

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

PROPOSAL

**No. 3  
COMBINED**

DATE AND TIME OF BID OPENING: **NOVEMBER 16, 2004 AT 2:00 PM**

CONTRACT ID C201309  
WBS 34383.3.4, 34383.3.6

FEDERAL-AID NO. STP-16(30), STP-16(31)

COUNTY LINCOLN, CATAWBA

T.I.P. NO. R-2206B, R-2206C

KILOMETERS 17.434

ROUTE NO. NC 16

LOCATION NC-16 FROM N OF NC-73 IN LINCOLN TO SR-1895 (TOWER RD) AT  
EXISTING NC-16 NORTH OF CHRONICLE IN CATAWBA CO.

TYPE OF WORK WIDENING, GRADING, DRAINAGE, Y-LINE PAVING & STRUCTURES.

**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.

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

THIS IS A ROADWAY & STRUCTURE PROPOSAL

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

PROPOSAL FORM FOR THE CONSTRUCTION OF CONTRACT NO. C201309

IN CATAWBA & LINCOLN COUNTIES 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. C201309; 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. C201309

In Catawba & Lincoln Counties, 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.



CONTRACT: C201309 (R-2206B & R-2206C)

Catawba – Lincoln Counties

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**PROJECT SPECIAL PROVISIONS**

General

7-1-95

SP1G01

**CONTRACT TIME AND LIQUIDATED DAMAGES:**

**07-20-99**

The date of availability for this contract is January 5, 2005, 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 April 15, 2008.

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 Four Thousand Dollars (\$4,000.00) per calendar day.

SP1G04

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

For R-2206B, the Contractor shall complete the work required of **Phase I, Steps 3 thru 5** as shown on Sheet **TCP-3** 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 **120** consecutive calendar days after and including the date the Contractor begins this work.

The liquidated damages for this intermediate contract time are **One Thousand Dollars (\$1,000.00)** per calendar day.

**FOR R-2206C, INTERMEDIATE CONTRACT TIME NUMBER 2 AND LIQUIDATED DAMAGES:**

For R-2206C, the Contractor shall complete the required work of installing, maintaining, and removing the traffic control devices for lane closures and restoring traffic to a 2-lane, 2-way traffic pattern. The Contractor shall not close or narrow a lane of traffic on **NC 150** during the following time restrictions:

## DAY AND TIME RESTRICTIONS

MONDAY THRU FRIDAY FROM  
7:00 A.M. TO 9:00 A.M. AND 4:00 P.M. TO 6:00 P.M.

In addition, the Contractor shall not close or narrow a lane of traffic on **NC 150**, 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 **New Year's Day**, between the hours of 4:00 p.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.
2. For **Easter**, between the hours of 4:00 p.m. Thursday and 9:00 a.m. Monday.
3. For **Memorial Day**, between the hours of 4:00 p.m. Friday and 9:00 a.m. Tuesday.
4. For **Independence Day**, between the hours of 4:00 p.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 4:00 p.m. the Thursday before Independence Day and 9:00 a.m. the Tuesday after Independence Day.

5. For **Labor Day**, between the hours of 4:00 p.m. Friday and 9:00 a.m. Tuesday.
6. For **Thanksgiving Day**, between the hours of 4:00 p.m. Tuesday and 9:00 a.m. Monday.
7. For **Christmas**, between the hours of 4:00 p.m. the Friday before the week of Christmas Day and 9:00 a.m. the following Monday after the week of Christmas Day.
8. For race events at Lowe's Motor Speedway, between the hours of 6:00 a.m. the Friday of the week of the event and 9:00 a.m. the following Tuesday after the week of the event.

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 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 lane closures according to the time restrictions stated above and place traffic in a 2-lane, 2-way pattern.

The liquidated damages are **One Thousand Dollars (\$1,000.00)** per hour.

