

TOWNS OF SALEM & WINDHAM
ROCKINGHAM COUNTY
NEW HAMPSHIRE

**SALEM-WINDHAM BICYCLE / PEDESTRIAN TRAIL
CONSTRUCTION**

**STATE PROJECT NUMBER: 16031
FEDERAL PROJECT NUMBER: X-A001(097)**

NON-TRANSFERABLE: _____

Designed By: Vanasse Hangen Brustlin, Inc.
Kilton Road
2 Bedford Farms Drive Suite 200
Bedford, NH 03110

For: **Towns of Salem & Windham, New Hampshire**

CONTRACTOR'S BASE BID TOTAL: \$ _____



October 19, 2015

TOWNS OF SALEM & WINDHAM
NEW HAMPSHIRE

BID NUMBER _____

SALEM-WINDHAM BICYCLE / PEDESTRIAN TRAIL CONSTRUCTION

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- Wage Rates – Federal Aid Projects document
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- Affirmative Action Req. (Source 41 CFR 60-4.2 & CFR 60-4.3)
- FHWA 1273 – Electronic Version – May 1, 2012 (12 pages)
- Disclosure of Lobbying Activities (Standard Form – LLL) (Rev: 7-97)
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Contract Plans (under separate cover)

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TOWNS OF SALEM & WINDHAM
NEW HAMPSHIRE

SALEM-WINDHAM BICYCLE / PEDESTRIAN TRAIL CONSTRUCTION

NOTICE TO CONTRACTORS

The following forms are part of the contract documents.

- A.** This Contract is being funded by a grant through the Federal Highway Administration's Transportation Enhancements (TE) Program. The Contractor's attention is called to certain requirements of the Contract that apply to local employment, minimum wage rates, equal opportunity employment requirements, payroll records and reporting. The CONTRACTOR must comply with the Contract Work Hour Standards Act, the Davis-Bacon Act, the Anti-Kickback Act, Executive Order #11246, and all other applicable Federal, State and local laws and regulations.
- B.** Attention is called to the fact that minimum rates have been established for the project by the US Department of Labor, and are attached to the Contract Documents.
- C.** The work under this project shall be constructed according to the provisions of the 2010 New Hampshire Department of Transportation Standard Specifications for Road and Bridge Construction, as amended herein.
- D.** An NHDES Wetlands Permit has been issued for this project and the Contractor shall adhere to all provisions contained therein. A copy of the wetland permit is attached to these Contract Documents.
- E.** The Contractor must apply for a Temporary Use Agreement (TUA) from the NHDOT Division of Transit and Rail. The Contractor shall comply with all provisions of the Prosecution of Trail Work on NH DOT Railroad Property contained in these contract documents. The Contractor must apply for a Temporary Use Agreement (TUA) from the NHDOT Division of Transit and Rail. The Agreement will require a Certificate of Vote, Certificate of Insurance and an original (gold-sealed) Certificate of Good Standing from the NH Secretary of State's office. The Contractor shall pay all associated fees. The draft TUA application is attached as an exhibit to these Bid Documents.

TOWNS OF SALEM & WINDHAM **NEW HAMPSHIRE**

SALEM-WINDHAM BICYCLE / PEDESTRIAN TRAIL CONSTRUCTION INVITATION TO BID

The Town of Salem is inviting proposals for a contract at the Town Offices located at 33 Geremonty Drive, Salem, NH 03079, for the Salem-Windham Bicycle / Pedestrian Trail Construction project in the Towns of Salem & Windham, New Hampshire.

Complete sets of Bidding Documents may be obtained at Spiller's Reprographics, 880 Second Street Manchester, NH 03104 (603 644-3336) upon payment of a non-refundable printing cost of \$120.00. Mailing is available for an additional \$15.00.

The drawings, general provisions, specifications and proposal may be examined at the following locations:

1. Construction Summary of NH 734 Chestnut Street Manchester, NH 03104	3. Spiller's Reprographics 880 Second Street Manchester, NH 03102
2. Associated General Contractors 48 Grandview Road Bow, NH 03304	

Each bid must be accompanied by **BID SECURITY**, payable to the Town of Salem, in the amount of Forty Thousand Dollars (\$40,000.00), which **BID SECURITY** must be in a form acceptable to the Town of Salem.

A Performance/Payment Security in the total amount of the contract, or in such lesser amounts as the Town of Salem shall, at its sole option require, in a form acceptable to the Town of Salem shall be required to guarantee the faithful performance of the contract and the payment of all labor and materials used in the work.

See the General Provisions for additional bid requirements.

Each bid shall be submitted on the Bid Form supplied by the Town of Salem in a sealed envelope clearly identified with the Bidder's name and address marked. The Schedule of Prices section of the Proposal Form shall be completed showing the Unit Price and Total Price for each item, and a Grand Total for all items. The Town reserves the right to reject any and all bids and to waive any technical or legal deficiencies that it may deem to be in the best interest of the Town.

Bids will be received at the Town Manager's Office, 33 Geremonty Drive, Salem, NH 03079 by **2:00 P.M. on December 2, 2015**. Shortly thereafter, bids will be publicly opened and read aloud in the Conference Room in Salem Town Hall.

TOWNS OF SALEM & WINDHAM
NEW HAMPSHIRE

BID NUMBER _____

SALEM-WINDHAM BICCLE / PEDESTRIAN TRAIL CONSTRUCTION

BID FORM

Bid of _____
Name _____

Address _____

to furnish and deliver all materials and to perform all work in accordance with the Contract of the Town of Salem, New Hampshire for the Salem-Windham Bicycle / Pedestrian Trail Construction work, on which proposals will be received until 2:00 P.M., prevailing time, by the Town of Salem on December 2, 2015.

This project being situated as follows:

The work will take place along the former Lawrence-Manchester Railroad corridor and will fall partially in the towns of Salem and Windham. The construction area is approximately 6,250 feet long in Salem and 2,318 feet long in Windham, for a total length of 1.62 miles.

Bids will be received at:

Town of Salem
Town Offices, Assistant Town Manager's Office
33 Geremonty Drive,
Salem, NH 03079

In accordance with the Invitation to Bid, and advertisement of the Town of Salem, New Hampshire inviting proposals for the project hereinbefore named and in conformity with the Plans and Specifications on file in the Town office, I/ WE hereby certify that I AM/ WE ARE the only person, or persons, interested in this proposal as principals; that this proposal is made without collusion with any person, firm or corporation; that an examination has been made of the Plans, of the NHDOT Standard Specifications, of the Proposal, and applicable addendums, including but not restricted to the General Provisions, the Prosecution of Work, Special Attentions, Supplemental Specifications, and Special Provisions attached thereto, and also that an examination has been made of the site of the work; and I, or we, propose to furnish all necessary machinery, equipment, tools, labor, and other means of construction, and to furnish all materials specified in the manner and at the time prescribed for the costs indicated in the Schedule of Prices.

It is further proposed:

To execute and deliver the Contract within seven (7) calendar days from the date notice of the acceptance of this bid is received, to begin work within fifteen (15) working days from the date of the execution of the Contract, and to prosecute said work so as to substantially complete all trail work by July 29, 2016 and to complete all signal improvements by the specified final completion date for all work of August 19, 2016.

To furnish a Performance-Payment Security in the amount of 100 percent of the Contract, as security for the construction and completion of trail and bridge improvements in accordance with the Plans, Specifications, and Contract. The Contractor's attention is called to Item Number 19 of the General Provisions which reads, in part as follows: "A Performance-Payment Security, in the total amount of the Contract, or in such lesser amount as the Town of Salem shall, at its sole option require, in a form acceptable to the Town of Salem, shall be required to guarantee the faithful performance of the Contract and the payment for all labor and materials used in the work."

To guarantee all of the work performed under this Contract to be done in accordance with the Specifications and in good and workmanlike manner, and to renew or repair any work which may be rejected, due to defective materials or workmanship, prior to final completion and acceptance of the project.

Enclosed herewith find BID SECURITY in the amount of FORTY THOUSAND DOLLARS (\$40,000), payable to the "Town of Salem, New Hampshire", as a proposal guarantee which it is understood will be forfeited in the event the Contract is not executed, if awarded to the undersigned.

Date: _____

(If a firm or individual)

Signature of Bidder _____

By _____

Address of Bidder _____

Names and addresses of members of the Firm:

(If a Corporation)

Signature of Bidder _____

Title

By _____

Business Address _____

Incorporated under the laws of the State of _____

Names of Officers:

President _____
Name _____

Address _____

Secretary _____
Name _____

Address _____

Treasurer _____
Name _____

Address _____

(Note: See Section 102.07 of the NHDOT Standard Specifications for signature requirements.)

This Bid Form includes Alternate Bid Items. The Town reserves the right to include any or all Alternate Bid Items in the Contract. The Low bid will be based on the Base Bid amount without consideration of Alternate Bid Items.

BIDDER will complete the Work according to the attached Schedule of Prices, which prices comprise a **Total Base Bid** in the amount of:

_____ dollars and

_____ cents (\$ _____ . ____).

NON-COLLUSIVE AFFIDAVIT

PROJECT: SALEM-WINDHAM BICYCLE / PEDESTRIAN TRAIL CONSTRUCTION

Salem & Windham, New Hampshire

The undersigned being duly sworn, deposes and says that he is the sole owner, partner, president, treasurer, or other duly authorized agent or official of

(Name of bidder as appearing in submitted proposal)

(Address of Bidder)

(Zip Code)

(Telephone Number of Bidder)

and certifies that of his own knowledge, said bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. It is understood that the signing of this AFFIDAVIT is applicable to all projects for which bids are being submitted in a multi-bid proposal.

(Date)

(Signature and title of person making Affidavit)

Sworn to before me this _____ day of _____, 2015.

