The Contractor may request to name a single Level II Foreman to oversee multiple construction activities on small bridge or culvert replacement projects. This request shall be approved by the Engineer prior to work beginning.

**III. Preconstruction Meeting**

Furnish the names of *the Certified E&SC/SW Supervisor, Certified Foremen*, and notify the Engineer of changes in certified personnel over the life of the contract within 2 days of change.

**IV. Ethical Responsibility**

Any company performing work for the North Carolina Department of Transportation has the ethical responsibility to fully disclose any reprimand or dismissal of an employee resulting from improper testing or falsification of records.

**V. Revocation or Suspension of Certification**

Upon recommendation of the Director of Construction to the certification entity, certification for Supervisor and Certified Foremen may be revoked or suspended with the issuance of a *Continuing Immediate Corrective Action (CICA), Notice of Violation, or Cease and Desist (C&D) Order* for E&SC/SW related issues.

Should any of the following circumstances occur, the Director of Construction may suspend or permanently revoke such certification.

Failure to adequately perform the duties as defined within the certification program

Issuance of a CICA, NOV, or C&D Order

Failure to fully perform environmental commitments as detailed within the permit conditions and specifications

Demonstration of erroneous documentation or reporting techniques

Cheating or copying another candidate’s work on an examination

Intentional falsification of records

Directing a subordinate under direct or indirect supervision to perform any of the above actions

Dismissal from a company for any of the above reasons

Suspension or revocation of one’s certification within another state

Suspension or revocation of a certification will be sent by certified mail to the registrant and the Corporate Head of the company that employs the registrant.

A registrant has the right to appeal any adverse action which results in suspension or permanent revocation of certification by responding, in writing, to the Director of Construction within 10 calendar days after receiving notice of the proposed adverse action.

Director of Construction  
1520 Mail Service Center  
Raleigh, NC 27699-1520

Failure to appeal within 10 calendar days will result in the proposed adverse action becoming effective on the date specified on the certified notice. Failure to appeal within the time specified will result in a waiver of all future appeal rights regarding the adverse action taken. The registrant will not be allowed to perform duties associated with the certification during the appeal process.

The Director of Construction will hear the appeal and make a decision within 7 days of hearing the appeal. Decision of the Director of Construction will be final and will be made in writing to the registrant.

If a certification is temporarily suspended, the registrant shall pass any applicable written examination and any proficiency examination, at the conclusion of the specified suspension period, prior to having the certification reinstated.

**VII. Measurement and Payment**

*Certified E&SC/SW Supervisor* is incidental to the project for which no direct compensation will be made.

*Certified Foremen* are incidental to the project for which no direct compensation will be made.

SP1G180