**FOR R-2206C, INTERMEDIATE CONTRACT TIME NUMBER 3 AND LIQUIDATED DAMAGES:**

For R-2206C, the Contractor shall complete the work required of **Area 1, Phase III, Steps 2 thru 5** as shown on Sheet **TCP-6** 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 **30** consecutive calendar days after and including the date the Contractor begins this work.

The liquidated damages for this intermediate contract time are **Five Hundred Dollars (\$500.00)** per calendar day.

**FOR R-2206C, INTERMEDIATE CONTRACT TIME NUMBER 4 AND LIQUIDATED DAMAGES:**

For R-2206C, the Contractor shall complete the work required of **Area 2, Phase III, Steps 2 thru 6** as shown on Sheets **TCP-10 and TCP-11** 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 **21** consecutive calendar days after and including the date the Contractor begins this work.

The liquidated damages for this intermediate contract time are **One Thousand Dollars (\$1,000.00)** per calendar day.

**FOR R-2206C, INTERMEDIATE CONTRACT TIME NUMBER 5 AND LIQUIDATED DAMAGES:**

For R-2206C, the Contractor shall complete the work required of **Area 3, Phase II, Steps 2 thru 4** as shown on Sheet **TCP-14 and TCP-14A** and shall place and maintain traffic on same.

The time of availability for this intermediate contract time will be the Friday at 6:00 p.m. that the Contractor elects to begin the work.

The completion time for this intermediate contract time will be the following Monday at 7:00 a.m. after the Friday the Contractor begins work.

The liquidated damages for this intermediate contract time are **Five Hundred Dollars (\$500.00)** per hour.



**FOR R-2206C, INTERMEDIATE CONTRACT TIME NUMBER 6  
AND LIQUIDATED DAMAGES:**

For R-2206C, the Contractor shall complete the work required of **Area 3, Phase III, Steps 2 thru 4** as shown on Sheet **TCP-15A** and shall place and maintain traffic on same.

The time of availability for this intermediate contract time will be the Friday at 6:00 p.m. that the Contractor elects to begin the work.

The completion time for this intermediate contract time will be the following Monday at 7:00 a.m. after the Friday the Contractor begins work.

The liquidated damages for this intermediate contract time are **Five Hundred Dollars (\$500.00)** per hour.

**FOR R-2206C, INTERMEDIATE CONTRACT TIME NUMBER 7  
AND LIQUIDATED DAMAGES:**

For R-2206C, the Contractor shall complete the required work of installing, maintaining and removing the traffic control devices for road closures and restoring traffic to a 2-lane, two-way traffic pattern. The Contractor shall not close NC 150 during the following time restrictions:

**DAY AND TIME RESTRICTIONS**

Monday thru Sunday from 6:00 A.M. to 12:00 Midnight

The maximum allowable time for the road closure is 6 hours.

The time of availability for this intermediate contract time will be the time the Contractor begins to install traffic control devices required for the road closures according to the time restrictions stated 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 to a 2-lane, two-way traffic pattern.

The liquidated damages are **One Thousand Dollars (\$1,000.00)** per hour.

**FOR R-2206C, INTERMEDIATE CONTRACT TIME NUMBER 8  
AND LIQUIDATED DAMAGES:**

For R-2206C, the Contractor shall complete the work required of **Area 4, Phase I, Steps 2 thru 4** as shown on Sheet **TCP-17** and shall place and maintain traffic on same.

The time of availability for this intermediate contract time will be the Friday at 6:00 p.m. that the Contractor elects to begin the work.

The completion time for this intermediate contract time will be the following Monday at 7:00 a.m. after the Friday the Contractor begins work.

The liquidated damages for this intermediate contract time **One Thousand Dollars (\$1,000.00)** per hour.