(Notary Public)

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
201.1	3.5 ACRE	CLEARING AND GRUBBING (F) AT _____ \$ _____ DOLLARS PER ACRE				
202.7	35 LF	REMOVAL OF GUARDRAIL AT _____ \$ _____ DOLLARS LINEAR FOOT				
203.1	4100 CY	COMMON EXCAVATION AT _____ DOLLARS PER CUBIC YARD				
203.2	1650 CY	ROCK EXCAVATION AT _____ DOLLARS PER CUBIC YARD				
203.4	360 CY	MUCK EXCAVATION AT _____ DOLLARS PER CUBIC YARD				
203.5555	1 UNIT	GUARDRAIL 25' EAGRT PLATFORM AT _____ DOLLARS PER UNIT				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
203.6	5400 CY	EMBANKMENT IN PLACE (F) AT _____ DOLLARS PER CUBIC YARD				
304.1	625 CY	SAND (F) AT _____ DOLLARS CUBIC YARD				
304.3	4300 CY	CRUSHED GRAVEL (F) AT _____ DOLLARS CUBIC YARD				
403.11	1400 TON	HOT BITUMINOUS PAVEMENT, MACHINE METHOD AT _____ DOLLARS PER TON				
403.12	12 TON	HOT BITUMINOUS PAVEMENT, HAND METHOD AT _____ DOLLARS PER TON				
417	1010 SY	COLD PLANING BITUMINOUS SURFACES AT _____ DOLLARS PER SQUARE YARD				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
584.3	350 CY	GABION RETAINING WALL AT _____ DOLLARS PER CUBIC YARD				
585.3	20 CY	STONE FILL, CLASS C AT _____ DOLLARS PER CUBIC YARD				
593.421	440 SY	GEOTEXTILE, PERMANENT EROSION CONTROL, CL2, NON-WOVEN AT _____ DOLLARS PER SQUARE YARD				
603.00215	60 LF	15" R.C. PIPE, 200D AT _____ DOLLARS LINEAR FOOT				
603.33215	8 EA	15" POLYETHYLENE END SECTION AT _____ DOLLARS PER EACH				
603.33236	2 EA	36" POLYETHYLENE END SECTION AT _____ DOLLARS PER EACH				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
603.82215	265 LF	15" POLYETHYLENE PIPE (SMOOTH INTERIOR) AT _____ DOLLARS PER LINEAR FOOT				
603.82236	131 LF	36" POLYELTHYLENE PIPE (SMOOTH INTERIOR) AT _____ DOLLARS PER LINEAR FOOT				
604.0007	3 EA	POLYETHYLENE LINER AT _____ DOLLARS PER EACH				
604.12	2 U	CATCH BASINS TYPE B, 4 FT DIAMETER AT _____ DOLLARS PER UNIT				
604.21	3 U	DROP INLETS TYPE B, 4 FT DIAMETER AT _____ DOLLARS PER UNIT				
604.226	1 U	DROP INLETS TYPE B, 6 FT DIAMETER AT _____ DOLLARS PER UNIT				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
604.292	1 U	DROP INLETS - SPECIAL, TYPE B AT _____ DOLLARS PER UNIT				
604.32	1 U	DRAINAGE MANHOLES AT _____ DOLLARS PER UNIT				
604.51	3 LF	RECONSTRUCTING SEWER MANHOLES AT _____ DOLLARS PER LINEAR FOOT				
604.62	1 EA	DRAINAGE MANHOLE COVERS AND FRAMES AT _____ DOLLARS PER EA				
606.10	480 LF	STEEL BEAM GUARDRAIL (GALVANIZED) AT _____ DOLLARS PER LINEAR FOOT				
606.1255	1 U	BEAM GUARDRAIL (TERMINAL UNIT TYPE EAGRT 25 FT) AT _____ DOLLARS PER UNIT				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
607.5342	1552 LF	WOOD RAIL FENCE, 42-IN AT _____ DOLLARS PER LINEAR FOOT				
607.5361	4 UNIT	SINGLE GATE, WOOD RAIL FENCE, 3FT – 6 IN HIGH, 5 FT WIDE AT _____ DOLLARS PER UNIT				
607.68361	3 U	SECURITY GATE AT _____ DOLLARS PER UNIT				
608.13	110 SY	3-IN BITUMINOUS SIDEWALK (F) AT _____ DOLLARS PER SQUARE YARD				
608.26	24 SY	6" CONCRETE SIDEWALK (F) AT _____ DOLLARS PER SQUARE YARD				
608.54	14 SY	DETECTABLE WARNING DEVICES, CAST IRON AT _____ DOLLARS PER SQUARE YARD				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
609.01	60 LF	STRAIGHT GRANITE CURB AT _____ DOLLARS PER LINEAR FOOT				
609.5	240 LF	RESET GRANITE CURB AT _____ DOLLARS PER LINEAR FOOT				
615.03	46 SF	TRAFFIC SIGN TYPE C (F) AT _____ DOLLARS PER SQUARE FOOT				
615.06	5 SF	TRAFFIC SIGN TYPE CC (F) AT _____ DOLLARS PER SQUARE FOOT				
616.191	1 UNIT	TRAFFIC SIGNAL MODIFICATIONS - NH 28 AT OLD ROCKINGHAM RD AT _____ DOLLARS PER UNIT				
616.192	1 UNIT	TRAFFIC SIGNAL MODIFICATIONS - NH 28 AT RANGE ROAD AT _____ DOLLARS PER UNIT				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
618.61	1 DOLLARS	UNIFORMED OFFICERS WITH VEHICLE AT __TWELVE THOUSAND_____ _____\$12,000_____ DOLLARS DOLLARS	12,000	00	12,000	00
618.7	1100 HR	FLAGGERS AT _____ _____ DOLLARS PER HOUR				
619.1	1 UNIT	MAINTENANCE OF TRAFFIC AT _____ _____ DOLLARS PER UNIT				
619.253	8 WEEK	PORTABLE CHANGEABLE MESSAGE SIGN AT _____ _____ DOLLARS PER WEEK				
621.21	2 EA	RETROREFLECTIVE BEAM GUARDRAIL DELINEATOR (WHITE) AT _____ _____ DOLLARS PER EACH				
628.3	450 LF	SAWED PAVEMENT AT _____ _____ DOLLARS PER LINEAR FOOT				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
632.0104	1060 LF	RETROREFLECTIVE PAINT PAVE. MARKING, 4" LINE AT _____ DOLLARS PER LINEAR FOOT				
632.0106	390 LF	RETROREFLECTIVE PAINT PAVE. MARKING, 6" LINE AT _____ DOLLARS PER LINEAR FOOT				
632.0112	80 LF	RETROREFLECTIVE PAINT PAVE. MARKING, 12" LINE AT _____ DOLLARS PER LINEAR FOOT				
632.32	160 SF	RETROREFLECTIVE THERMOPLASTC, SYMBOL OR WORD AT _____ DOLLARS PER SQUARE FOOT				
645.3	30 TON	EROSION STONE AT _____ DOLLARS PER TON				
645.43	4000 SY	TEMPORARY SLOPE STABILIZATION TYPE C AT _____ DOLLARS PER SQUARE YARD				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
645.51	85 EA	HAY BALES FOR TEMPORARY EROSION CONTROL AT _____ DOLLARS PER EACH				
645.531	6600 LF	SILT FENCE AT _____ DOLLARS PER LINEAR FOOT				
645.70	1 UNIT	STORMWATER POLLUTION PREVENTION PLAN (SWPPP) AT _____ DOLLARS PER UNIT				
645.71	80 HR	MONITORING SWPPP AND EROSION AND SEDIMENT CONTROLS AT _____ DOLLARS PER HOUR				
646.51	13000 SY	TURF ESTABLISHMENT WITH MULCH AND TACKIFIERS AND LOAM AT _____ DOLLARS PER SQUARE YARD				
692	1 UNIT	MOBILIZATION AT _____ DOLLARS PER UNIT				

ITEM NOS.	APPROXIMATE QUANTITIES	ITEMS AND UNIT PRICES BID	UNIT PRICES		AMOUNT	
			Dollars	Cents	Dollars	Cents
698.1	4 MO	FIELD OFFICE AT _____ DOLLARS PER MONTH				
TOTAL BASE BID = \$ _____						
ALTERNATE BID ITEMS (A.B.I.'S):						
THE FOLLOWING IS A LIST OF ALTERNATE BID ITEMS. BIDDERS SHALL COMPLETE PROPOSED UNIT PRICING FOR THESE ITEMS. THE TOWN RESERVES THE RIGHT TO INCLUDE ANY OR ALL OF THE ALTERNATE BID ITEMS IN THE CONTRACT. CONTRACT AWARD WILL BE BASED ON THE BASE BID ONLY.						
607.5342 A.B.I. #1	1625 LF	WOOD RAIL FENCE, 42-IN AT _____ DOLLARS PER LINEAR FOOT				
607.538 A.B.I. #2	310 LF	SHADOW BOX FENCE, 8 FT. AT _____ DOLLARS PER LINEAR FOOT				

NOTICE OF AWARD

Dated _____, 2015

TO: _____

ADDRESS: _____

OWNER'S PROJECT NO. _____

PROJECT: _____

OWNER'S CONTRACT NO. _____

CONTRACT FOR SALEM-WINDHAM BICYCLE / PEDESTRIAN TRAIL CONSTRUCTION _____

(Insert name of Contract as it appears in the Bidding Documents)

You are notified that your Bid dated _____, 2015 for the above Contract has been considered. You are the apparent successful bidder and have been awarded a contract for _____

(Indicate total Work, alternates or sections of Work awarded)

The Contract Price of your contract is _____

Dollars (\$ _____).

Three copies of each of the proposed Contract Documents (except Drawings) accompany this Notice of Award. Three sets of the Drawings will be delivered separately or otherwise made available to you immediately.

You must comply with the following conditions precedent within fifteen days of the date of this Notice of Award, that is by _____, 201_____.

1. You must deliver to the OWNER three fully executed counterparts of the Agreement including all the Contract Documents. This includes the triplicate sets of Drawings. Each of the Contract Documents must bear your signature on (the cover) (every) page.
2. You must deliver with the executed Agreement the Contract Security (Bonds) as specified in the Invitation to Bid and General Provisions.

NOTICE OF AWARD (CONTINUED)

3. (list other conditions precedent).

Failure to comply with these conditions within the time specified will entitle OWNER to consider your bid abandoned, to annul this Notice of Award and to declare your Bid Security forfeited.

Within ten days after you comply with those conditions, OWNER will return to you one fully signed counterpart of the Agreement with the Contract Documents attached.

(OWNER)

By _____
(AUTHORIZED SIGNATURE)

(TITLE)

Copy to ENGINEER
(Use Certified Mail,
Return Receipt Requested)

FORM OF CONTRACT AGREEMENT

PROJECT IDENTIFICATION: Salem-Windham Bicycle / Pedestrian Trail Construction
Salem & Windham, New Hampshire

THIS AGREEMENT is dated as of the _____ day of _____ in the year 201 by and between

Town of Salem, New Hampshire (hereinafter called OWNER) and

(hereinafter called CONTRACTOR)

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as outlined in the Prosecution of Work section.

ARTICLE 2 - ENGINEER

The Project has been designed by:

Vanasse Hangen Brustlin, Inc.
2 Bedford Farms Drive, Suite 200
Bedford, NH 03110 603 391-3900

Vanasse Hangen Brustlin, Inc. and/or a representative or assign of the Town of Salem, hereinafter called Engineer, will assume all duties and responsibilities and will have the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.1 All trail work will be substantially completed on or before July 29, 2016, and traffic signal and all other intersection related incidental work will be fully completed and ready for final payment on August 19, 2016.

3.2 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence to this Agreement and that OWNER will suffer financial loss if the Work is not substantially complete within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with the General Provisions. They also recognize the delays, expense and

difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not substantially complete on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as penalty) CONTRACTOR shall pay OWNER for each day that expires after the time specified in paragraph 3.1 for substantial completion until the work is substantially complete. After Substantial Completion if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment. The daily amount that the CONTRACTOR must pay owner is specified in Section 108, Subsection 108.09 of the NHDOT General Provisions.

ARTICLE 4 - CONTRACT PRICE

- 4.1 OWNER shall pay CONTRACTOR for performance of the Work in accordance with the Contract Documents in current funds as follows:
 - (a) The OWNER shall pay to the CONTRACTOR for the performance of the Work the amounts determined for the total number of each of the contract units of work completed at the unit price stated thereafter. The number of units contained in this schedule is approximate only, and the final payment shall be made for the actual number of units that are incorporated in or made necessary by the work covered by the contract. For those work items with the (F) designation in the attached Schedule of Prices the estimated bid quantity shall be the Final Pay Quantity as described in section 109.11 of the NHDOT General Provisions.

ARTICLE 5 - PAYMENT PROCEDURES

- 5.1 Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the 1st day of each month during construction for work completed and accepted one month prior to that date, and as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values provided for in the General Provisions.
 - 5.1.1 Prior to Substantial Completion, progress payments will be in accordance with NHDOT General Provision section 109.06 "Progress payments".
 - 5.1.2 Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 99% of the Contract Price, less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with the General Provisions.
- 5.2 Final Payment. Upon final completion and acceptance of the Work in accordance with the General Provisions, OWNER shall pay the remainder of the Contract Price as recommended by the ENGINEER.

ARTICLE 6 - INTEREST

All monies not paid when due hereunder shall bear interest at the maximum rate allowed by law at the place of the Project.

ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 7.2 CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Work which were relied upon by ENGINEER in the preparation of the Drawings.
- 7.3 CONTRACTOR has made or caused to be made examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in paragraph 7.2 as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are or will be required by CONTRACTOR for such purposes.
- 7.4 CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- 7.5 CONTRACTOR has given ENGINEER written notices of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- 7.6 CONTRACTOR has read and is familiar with all laws and regulations applicable to the performance of the work on the project.

ARTICLE 8 - CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR are attached to this Agreement and made a part hereof and consists of the following:

- 8.1 This Agreement (pages C-3 to C-7 inclusive).
- 8.2 Exhibits to this Agreement - Bid Bond.
- 8.3 CONTRACTOR's Bid (BF-1 thru BF-3) and Schedule of Prices (pages SP 1 to SP11 inclusive).
- 8.4 Performance and Maintenance Bond, (pages C-8 to C-9, inclusive).

- 8.5 Labor and Materials Bond (pages C-10 to C-11, inclusive).
- 8.6 Non-Collusive Affidavit (page BF-4)
- 8.7 Notice of Award (pages C-1 and C-2)
- 8.8 Minimum Wage Rates and Statement of Compliance
- 8.9 Special Attentions
- 8.10 Supplemental Specifications
- 8.11 Special Provisions
- 8.12 Drawings, consisting of cover sheet and sheets numbered 1 through 58, inclusive.
- 8.13 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents.
- 8.14 NHDES Wetlands permit
- 8.15 The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).
- 8.16 State of New Hampshire Department of Transportation Standard Specifications for Road and Bridge Construction as amended with all special attentions and supplemental specifications and referred to herein as the "Standard Specifications" are applicable to the work of this contract by reference and shall be made a part of these Contract Documents.

ARTICLE 9 - MISCELLANEOUS

- 9.1 Terms used in this Agreement are defined in Section 101 of the NHDOT General Provisions.
- 9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 OWNER and CONTRACTOR each binds himself, his partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 9.4 This CONTRACT shall be deemed to include all terms and requirements imposed by law from the performance of the work on the Project.

ARTICLE 10 - OTHER PROVISIONS

IN WITNESS WHEREOF, the parties hereto have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by the ENGINEER on their behalf.

This Agreement will be effective on _____, 2015.

OWNER_____

CONTRACTOR_____

By _____

By _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest_____

Attest_____

Address for giving notices

Address for giving notices

(If OWNER is a public body, attach
evidence of authority to sign and
resolution or other document
authorizing execution of Agreement.)

License No._____

Agent for service of process:_____

PERFORMANCE AND MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT we, the undersigned, _____ of _____, hereinafter referred to as "CONTRACTOR," and _____ a corporation organized under the laws of the State of _____, and authorized to transact business in the State of New Hampshire as "Surety," are held and firmly bound unto the _____, hereinafter referred to as "OWNER" in the penal sum of _____ Dollars (\$_____), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bonded CONTRACTOR has, on the _____ day to _____, 2015, entered into a written contract with the aforesaid OWNER for furnishing all materials, equipment tool, superintendent and other facilities and accessories for the construction of certain improvements as designated, defined, and described in the said contract and the conditions thereof, in accordance with the specifications and plans therefore; a copy of said contract being attached hereto and made a part thereof;

NOW, THEREFORE, if the said CONTRACTOR shall and will, in all particulars duly and faithfully observe, perform, and abide by each and every covenant, condition and part of said contract, and the conditions, specifications, plans and other contract documents thereto attached or by reference made a part thereof, according to the true intent and meaning of the case, then this obligation shall be and become null and void; otherwise, it shall remain in full force and effect;

PROVIDED FURTHER, that the said surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract, or work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligations on this bond and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the contract, or to the work, or to the specifications;

PROVIDED FURTHER, that if the said CONTRACTOR shall construct or cause to be constructed and completed the entire improvement in accordance with specifications used by the OWNER for like improvements, and to the lines and grades shown on the plans, all to be done subject to the approval and acceptance of the ENGINEER for the said OWNER, and shall construct said with such materials and in such manner that same shall endure without need of any repairs for the period of one (1) year from and after the completion of said improvement and acceptance thereof; and if completion of said improvement shall endure without the need of repairs for the period of one (1) year from and after completion and the acceptance thereof as aforesaid, then this obligation, shall be void; otherwise to be in full force and effect.

IN TESTIMONY WHEREOF, the CONTRACTOR has hereunto set his hand and said surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized to do so at _____ on this

_____ day of _____, 2015.

Name

By _____

Title _____

Surety

By _____
Attorney-in-fact

By _____
State Representative

(Accompany this bond with the Attorney-in-fact's authority from the surety company certified to include the date of the bond.)

LABOR AND MATERIALS BOND

KNOW ALL MEN BY THESE PRESENTS:

THAT we, the undersigned, _____ of _____, hereinafter referred to as "CONTRACTOR," and _____ a corporation organized under the laws of the State of _____, and authorized to transact business in the State of New Hampshire as "Surety," are held and firmly bound unto the _____, hereinafter referred to as "OWNER" in the penal sum of _____ Dollars (\$_____), lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bonded CONTRACTOR has, on the _____ day to _____, 2015, entered into a written contract with the OWNER for the construction of public improvements described in attached Contract documents.

NOW, THEREFORE, if the CONTRACTOR and his subcontractors shall pay all indebtedness incurred for supplies, materials or labor furnished, used or consumed in connection with, or in or about the construction or making of, public improvements, including gasoline, lubricating oils, fuel oils, greases, coal and similar items used or consumed directly in furtherance of such improvements, this obligation shall be void; otherwise it shall remain in full force and effect:

PROVIDED FURTHER, that the surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract, or work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligations on this bond and it does hereby waive notice of any change, extension of time, alteration, or addition to the terms of the contract, or to the work, or to the specifications;

PROVIDED FURTHER, that the Surety agrees that any person to whom there is due any sum for supplies, materials or labor, as hereinbefore stated, or his assigns, may bring an action on this bond for the recovery of indebtedness; PROVIDED that no action shall be brought on the bond after six months from the completion of public improvements.

IN TESTIMONY WHEREOF, the CONTRACTOR has hereunto set his hand and said surety has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its attorney-in-fact duly authorized to do so at _____, on this

_____ day of _____, 2015.

Name

By _____

Title _____

Surety

By _____

Attorney-in-fact

By _____

State Representative

(Accompany this bond with the Attorney-in-fact's authority from the surety company certified to include the date of the bond.)