**FOR R-2206C, INTERMEDIATE CONTRACT TIME NUMBER 9 AND LIQUIDATED DAMAGES:**

For R-2206C, the Contractor shall complete the required work of installing, maintaining and removing the traffic control devices for road closures and restoring traffic to a 2-lane, two-way traffic pattern. The Contractor shall not close **SR 1855 (E. MAIDEN RD.)** during the following time restrictions:

**DAY AND TIME RESTRICTIONS**

Monday thru Sunday from 6:00 A.M. to 12:00 Midnight

The maximum allowable time for the road closure is 6 hours.

The time of availability for this intermediate contract time will be the time the Contractor begins to install traffic control devices required for the road closures according to the time restrictions stated 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 to a 2-lane, two-way traffic pattern.

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

**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

**NOTICE TO BIDDERS:**

07-01-95<sub>R</sub>

Contract No. C200910

Lincoln County – NC 16 from North of NC 73 to North of SR 1386 (St. James Church Road)

Contract No. C200911

Catawba, Lincoln Counties – NC 16 from SR 1386 (Egypt Road) in Lincoln County to SR 1895 (Tower Road) at Existing NC 16 North of Chronicle in Catawba County

On the above projects, the following Proposal are available.

- Proposal No. 1 - Contract C200910
- Proposal No. 2 - Contract C200911
- Combined Proposal No. 3 Contract C201309

Contractors may submit bids on either Proposal No. 1, Proposal No. 2, the Combined Proposal No. 3 (which includes the 2 projects), or on any combination of Proposals No. 1, 2, and 3. The selection of the "low bidder" will be made as described below:

In determining the "low bidder" on these projects, the lowest bid received on Proposal No. 1 and Proposal No. 2, will be added together and the resulting total will be compared with the lowest bid received on the Combined Proposal No. 3. In the event the lowest bid on the Combined Proposal No. 3 is equal to or less than the total of the lowest bids on Proposal No. 1 and Proposal No. 2, the Contractor submitting the lowest bid on the Combined Proposal No. 3 will be considered the "low bidder". In the event the lowest bid on the Combined Proposal No. 3 is higher than the total of the lowest bids on Proposal No. 1 and Proposal No. 2; or if no bid has been received on the Combined Proposal No. 3; the Contractors who have submitted the lowest bid on Proposal No. 1 and Proposal No. 2 will be considered the "low bidders".

If a bid is received for the Combined Proposal No. 3 and acceptable bids are not received on each of Proposal No. 1 and Proposal No. 2, the evaluation of bids for determining the "low bidder(s)" will be made so as to result in the best advantage to the Department.

These procedures are for the determination of the "low bidder" only and should not be confused with the award of the contract that will be by the Board of Transportation as usual. Nothing in this provision shall be construed as invalidating any right reserved to the Board in Article 103-1 of the Standard Specifications.

SP1G25

**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):

SP1G28

<u>Line #</u>	<u>Description</u>
7	Unclassified Excavation
24	Borrow Excavation
246	Reinforced Concrete Deck Slab

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

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

<u>Line #</u>	<u>Description</u>
115 thru 122	Guardrail Items
123 thru 136	Fencing Items
154 thru 156	Long-Life Pavement Markings
163	Pavement Markers
164 thru 182	Utility Construction Items
183 thru 213	Erosion Control Items
214 thru 215	Reforestation Items
232 thru 244	Drilled Piers

SP1G37

**FUEL PRICE ADJUSTMENT:** **2-19-02<sub>cc</sub>**

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 \$0.367 per liter.