NOTICE TO PROCEED

Dated _____, 201_

TO: _____

ADDRESS: _____

OWNER'S PROJECT NO. _____

PROJECT: _____

OWNER'S CONTRACT NO. _____

CONTRACT FOR SALEM-WINDHAM BICYCLE / PEDESTRIAN TRAIL CONSTRUCTION _____

(Insert name of Contract as it appears in the Bidding Documents)

You are hereby notified to proceed with the above contract dated _____, 201_ for the Contract Price of _____ Dollars (\$ _____).

You must comply with the following conditions precedent within fifteen days of the date of this Notice of Award, that is by _____, 201_.

1. You must deliver to the OWNER three fully executed counterparts of the Agreement including all the Contract Documents. This includes the triplicate sets of Drawings. Each of the Contract Documents must bear your signature on (the cover) (every) page.
2. You must deliver with the executed Agreement the Contract Security (Bonds) as specified in the Invitation to Bid and General Provisions.

NOTICE TO PROCEED (CONTINUED)

Failure to comply with these conditions within the time specified will entitle OWNER to consider your bid abandoned, to annul this Notice of Award and to declare your Bid Security forfeited.

Within ten days after you comply with those conditions, OWNER will return to you one fully signed counterpart of the Agreement with the Contract Documents attached.

(OWNER)

By _____
(AUTHORIZED SIGNATURE)

(TITLE)

Copy to ENGINEER

General Decision Number: NH150033 01/02/2015 NH33

Superseded General Decision Number: NH20140033

State: New Hampshire

Construction Type: Highway

County: Rockingham County in New Hampshire.

HIGHWAY CONSTRUCTION PROJECTS (excluding tunnels, building structures in rest area projects & railroad construction; bascule, suspension & spandrel arch bridges designed for commercial navigation, bridges involving marine construction; and other major bridges).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of \$10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/02/2015

* SUNH2011-029 08/15/2011

	Rates	Fringes
CARPENTER (Excluding Form Work)	\$ 23.13	2.51
CARPENTER (Form Work Only)	\$ 20.57	1.06
ELECTRICIAN.....	\$ 23.22	2.78
INSTALLER - GUARDRAIL.....	\$ 22.29	11.84
IRONWORKER, REINFORCING.....	\$ 18.00	0.00
IRONWORKER, STRUCTURAL.....	\$ 34.45	17.20
LABORER: BLASTER, ROCK.....	\$ 28.38	9.46
LABORER: Common or General.....	\$ 16.99	2.60
LABORER: Flagger.....	\$ 10.42	1.37
LABORER: Highway/Parking Lot Striping.....	\$ 16.77	0.00
LABORER: Landscape.....	\$ 14.65	0.00

LABORER: Pipelayer.....	\$ 18.29	4.33
OPERATOR: Auger.....	\$ 26.07	0.00
OPERATOR: Backhoe.....	\$ 27.72	4.17
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 19.25	0.00
OPERATOR: Bucket.....	\$ 30.00	0.00
OPERATOR: Bulldozer.....	\$ 24.59	6.11
OPERATOR: Crane.....	\$ 23.95	3.29
OPERATOR: Drill Rig Caissons....	\$ 36.86	19.78
OPERATOR: Excavator.....	\$ 24.72	5.58
OPERATOR: Grader/Blade.....	\$ 25.16	6.97
OPERATOR: Loader.....	\$ 24.10	5.72
OPERATOR: Mechanic.....	\$ 16.92	3.44
OPERATOR: Oiler.....	\$ 29.54	16.15
OPERATOR: Paver.....	\$ 23.43	0.00
OPERATOR: Roller.....	\$ 22.27	6.57
OPERATOR: Post Driver/Pounder....	\$ 27.24	7.90
TRUCK DRIVER, Includes all axles including Dump Trucks.....	\$ 17.51	3.03
TRUCK DRIVER: Low Bed Truck....	\$ 21.43	6.30

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

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

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

(weighted union average rate).

Union Rate Identifiers

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

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

Survey Rate Identifiers

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

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

Union Average Rate Identifiers

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

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

WAGE DETERMINATION APPEALS PROCESS

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

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

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

**TOWNS OF SALEM & WINDHAM
ROCKINGHAM COUNTY
NEW HAMPSHIRE**

BID NUMBER _____

SALEM & WINDHAM BICYCLE & PEDESTRIAN TRAIL CONSTRUCTION

GENERAL PROVISIONS

The following General Provisions supplement the standard NHDOT Division 100 General Provisions, and where conflicts exist the below General Provisions shall govern.

1. Work under this contract shall be performed in accordance with the Standard Specifications for Road and Bridge Construction, State of New Hampshire Department of Transportation, 2010 edition, as amended, which are incorporated herein by reference. These specifications, herein after referred to as the NHDOT Standard Specifications, are hereby made a part of this document as if they were reprinted herein in their entirety, including without limitation, Division 100, Section 101 through 109.11 inclusive, except as modified or supplemented within these contract documents and as follows:
 - Wherever the word "State" or "Department" appears, substitute the words "Town of Salem", or its agents, as in "Project Engineer" below.
 - Wherever the word "Commissioner" appears, substitute the words "Town Manager."
 - Wherever the words "Bureau of Materials and Research" appear, substitute the words "Project Engineer."
 - Wherever the words "Governor and Council" or "General Court" appear, substitute the words "Town of Salem."
 - Wherever the word "Engineer" appears, substitute the words "Project Engineer."

"Project Engineer" is hereby defined as the Town of Salem, agents designated by him/her as representatives of the Town, or the Project Design Engineers, Vanasse Hangen Brustlin, Inc.

All Contractor's bidding on this project, or performing work under the contract, are required to familiarize themselves with the NHDOT Standard Specifications. It is the Contractor's responsibility to obtain copies of the NHDOT Standard Specifications, Standard Details and all Standard plans, for his/her use.

If the NHDOT Standard Specifications conflict with these General Provisions, the General Provisions shall control.

2. Each bid shall be submitted on the Bid Form supplied by the Town of Salem in a sealed envelope clearly identified with the bidder's name and address and marked "**Town of Salem - Bid No. _____ Salem-Windham Bicycle / Pedestrian Trail Construction**", and will be received in the Town Offices December 2, 2015 prevailing time, 2:00 PM.

- 3 The price bid shall not include Federal or State taxes. If such are applicable, the successful bidder shall furnish the Town with the necessary tax exemption forms in triplicate upon submission of their invoice.
- 4 Bids, when opened, shall be irrevocable for a period of sixty (60) calendar days following bid opening date. Following review of all bids by the Town, that official will award the Contract to the lowest responsible bidder.
- 5 The bidder shall not either directly or indirectly enter any agreement, participate in any collusion, or otherwise take any action in restraint of free competitive bidding in connection with the Contract.
- 6 The successful bidder shall not use the name of the Town in any advertisement without first obtaining the written consent of the Town.
- 7 Any change to the provisions or specifications of the Contract shall be made by a written addendum issued no later than four (4) working days prior to the bid opening date. Prospective bidders shall have complete responsibility for being aware of any and all addenda.
- 8 Should the bidder find, during the examination of the Contract Documents/Bid Specifications, any discrepancies, omissions, ambiguities or conflicts in or among the documents, or be in doubt as to their meaning, they shall, in writing, bring the question to the Town attention not later than five (5) working days before bid due date. The Town will review the question(s) and, where information sought is not clearly indicated or specified, he/she will issue a clarifying addendum which will become part of the bid.
- 9 The bidder's attention is directed to the fact that they shall observe and comply with all applicable Federal and State Laws and Regulations, Town Ordinances and the Rules and Regulations of all authorities having jurisdiction over the project, and these shall apply to the Contract the same as though written out herein in full, and the Contractor shall indemnify the Town, and its representatives against any claim or liability arising from or based on any such law, ordinance, rules and regulations by themselves or their employees. The successful bidder shall notify the Town immediately if these bid documents are at variance with any laws or regulations.
- 10 The Town of Salem may make such investigation as it may deem necessary to determine the ability of the bidder to perform the services, and the bidder shall furnish to the Town of Salem all such information for this purpose as the Town may request.
- 11 The Contractor shall secure and pay for all permits and licenses for the **Salem-Windham Bicycle / Pedestrian Trail Construction** in the Towns of Salem & Windham, New Hampshire, in accordance with the plans, bid documents, contract and specifications required for a complete and finished job. Town of Salem and Windham permits (if any) will be issued at no charge.
- 12 The Contractor shall be responsible for all damage or loss of property, or injury to persons arising out of their actions or failure to act. The Contractor does hereby indemnify and hold the Towns of Salem & Windham harmless from any liability which the Towns may have, if any, for damages or claims for damages which may result or arise from the Contractor's performance of the contract. The Contractor undertakes to indemnify and hold harmless the Towns of Salem & Windham, and its officers and agents from any and all liability, loss, or damages it may suffer as a result of any and all claims, demands, costs, or judgments against it arising from the performance of the contract. The Contractor agrees to defend against any and all claims brought or actions filed against the Towns of Salem & Windham, its officers and agents with respect to the subject of the indemnity provided for herein, whether such claims or actions are rightfully or wrongfully brought or filed. In case a claim should be brought or an action filed with respect to the subject of the indemnity provided for herein, the

Contractor agrees that the Towns of Salem & Windham may employ attorneys of their own selection to appear and defend the claim or action on behalf of the Towns of Salem & Windham, at the expense of the Contractor. The Towns of Salem & Windham, at their option, shall have the sole authority for the direction of the defense and shall be sole judge of the acceptability of any compromise or settlement of any claims or actions against the Towns of Salem & Windham.

- 13 The bidder shall, in the employment of labor, comply with the laws of the State of New Hampshire, including but not limited to Chapter 275, RSA, as amended, "Hours of Labor", Chapter 279, RSA, as amended, "Minimum Wage Law".
- 14 The bidder shall take out and maintain at their own expense insurance against damages arising from injury to their employees in accordance with Chapter 281, RSA, as amended. The bidder shall take out and maintain such insurance as will protect them from claims under Worker's Compensation Acts and from claims for damages because of bodily injury including death and for all property damages, including without limitations, damage to building, which might arise from and during operations under this Contract, whether such operations be by themselves or by any subcontractor or anyone directly or indirectly employed by either of them. The Contractor shall insure the activities of their subcontractors in their own policy, for subcontractors Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and amounts as herein specified. Approval of insurance by the Towns of Salem or Windham shall not relieve or decrease the Liability of the Contractor hereunder. Certificates from the insurance companies as to the amount and type of coverage, terms of policies, etc. shall be filed with the Towns in single copy.
 - A. COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE - The Contractor shall take out and maintain during the life of this Contract the statutory Worker's Compensation and Employer's Liability Insurance for all of their employees to be engaged in work on the project under this Contract and, in case any such work is sublet, the Contractor shall require the subcontractor similarly to provide Worker's Comp
 - B. BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY - The Contractor shall take out and maintain during the life of this Contract such Bodily Injury Liability and Property Damage Liability Insurance and Automobile Bodily Injury Liability and Property Damage Liability Insurance as shall protect them and any subcontractors performing work covered by the Contract from claims for damages for personal injury, including accidental death, as well as from claims for Property Damage which may arise from operations under this Contract, whether such operations be by themselves or by any subcontractor or by anyone directly and/or indirectly employed by either of them, and the amount of such insurance shall not be less than:
 - (1) Bodily Injury Liability Insurance, in an amount not less than One Million Dollars (\$1,000,000) for injuries, including wrongful death to any one person and subject to the same limits for each person in an amount not less than One Million Dollars (\$1,000,000) on account of one accident.
 - (2) Property Damage Insurance in an amount not less than One Million Dollars (\$1,000,000) for damages on account of one accident or all accidents.
- C. SALEM'S & WINDHAM'S PROTECTIVE LIABILITY INSURANCE - The Contractor shall name the Towns of Salem & Windham as additional insureds on all policies required except Worker's Compensation.

D. All policies and certificates of insurance shall carry a ten (10) day notice of cancellation, or change in expiration and notice of such cancellation or change in expiration shall be sent to the Towns.

16. The bidder is to submit Proposal on the attached Bid Sheet of Unit Prices showing Unit Price and Total and a Grand Total for all items.

17. Work on this project shall commence within fifteen (15) working days after signing of the Contract and shall be completed according to the provisions of Article 3 – Contract Time in the Form of Contract Agreement for this project.

18. Each bid must be accompanied by BID SECURITY, payable to the Town of Salem, in the amount of FORTY THOUSAND DOLLARS (\$40,000.00), which BID SECURITY must be in a form acceptable to the Town of Salem. Acceptable types of BID SECURITY include, but are not limited to: Bid Bonds, guaranteed by a surety acceptable to the Town, certified check or money order, cash, letters of credit in a form acceptable to the Town, and/or security interest in property or real estate acceptable to the Town. Such BID SECURITY will be returned to all bidders within five (5) working days after the Town of Salem and the accepted bidder have executed the Contract, or if no Contract has been executed, within sixty (60) calendar days after the date of opening of bids, upon demand of the bidder at any time thereafter, so long as they have not been notified of the acceptance of their bid.

19. The successful bidder, upon their failure or refusal to execute and deliver the Contract and security, if required, within ten (10) calendar days after they have received notice of the acceptance of their bid, shall forfeit to the Town of Salem, New Hampshire, as liquidated damages for such failure or refusal the security deposited with their bid.

20. A Performance-Payment Security, in the total amount of the Contract, or in such lesser amount as the Town of Salem shall, at its sole option require, in a form acceptable to the Town of Salem shall be required to guarantee the faithful performance of the Contract and the payment for all labor and materials used in the work. Acceptable types of Performance-Payment Security include, but are not limited to: Performance-Payment Bonds guaranteed by a surety acceptable to the Town, certified check or money order, cash, letters of credit in a form acceptable to the Town of Salem, and/or security interests in property or real estate acceptable to the Town of Salem (including mortgages). If a bond is used and the Contractor is a partnership, the bond shall be signed by each partner; if a corporation, signed in the correct corporate names by a duly authorized officer or attorney-in-fact. The executed bond shall be accompanied by appropriate duly certified copy of Power of Attorney or other certificates of authority where bond is executed by Agent, Officer, or other representative of the Contractor or Surety.

21. The bidder will guarantee the work and materials and the work and the materials of all subcontractors for a period of one (1) year from the date of acceptance of the work by the Town of Salem and agrees to leave the work in perfect order at completion. Neither the final certificate of payment nor any provision in the Contract Documents shall relieve them of responsibility for negligence, or faulty materials, or workmanship within the extent and period provided by laws, and upon written notice they shall remedy any defaults due thereto, and pay all expense for any damage to work resulting therefrom. It is hereby specifically agreed and understood that this guarantee shall not include any cause or causes other than defective work or materials. It is further understood that the Town Manager shall be the final judge as to whether or not any defect is a defect in workmanship and/or materials, which is the bidder's responsibility. It is hereby specifically agreed and understood that this guarantee shall not include any repairs made necessary by any cause or causes other than defective work or materials.

22. The Contract Documents shall include the "Invitation to Bid", "General Provisions", "Special Provisions", "Special Attentions", "Specifications", "Drawings", "Bid Form", "Schedule of Prices", any issued addenda, "Performance and Maintenance Securities" and the final executed Contract Agreement. The intent of these documents is to include all labor, materials, appliances and services of every kind necessary for the proper execution of the work and the terms and conditions of payment therefore. The documents are to be considered as one, and whatever is called for by any one of the documents shall be as binding as if called for by all.
23. This Contract shall be interpreted as a Town of Salem Contract and in accordance with the ordinances of the Town of Salem, New Hampshire.
24. A complete understanding of the conditions as they exist is required by a careful personal examination of the work at the site. The Contractor also shall examine carefully the specifications and the Contract forms of the work contemplated. The Contractor shall not, at any time after the execution of the Contract, set up any claims whatsoever based upon insufficient data or incorrectly assumed conditions nor shall they claim any misunderstanding in regard to the nature, conditions, or character of the work to be performed under this Contract, and they shall assume all risks resulting from any change in the conditions which may occur during the progress of work.
25. Payments will be made according to the provisions of Article 5 – Payment Procedures in the Form of Contract Agreement for this project. The Town shall make payment on account of the Contract and as follows: The Contractor shall invoice the Town for the work completed. After receipt of the Contractor's invoice by the Engineer, the Engineer shall inspect the premises and if the work has been completed in accordance with the Specifications and the Contract Documents, the Engineer shall then submit the invoice to the Town who shall make payment in or within fifteen (15) working days of the approved amount of the invoice. Before final payment is made to the Contractor, they shall submit evidence satisfactory to the Town that all payrolls, material bills, and other indebtedness connected with the work have been paid and that the one (1) year guarantee security has been filed with the Town. The amount of the guarantee security, or warranty bond, shall be \$25,000.
26. After execution of the Contract, there shall be no change in the Bid Documents, or Specifications except by a written amendment executed in the same manner as the Contract or by Change Orders as described below:

CHANGE ORDERS:

- A. The Town of Salem, without invalidating the Contract, may order changes in the work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract sum and the Contract time being adjusted accordingly. All such changes in the work shall be executed under the applicable conditions of the Contract Documents.
- B. A change order is a written order to the Contractor signed by the Town Manager, Engineer and the Contractor after the execution of the Contract, authorizing a change in the work or an adjustment in the Contract sum or in the Contract time.
- C. The amount of the compensation to be paid to the Contractor for any extra work so ordered shall be made in accordance with a price agreed upon between the parties and stipulated in the order for extra work.

D. The Contractor is hereby notified that utility pole relocations, underground relocations and other work may be ongoing at the time of construction. The Contractor will not be allowed any claim for damage or compensation due to the utility company's failure to relocate existing utility poles or underground utilities in a timely manner.

27. Manpower/equipment coordination with the Town of Salem Department of public Works which involves after hours / overtime by the Town staff shall be back charged to the Contractor. (For example, if a water service is broken during the Contractor's night operations and the Town of Salem Department of public Works water crew responds it will be charged to the Contractor.) Coordinated / Scheduled items with the Town of Salem Department of Public Works consent shall be conducted during normal Town of Salem Department of Public Works hours (7:00 am to 3:30 pm) and will not be charged to the Contractor.

28. The entire work contemplated by the Contract shall be under the supervision of the Town of Salem. The Town will provide construction review and oversight, and all questions concerning the prosecution of the work shall be referred to and decided by them.

29. **DETERMINATION AND EXTENSION OF CONTRACT TIME** - It is an essential part of the Contract that the Contractor shall perform fully, entirely and in an acceptable manner, the work under Contract within the time stated in the Contract. If the Contractor finds it impossible for reasons beyond their control to complete the work within the Contract time, they shall make a written request to the Town for an extension of time setting forth therein the reasons which they believe will justify the granting of their request. The Contractor's plea that insufficient time was specified is not a valid reason for extension of time. If the Town finds that the work was delayed because of conditions beyond the control and without the fault of the Contractor, including but not limited to acts of God, utility relocations, strikes, delays in the delivery of critical materials, problems, work of added complexity, work ordered done at a late or unfavorable stage of construction, and work requiring the use of specialists for whose starting time a reasonable latitude must be allowed, the Town may extend the time for completion in such amount as conditions justify. When extension of the Contract time is required due to delays in the delivery of critical materials, sufficient evidence must be furnished to the Town at the time the delay occurs showing that such delay results from the materials being unavailable by reason of unusual market conditions such as an industry wide strike, natural disaster, or an area wide shortage which arises after bids are taken and which prevents the procurement of materials within the allowable time of limitations. Delays due to slow delivery from a source of supply when the required material is available will not be considered as justification for an extension of time.