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

<u>Line #</u>	<u>Description</u>	<u>Units</u>	<u>Fuel Usage Factor</u> <u>Diesel</u>
7	Unclassified Excavation	L/C.M.	1.44
24	Borrow Excavation	L/C.M.	1.44

SP1G46

**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>
2005 (07/01/04 – 06/30/05)	22% of Total Amount Bid
2006 (07/01/05 – 06/30/06)	37% of Total Amount Bid
2007 (07/01/06 – 06/30/07)	27% of Total Amount Bid
2008 (07/01/07 – 06/30/08)	14% 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**

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<sup>TM</sup> at [www.bidx.com](http://www.bidx.com) (Note: Obtain an account and valid Digital Signature from Bid Express<sup>TM</sup> 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](http://www.surety2000.com))
  - b. Surepath ([www.insurevision.com](http://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<sup>TM</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.
  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**

07-17-01R

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 15%

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 than 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's 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 Department's 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

**MENTOR-PROTÉGÉ PROGRAM**09-21-04<sub>R</sub>**DESCRIPTION**

This work shall consist of the Contractor and DBE/MBE/WBE participating in the Department's Mentor-Protégé Program in accordance with the guidelines available from the State Contractual Services Engineer.

**It is not mandatory to participate in this program in order to bid on this project.**

The following definitions shall apply to this provision.

*Mentor* – A contractor who teaches a DBE/MBE/WBE how to fully perform items of work and advises them on their professional growth over a period of time by means of the Department's Mentor-Protégé Program.

*Protégé* - A DBE/MBE/WBE who receives help, guidance, training, and support from a contractor who has expertise in DBE/MBE/WBE's chosen areas of construction. One who is trained or whose professional growth is guided by a contractor in the Department's Mentor-Protégé Program.

**BIDDING**

If the Contractor desires to be a mentor, he shall check *yes* and add a verifiable cost in the appropriate blank under the *Miscellaneous Folder* in the *Expedite Software*. This value will not be considered as part of the bid for purposes of award. If accepted by the Department, the Contractor will be compensated for participation in the Program by execution of a supplemental agreement.

If the Contractor wishes to participate in the mentor-protégé program after this project has been awarded, he shall contact the Engineer to begin the process. All other conditions in this provision shall apply.

## **PREQUALIFICATION OF THE MENTOR AND PROTÉGÉ**

All contractors that want to participate in this program shall be prequalified with the Department. All DBE/MBE/WBEs that want to participate in this program shall be certified with the Department. To be considered for the program, both the Mentor and the Protégé(s) shall have an approved Mentor-Protégé application on file with the State Contractual Services Engineer.

## **PROGRAM IMPLEMENTATION**

The Contractor shall submit a Mentor-Protégé Business Plan for review and approval by the Department after the project is awarded. No work shall commence by the Protégé(s) under this program until the Department approves the Business Plan. The Business Plan submitted by the Contractor shall state:

Commitments of the parties involved

Mentor's role in the Program

Resources and manpower that the Mentor will commit;

Such manpower shall include personnel capable of teaching and directing the Protégé(s) work and mentoring administrative employees. The Mentor may supplement the Protégé(s) work crew with their own employees if the Mentor-Protégé team determines that it is the most effective way to accomplish the necessary training.

Timelines and milestones for the Protégé's work.

Protégé's role in the Program

Items of work that the Protégé(s) will perform.

Educational expectations, supervision, resources and manpower that the Protégé(s) shall provide to the Program.

The Department will determine whether to execute Mentor-Protégé Program based on the review and approval of the following items:

The proposed Mentor-Protégé Business Plan

The certified cost information and making a determination that the cost for the work is within reasonable limits

The Contractor shall execute the Mentor-Protégé Program upon written approval by the Department, and after Mentor-Protégé Business Plan has been signed by the Department, Mentor and Protégé.

After execution of the Mentor-Protégé Business Plan, the Contractor shall send monthly reports to the Resident Engineer. The Contractor shall submit three copies of the monthly report to the Resident Engineer. The Resident Engineer will forward one copy to the Director of the Office of Civil Rights and Business Development and one copy to the State Contractual Services Engineer.

## **CONTRACT GOALS AND BANKING CREDIT**

If the Contractor meets the contract goals, or a portion thereof with a good faith effort finding from the Department, the Department will bank the portion of the work that the Protégé(s) is performing on the project that is beyond the original advertised contract goals.