30. **FAILURE TO COMPLETE ON TIME** - For each day, as specified that any work shall remain uncompleted after the Contract time specified for the completion of the work, the sum specified in the Contract will be deducted from any money due the Contractor, not as a penalty but as liquidated damages, provided, however, that due account shall be taken of any adjustment of the Contract time for completion of the work granted under the provision of **DETERMINATION AND EXTENSION OF CONTRACT TIME**. Permitting the Contractor to continue and finish the work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended will no way operate as a waiver on the part of the Town of any of its rights under the Contract. The Town may waive such portions of the liquidated damages as may occur after the work is in condition for safe and convenient use. The fixed, agreed liquidated damages shall be assessed in accordance with Section 108.09 of the NHDOT General Provisions.

Should the amount of money otherwise due the Contractor be less than the amount of such liquidated damage, the Contractor and their SURETY shall be liable to the Town for such deficiency.

31. **PROJECT SCHEDULE** - The Contractor shall submit a construction schedule for the first thirty (30) calendar days of work within five (5) calendar days of Contract Award. A complete Construction Schedule is required within twenty (20) calendar days after start of Contract. Schedule is to be revised every two (2) weeks thereafter.

SALEM-WINDHAM
BICYCLE / PEDESTRIAN TRAIL
16031

TOWNS OF SALEM & WINDHAM
NEW HAMPSHIRE

BICYCLE / PEDESTRIAN TRAIL CONSTRUCTION PROJECT

PROSECUTION OF WORK

DESCRIPTION

This project consists of constructing an approximately 1.6 mile long bicycle / pedestrian trail within a former rail corridor in the Towns of Salem and Windham. The work includes clearing and grubbing, earth and rock excavation, grading, embankment, installation of base materials and paving, curbing, culverts and basins, traffic signal modifications, signing and striping, fencing, erosion controls and landscape items.

NOTIFICATIONS

The Contractor shall maintain close coordination with the following:

Town of Salem – Leon I. Goodwin III
Assistant Town Manager – Director of Community Affairs
P: 603.890.2107
F: 603.890.2220

This coordination shall include weekly project updates including information on pertinent construction operations, work accomplished in prior week, work planned for upcoming week, work zone locations, and other construction related information. This coordination effort is considered subsidiary to the project.

UTILITIES

Utility conflicts for this project may exist within or crossing the project corridor. The Contractor must construct the improvements without damaging or affecting the facilities. An underground AT&T fiber optic line is known to exist along the length of the corridor and the Contractor shall coordinate with the utility owner and Dig Safe to mark the location of the line prior to construction. Where excavation in close proximity to the fiber optic line is anticipated the contractor shall conduct exploratory excavation (paid under Item 203.1) as approved by the Engineer to determine the exact location and depth of the line. The Contractor shall protect the line from damage and if the proposed work appears to conflict with the line the Contractor shall notify the Engineer and the utility owner immediately for resolution. Utility contact information is provided as follows:

SEWER:**Salem Public Works Department**

Rick Russell, Director of Public Works
21 Cross Street
Salem, NH 03079

Phone: 603 890-2150

WATER:**Salem Water Department**

Glenn Burton, Water Distribution Foreman
21 Cross Street
Salem, NH 03079

(603)890-2156
gburton@ci.salem.nh.us

Hampstead Area Water Company

Amy Kneeland, Water Coordinator
54 Sawyer Avenue
Atkinson, NH 03811

(603) 362-4299
amy@hampsteadwater.com

COMMUNICATIONS:**AT&T Corp**

Mark Burkhardt, Technical Project Manager
139 Bacon Pond Road
Woodbury, CT 06798

Phone (203) 266-4372
markburkhart@att.com

FirstLight Fiber

Betty Hackett, Plant & Facilities Coordinator
Outside Plant Dept.
165 Ledge Street
Nashua, NH 03060

(603)481-0413
bhackett@firstlight.net

Lightower

Mark Bonanno, Manager fiber construction
80 Central Street
Boxborough, MA 01719

(508) 616-7818
mbonanno@lightower.com

New Hampshire Optical Systems

Jay Dunn, Utilities Project Manager
10 North Southwood Drive
Nashua, NH 03063

(978) 670-0000 x153
jdunn@waveguidefiber.c

Oxford Networks

Scot R Crockett, OSP Engineer
491 Lisbon St
Lewiston, ME 04240-7418

(207)333-3493
scrockett@oxfordnetworks.com

Teleport Communications America, LLC

Scott Ferreira
157 Green St. - Suite 2

Sf5412@att.com

Foxboro, MA 02035

Verizon Business

Stephen Parretti, Construction Manager
P.O. Box 600
82B Northside Road
Charlton, MA 01507

508-248-1305
stephen.parretti@verizon.com

POWER DISTRIBUTION:

Liberty Utilities (Elec.)

Anthony Strabone, Electric Project
Engineering Manager
15 Buttrick Road
Londonderry, NH 03053

(603) 216-3541
Anthony.Strabone@libertyutilities.com

POWER TRANSMISSION:

Anne Wyman, Program Manager
40 Sylvan Road
Waltham, MA 02451

781 907-3280
anne.wyman@nationalgrid.com

TELEPHONE:

FairPoint Communications

David Kestner, Network Engineer
1575 Greenland Road
Greenland, NH 03840

(603)433-2119
David.Kestner@fairpoint.com

CATV:

Comcast

Katy Honohan, Project Coordinator
334B Calef Highway
Epping, NH 03042 2325

679-5695 x1011
katy_honohan@cable.comcast.com

GAS:

Tennessee Gas Pipeline Company

David Wood, Project Engineer OPS
8 Anngina Drive
Enfield, CT 06082

(860) 763-6005
david_wood@kindermorgan.COM

Unitil Service Corporation (Gas)

Mark Dupuis, Gas Engineer - New Hampshire
325 West Road
Portsmouth, NH 03802-0508

(603) 294-5192
dupuis@unitil.com

FIRE:

Salem Fire Department

Chief Kevin Breen
152 Main Street
Salem, NH 03079

(603) 890-2200

DIG SAFE:

1-888-344-7233
1-888-DIG-SAFE

RIGHT-OF-WAY

The work is planned within the existing Town and State owned rights-of-way. Any unplanned work beyond the public right-of-way shall be arranged in advance between the contractor and the affected property owners. This includes arranging staging and material storage space since no provision has been made by the Owner on behalf of the Contractor for those needs. No work outside of Town and/ or State owned right-of-way shall occur unless the Towns and/ or State have been notified two weeks in advance and all rights have been granted.

CONSTRUCTION STAKING

Horizontal and vertical control information for the project is shown on the project plans and will be provided in CAD file format by the Engineer to the Contractor for the Contractor to lay out the work. The Contractor shall set all lines and grades and shall perform all staking required for the proposed work. The Contractor will be responsible for the accuracy and preservation of the staking during construction. Construction staking is subsidiary to the work included in the contract.

MAINTAINING ACCESS TO ABUTTING PROPERTY

The Contractor shall schedule the construction activities to maintain vehicular and pedestrian access to all abutting businesses and residences, and shall coordinate any temporary drive closures with the affected property owners at least 48 hours in advance of commencing such work.

EXCAVATING, DREDGING OR FILLING STATE WATERS

The Contractor is directed to review and comply with Section 107.01 of the NHDOT Standard Specifications for Road and Bridge Construction regarding erosion, pollution and turbidity precautions. Sedimentation barriers shall be used during all construction activities adjacent to wetlands or water bodies and shall be placed at the slope limits and at drainage inlets and/ or as shown on the plans. These barriers shall remain in place until permanent erosion control measures such as a sufficient growth of vegetation is present to prevent subsequent erosion.

DRAINAGE AND EROSION CONTROL

The Contractor's attention is directed to the provisions of Item 699 NHDOT Standard Specifications for Road and Bridge Construction concerning Water Pollution and Erosion Control, as amended, and to the provisions of 107 in the same document.

The Contractor shall exercise extreme caution to minimize the intrusion of any sediment, turbidity or pollution into the drainage systems, waterways and adjacent properties in the project area. Sedimentation barriers shall be used during dredging or filling operations in and around the project limits. These barriers shall remain in place until earth disturbing work is completed, and shall be removed from the project at the conclusion of the work.

This project is within the Policy Brook watershed which is impaired by Calcium, therefore Calcium Chloride (CaCl) shall not be used on this project for dust control.

The Contractor shall be responsible for developing the Project Erosion & Sediment Control Plan for submission to and approval by the Engineer prior to commencing any construction activity.

HAULING

The Contractor is advised that all roads and bridges within or adjacent to the project shall be subject to legal loads and vehicles.

The Contractor is advised that no agreements have been made by the Towns of Salem or Windham with surrounding towns/ cities to relieve the Contractor of liability for damage to local roads and bridges caused by the Contractor's operation.

The Contractor shall contact appropriate officials of the surrounding towns concerning hauling over town/ city roads and bridges.

EXCAVATIONS

Open excavations shall not remain through non-work hours, unless adequately protected (at the Contractor's expense) and specifically authorized by the Engineer.

MAINTENANCE OF TRAFFIC

The majority of the work on this project does not involve work within public roadways; however the contractor's operations will require access to the trail work over public roads, therefore traffic shall be maintained during all phases of construction. Two-way traffic shall be maintained on all roads.

The Contractor shall be ready at all times to manage traffic such that delay to emergency response vehicles will be minimized through the construction zone. The Contractor shall provide adequate signing, delineators or barricades to alert roadway and trail users in advance of the construction zones. The Contractor shall erect and maintain trail closure signs at each end of and at all other points of trail user access to the work zones, subsidiary to the Maintenance of Traffic item. The trail closure shall be enforced until such time as the Town accepts the work.

Construction access to the trail shall be at existing road crossings. Access to the trail in Salem may also be possible in the vicinity of Station 129+00 from Route 28 since the trail is in close proximity to the road in that area. The contractor shall provide proposed traffic control plans for review and approval by the Engineer if Route 28 access is desired.

The Contractor will be responsible for maintaining traffic signal operations at all times at the Range Road/ Route 28 and Old Rockingham Road/ Route 28 intersections during traffic signal work in those areas. The cost of installing and maintaining any necessary temporary traffic signals shall be included under the Contract traffic signal bid items.

CONSTRUCTION REQUIREMENTS

1. Provide strict dust control measures and maintain access to properties at all times (refer to Sections 104.07 and 107.06 of the NHDOT Standard Specifications for Road and Bridge Construction), which shall be considered subsidiary to the work.
2. Take all precautions against damaging any existing or proposed underground utilities. Any damage to the utilities due to the Contractor's methods shall be repaired at the Contractor's expense.
3. Tree clearing shall be controlled to avoid over-clearing. Only clear trees needed to facilitate the proposed construction or to achieve the required clearing limits shown in the plans and typical cross sections. Minimize unnecessary disturbance of the vegetation adjacent to the trail in order to limit erosion.
4. Refer to Section 645 – Erosion Control concerning Contractor's obligation relative to the National Pollutant Discharge Elimination (NPDES) Storm Water Construction General Permit as administered by the Environmental Protection Agency (EPA). This project is subject to Notice of Intent, Notice of Termination and other project records to be completed by both the Contractor and the Town of Salem as required in the Construction general Permit (CGP). NPDES General Guidelines, Notice of Intent and Notice of Termination are available online in the business Center at www.nhdot.com <http://www.nhdot.com> or through the NHDOT Contracts Office.
5. Construction equipment shall not be left within public rights of way during weekends. The Contractor shall post "Trail Closed" signs at trail access points to warn trail users that they will not be allowed to continue on the trail through the construction zones.

WORK HOURS

High noise machinery, such as grading and excavating equipment, shall not be used prior to 7:00 AM or after 4:00 PM Monday through Friday, on weekends or on holidays unless specifically permitted by the Town.

SCHEDULE OF WORK

The Contractor shall strive to minimize the length of time the project area is impacted by the construction activities. The Contractor shall submit a proposed construction schedule to the Engineer for approval, as described in Item Number 30 of the enclosed General Provisions.

The Contractor shall schedule the construction activities to avoid and minimize affecting access to adjacent commercial and residential driveways and doorways. The scheduling of such work shall be discussed in the weekly project notifications.

COMPLETION DATES

The trail work under this Contract shall be substantially completed by **July 29, 2016** and traffic signals and all other work shall be fully completed by **August 19, 2016**.

SALEM-WINDHAM
BICYCLE / PEDESTRIAN TRAIL

Salem & Windham, NH
10/16/2015

PROSECUTION OF TRAIL WORK ON NH DOT RAILROAD PROPERTY

DESCRIPTION OF WORK

The work on this project entails the construction of a trail within the State of NH Railroad Corridor as per the plans entitled “Salem-Windham Bicycle Pedestrian Trail” for the Towns of Salem and Windham. The term “Rail Trail” in this document shall mean any portion of the work required to construct a completed trail including excavation, embankment construction, paving, drainage and all other trail-related work. The Towns and their contractors and agents shall only perform their work from the trail location and shall not cross to construct the trail other than at legal public crossings. The State of New Hampshire Bureau of Rail & Transit (“Bureau”) must meet with the Towns and its Contractors on site to discuss the planned work prior to the beginning of any construction work on the trail.

RAILROAD OWNER AND OPERATOR

The Contractor shall coordinate their work on this project with the railroad corridor Owner. The railroad corridor is owned by the State of New Hampshire.

State of New Hampshire Department of Transportation (Railroad Owner)
Larry Keniston
Bureau of Rail & Transit
PO Box 483
Concord, New Hampshire 03302
Tel. (603) 271-2468

RIGHT-OF-WAY AND PROTECTION OF PROPERTY

The Contractor shall not modify the Railroad Corridor property other than as shown on the project plans and as specified in this Prosecution of Work and authorized by the State of NHDOT Bureau of Rail & Transit. The Town and the Contractor must obtain the approval of the Bureau prior to making any changes to the approved trail plan or specifications.

CONSTRUCTION REQUIREMENTS

Prior to beginning any work on the Project, the Contractor shall notify the Bureau (Tel. 271-2468) of their proposed schedule of work on the railroad portion of the project.

Specifically, the following shall apply:

1. A minimum of one week prior to beginning work, the Contractor shall notify the railroad corridor Owner (Tel. 271-2468) of their proposed schedule of work, to coordinate for a NHDOT inspector and to provide the name of the Contact Person for the Project.

2. The Contractor shall be responsible for contacting Dig Safe (1-888-344-7233) prior to beginning any excavation work on NHDOT railroad corridor property.
3. The Contractor shall submit a construction schedule to the Bureau of Rail & Transit at least one week prior to the Contractor beginning any work on the railroad corridor.
4. The specifications in this Prosecution of Trail Work supersede any conflicting specifications in the Trail Plans or Contract.
5. The Bureau will inspect the work throughout the construction until final completion and acceptance of the project.
6. All trees removed for the proposed trail construction shall be disposed of off of State property. No trees shall be replaced on State property.
7. The Contractor shall install and maintain adequate siltation and erosion controls for the trail construction. If siltation or drainage problems occur, the Contractor will be responsible for cleaning up and stabilizing all disturbed areas to the satisfaction of the Bureau.
8. The Contractor shall block off the trail and provide signs indicating the corridor is closed during construction activities. The Contractor shall leave their work in a stable condition at the end of every work day and over the weekends to ensure that the area is safe from hazards.
9. All areas disturbed by the Contractor shall be stabilized with rock, loam and seed or other means shown on the plans.
10. The Contractor shall clean up their work area and return it to its original condition upon completion of their work, including all necessary seeding and ground restoration. The Contractor shall ensure that all ditches on the railroad corridor are functional after the work is complete.

06/24/08

Supercedes: 9/11/06, 12/5/90

WAGE RATES

FEDERAL AID PROJECTS

This proposal contains minimum wage determinations as specified by the U.S. Secretary of Labor. Copies of the attached wage determination(s) shall be posted on the bulletin board at the work site and furnished to employees upon request. Furthermore, the wage determination(s) shall be incorporated into all subcontract agreements.

If the Contractor, any subcontractor or lower-tier contractor intends to employ a classification of labor not listed in the attached determination(s), it shall submit a Request for Additional Work Classification(s) to the New Hampshire Department of Transportation, Labor Compliance Office at (603) 271-2467. The Contractor is responsible for ensuring that a Request is submitted for any additional classification of work to be employed by itself, any subcontractor or lower-tier contractor 3-4 weeks before the classification is utilized.

This contract is subject to the Work Hours Act of 1962, P.L. 87-581 and implementing regulations.

NOTICE TO ALL BIDDERS

In accordance with the section "NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)", the New Hampshire Department of Transportation has the authority and responsibility to notify the Office of Federal Contract Compliance Programs of the United States Department of Labor if they become aware of any possible violations of Executive Order 11246 and 41 Code of Federal Regulation Chapter 60.

The Office of Federal Contract Compliance Programs is the sole authority for determining compliance with Executive Order 11246 and 41 Code of Federal Regulation Chapter 60 and the Contractor should contact them regarding related compliance issues.

Source 41 CFR 60-4 Affirmative Action Requirements

Source: 41 CFR 60-4.2 Solicitations

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.

The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade	Goals for female participation in each trade
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STANDARD METROPOLITAN STATISTICAL AREAS (SMSA)

SALEM-PLAISTOW: 4.0 6.9

MANCHESTER-NASHUA 0.7 6.9

NON-SMSA COUNTIES

COOS, GRAFTON,
SULLIVAN: 0.8 6.9

BELKNAP, MERRIMACK,
CARROLL, STRAFFORD: 3.6 6.9

CHESTER: 5.9 6.9

ROCKINGHAM: 4.0 6.9

HILLSBOROUGH: 0.7 6.9

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

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

The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation addressed as follows:

Director
Federal Contract Compliance Program
US Department of Labor
JFK Building, Room 1612-C
Boston, MA 02203

The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed as noted within the Contract Special Provisions for Affirmative Action to ensure Equal Employment Opportunity..

Source 41 CFR 60-4 Affirmative Action Requirements

Source 41 CFR 60-4.3 Equal Opportunity Clauses

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

[1]. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

[2]. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

[3]. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

[4]. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed

as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

[5] Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

[6]. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

[7]. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have

Source 41 CFR 60-4 Affirmative Action Requirements

employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's

recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take

Source 41 CFR 60-4 Affirmative Action Requirements

affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

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

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR Part 60-4 become effective.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65978, Oct. 3, 1980]

**REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

- A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

- 1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

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

VI. SUBLetting OR ASSIGNING THE CONTRACT

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

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

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

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

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

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See Reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:		5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
Congressional District, If known:		Congressional District, If known:
6. Federal Department/Agency:		7. Federal Program Name/Description:
		CFDA Number, if applicable:
8. Federal Action Number, If known:		9. Award Amount, If known:
		\$
10. a. Name and Address of Lobbying Registrant (If individual, last name, first name, MI):		b. Individuals Performing Services (Including address if different from No. 10a) (last name, first name, MI):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward receipt. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in Item 1 (e.g., Request for Proposal (RFP) number; Invitation for bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g. "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in Item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Certifying official shall sign and date the form, print his/her name, title and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

04/01/09

SA

SSD: 06/28/04

ALL FA PROJECTS

SPECIAL ATTENTION

DISADVANTAGED BUSINESS ENTERPRISE (DBE) DIRECTORY

The current New Hampshire Unified Disadvantaged Business Enterprise (DBE) Directory is available on the NHDOT website at <http://www.nh.gov/dot/business/contractors.htm>. If you have questions or do not have access to the Internet, the directory may be obtained from DBE Coordinator, located at 7 Hazen Drive, Concord, NH 03302, Tel: (603) 271-6612.