The banking will be based on actual dollars paid to the Protégé(s). Materials purchased by the Protégé(s) that are directly related to the work that will be performed by the Protégé are eligible for the banking incentive. However, materials that pass through the Protégé(s) and are not used by the Protégé(s) in their own work items, will not be eligible for banking credit.

On federally funded projects, the banking credit portion of this specification will not be used.

## **MEASUREMENT AND PAYMENT**

### **Protégé payments**

Payments to the protégé will be measured and paid for the items of work performed by the protégé at the contract unit price as shown in the contract.

### **Contractor payments – Supplemental Agreement**

A Mentor-Protégé Business Plan shall be completed as part of a fully executed supplemental agreement before payment will be considered. *Mentor-Protégé Program* payments will include verifiable direct and indirect costs including, but not limited to, any office support and reasonable additives for supervision, training, additional administrative and overhead costs of the Protégé. The price will include the difference between the Contractor's cost to perform the work and the bid prices submitted to the Contractor by the Protégé(s).

The Department will not pay more than 100% of the Mentor-Protégé supplemental agreement lump sum amount if the Protégé's identified work items overrun. If the Protégé's work items underrun on the project, the balance up to 100% of the supplemental lump sum amount will be paid at the project's completion.

### **Bonus/Incentive Payments**

In addition to the *Mentor-Protégé Program* lump sum payment, a Bonus/Incentive payment *may* be made to the Mentor-Protégé Team. Upon the determination by the Engineer of successful completion of all work items identified for the Protégé(s) in the Mentor-Protégé Business Plan; and the determination that the Protégé has become proficient enough to perform this work on another project as a subcontractor, without the mentor-protégé relationship, the bonus/incentive will be considered.

The Bonus/Incentive payment will be 1 percent of the Protégé(s) pay items, not to exceed \$50,000. Bonus/incentive payment, if determined warranted, will be paid within 45 calendar days after completion and acceptance of the work. No bonus/incentive payment will be made if the contract is terminated under the provisions of Article 108.13. No claim for additional time or compensation will be allowed for Mentor-Protégé disputes between the Department, the Mentor or the Protégé.

The Mentor and the Protégé(s) will receive equal portions of this Bonus/Incentive payment.

SP1G75

**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:**

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/](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:**

**7-1-95**

Subsurface information is available on the roadway and structure portions of this project.

SP1G119

**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



**COOPERATION BETWEEN CONTRACTORS:**

**7-1-95**

The Contractor's attention is directed to Article 105-7 of the Standard Specifications.

It is anticipated that the Contractor currently constructing the R-2206A project, (tying onto the south end of this project) will complete the "A" project by May 1, 2005. Access to the south end of this project thru the north end of the "A" project will be delayed until that time. Access after this date will be via the -Y<sup>12</sup>- Service Road.

There is also a proposed paving project that will be let on the south end prior to the completion of this project.

The Contractor on this project shall cooperate with the Contractor working within or adjacent to the limits of this project to the extent that the work can be carried out to the best advantage of all concerned.

SP1G133

**TRAINING REQUIREMENTS:**

**7-1-95**

The Contractor's attention is directed to the Standard Special Provision "Training Special Provision" included elsewhere in this proposal.

The number of trainees to be trained on this project shall be seven.

SP1G136

**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

**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

**EARLY FENCING:**

As a part of his first operations, the Contractor shall install the fencing as shown below:

**Parcel 027 – Dallas V. Barker:**

Left of Survey Station 172+52 to Survey Station 174+00, Survey Line L,  
4 Strand Barb Wire Fencing (to contain horses).

**Parcel 28 – Reid Howard:**

Right of Survey Station 11+00 to Survey Station 12+40, Survey Line Y10; and Right of Survey Station 10+02 to Right of Survey Station 10+50, Survey Line Drive E  
4 Strand Barb Wire Fencing with 1 Strand of Electric Fencing (to contain horses).