SPECIAL ATTENTION

Disadvantaged Business Enterprise (DBE)

Disadvantaged Business Enterprise (DBE) Policy. It shall be the policy of the New Hampshire Department of Transportation (NHDOT) to ensure nondiscriminatory opportunity for Disadvantaged Business Enterprises (DBE's) to participate in the performance of all contracts and subcontracts financed with Federal funds as specified by the regulations of the United States Department of Transportation (USDOT), Federal Highway Administration and as set forth below.

1. Policy. It is the policy of the United States Department of Transportation to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 Code of Federal Regulation (CFR) Part 26, to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 applies to this contract.

2. Disadvantaged Business Enterprise (DBE) Obligation. The State and its Contractor agree to ensure nondiscriminatory opportunity for disadvantaged business enterprises, as defined in 49 CFR Part 26, to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. **Prime Contractors and subcontractors who further sublet must include this assurance in every subcontract:** *The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by any 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 NHDOT deems appropriate.*

3. Sanctions of Non-Compliance. The Contractor is hereby advised that failure of the Contractor, or any Subcontractor performing work under this Contract, to carry out the requirements set forth in paragraphs 1 and 2 above shall constitute a breach of contract and, after notification of the United States Department of Transportation, may result in termination of this Contract or such remedy as the State deems appropriate.

Overall Statewide DBE Goals. The NHDOT currently employs a race/gender neutral DBE policy to attain its overall statewide DBE goals. This means that unless otherwise stated in the Contract, the NHDOT relies on the voluntary cooperation of all contractors to utilize DBE's on every project, sufficient to meet or exceed the current statewide DBE goal. Although the majority of statewide DBE goals are currently voluntary, failure of the NHDOT to meet or exceed the overall statewide DBE goal as required by the Federal Highway Administration (FHWA), could necessitate placement of mandatory DBE participation requirements on all future statewide projects.

Disadvantaged Business Enterprise (DBE) Program Goals. The New Hampshire Department of Transportation is required to set an overall DBE goal for participation in all transportation related Federal-aid projects. The goal is determined following guidelines set forth in 49 CFR 26.45, and based on the availability of ready, willing and able DBE's who submitted bids for transportation related projects, compared as a percentage of all available contractors who submitted bids for transportation related projects during the same time period. The DBE goal may be adjusted to take into account other factors impacting DBE utilization, in an effort to narrowly tailor the overall DBE goal. The detailed goal setting methodology and current overall DBE goal may be viewed on the NHDOT website at www.nh.gov/dot.

Disadvantaged Business Enterprise (DBE) Definition. A DBE is defined as a business that is owned and controlled by one or more socially and economically disadvantaged person(s). For the purpose of this definition:

- A. “Socially and economically disadvantaged person” means an individual who is a citizen or lawful permanent resident of the United States and who is a Woman, Black, Hispanic, Portuguese, Native American, Asian American, or a member of another group, or an individual found to be disadvantaged by an individual determination of social disadvantage as described in 49 CFR 26 appendix E, determinations of social and economic disadvantage.
- B. “Owned and controlled” means a business which is:
 - (1) A sole proprietorship legitimately owned and controlled by an individual who is a disadvantaged person.
 - (2) A partnership, joint venture or limited liability Company in which at least 51% of the beneficial ownership interests is legitimately held by a disadvantaged person(s).
 - (3) A corporation or other entity in which at least 51% of the voting interest and 51% of the beneficial ownership interests are legitimately held by a disadvantaged person(s).

The disadvantaged group owner(s) or stockholder(s) must possess control over management, interest in capital, and interest in earnings commensurate with the percentage of ownership. Disadvantaged participation in a joint venture must also be based on the sharing of real economic interest and must include proportionate control over management, capital, and earnings, as above. If the disadvantaged group ownership interests are real, substantial and continuing and not created solely to meet the requirements of this program, a firm is considered a bona fide DBE.

Certified DBE Directory. The current New Hampshire Unified Disadvantaged Business Enterprise (DBE) Directory is available online at www.nh.gov/dot. This directory contains all currently certified DBE's available for work in New Hampshire, and is updated monthly. Only firm's listed in this directory are eligible for DBE credit on NH Federal-aid projects. If you have questions about DBE certification, or do not have access to the Internet, please call the DBE Coordinator at (603) 271-6612 for assistance.

Counting DBE Participation For Project Goals. In order for payments made to DBE contractors to be counted toward DBE goals, the DBE contractors must perform a commercially useful function (CUF). The DBE must be responsible for execution of the work of the contract and must carry out its responsibilities by actually performing, managing, and supervising the work involved, consistent with standard industry practices. This means that:

- A. The DBE must also be responsible for ordering its own materials and supplies, determining quantity and quality, negotiating price, installing (where applicable) and paying for the material itself;
- B. The DBE must perform work commensurate with the amount of its contract;
- C. The DBE's contribution cannot be that of an extra participant or a conduit through which funds are passed in order to obtain the appearance of DBE participation;
- D. The DBE must exercise responsibility for at least fifty percent of the total cost of its contract with its own work force;
- E. None of the DBE's work can be subcontracted back to the Prime Contractor, nor can the DBE employ the prime's, or other subcontractor's supervisors currently working on the project;
- F. The DBE's labor force must be separate and apart from that of the Prime Contractor or other subcontractors on the project. Transferring crews between primes, subcontractors, and DBE contractors is not acceptable;

- G. The DBE owner must hold a Public Works license and any other professional or craft licenses required for the type of work he/she performs on the project;
- H. The DBE may rent or lease, at competitive rates, equipment needed on the project from customary leasing sources or from other subcontractors on the project.

Allowable credit for payments made to DBEs for work performed. A contractor may take credit for payments made to a certified DBE that satisfies (CUF) requirements at the following rate.

- A. A DBE Prime Contractor; count 100% of the value of work performed by own forces, equipment and materials count towards DBE goals.
- B. An approved DBE subcontractor; count 100% of the value of work performed by the DBE's own forces, equipment and materials, excluding the following:
 - The cost of materials/supplies purchased from a non-DBE Prime Contractor.
 - The value of work provided by non-DBE lower tier subcontractors, including non-DBE trucking to deliver asphalt to a DBE contractor.
- C. A DBE owner-operator of construction equipment; count 100% of expenditures committed.
- D. A DBE manufacturer; count 100% of expenditures committed. The manufacturer must be a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Prime Contractor.
- E. A regular DBE dealer/supplier; count 60% of expenditures committed.
A regular dealer/supplier is defined as 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 or leased to the public in the usual course of business. A person may be a dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business, if the person both owns and operates distribution equipment for the products, by the means of a long term agreement, and not by a contract by contract basis.
- F. A DBE Broker; count for DBE credit only the fees or commissions charged for assistance in the procurement, and, fees and transportation charges for the delivery of materials or supplies required at the job site, but not the cost of materials procured. A broker is defined as any person(s) or firm who arranges or expedites transactions for materials or supplies, and does not take physical possession of the materials or supplies at their place of business for resale.
- G. A DBE renter of construction equipment to a contractor; count 20% of expenditures committed, with or without operator.
- H. A bona fide DBE service provider; count 100% of reasonable fees or commissions.
Eligible services include professional, technical, consultant, or managerial, services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of the contract. Eligible services also include agencies providing bonding and insurance specifically required for the performance of the contract.
- I. A trucking, hauling or delivery operation, count 100% of payments when trucks are owned, operated, licensed and insured by the DBE and used on the contract and, if applicable, includes the cost of the materials and supplies. 100% of payments when the DBE leases trucks from another DBE firm including an owner-operator. 100% of reasonable fees, or commissions, the DBE receives as a result of a lease arrangement for trucks from a non-DBE, including an owner-operator.
- J. Any combination of the above.

Reporting Requirements for Payments Made To DBE's: On all Federal-aid projects, the Prime Contractor is required to report payments made to DBE's during the life of the contract, on a quarterly basis, for the periods covering January 1st–March 31st, April 1st–June 30th, July 1st–September 30th and October 1st–December 31st, The NHDOT will provide the Prime Contractor with a quarterly DBE

payments report, detailing all DBE's subcontracted by the Prime Contractor, per project. The Prime Contractor shall report any payments made to DBE's during the requested reporting period. This documentation shall be submitted to the Office of Federal Compliance within the time period stated on the NHDOT quarterly request. Failure of the Prime Contractor to submit this information may result in the Department withholding progress payments.

Removal of Approved DBE From Transportation Related Project: Contractors may not terminate for convenience, any approved DBE subcontractor and perform the work with their own forces, without prior written consent from the NHDOT.

MUNICIPAL PROJECTS ONLY: Timely submission of invoices to Municipalities: Prime Contractors must submit all invoices received for satisfactorily completed work, from any subcontractor/lower-tier subcontractor/material supplier, to Municipalities for payment within 30 days of receipt.

Rev. 6/2/10

Supersedes Spec. Attn. dated 3/9/90, 12/5/90, 4/4/92, 2/22/93, 4/24/95 & 6/5/98

ALL FA PROJECTS (STEEL & IRON PRODUCTS)

S P E C I A L A T T E N T I O N

BUY AMERICA

In accordance with the **BUY AMERICA** requirements of the Federal regulations, all manufacturing processes for steel and iron materials furnished for permanent incorporation into the work on this project shall occur in the United States. The only exception to this requirement is the production of pig iron and the processing, pelletizing and reduction of iron ore, which may occur in another country. Other than these exceptions, all melting, rolling, extruding, machining, bending, grinding, drilling, coating, etc. must occur in the United States.

Products of steel include, but are not limited to, such products as structural steel, piles, reinforcing steel, structural plate, steel culverts, guardrail and steel supports for signs, signals and luminaires. Products of iron include, but are not limited to, such products as cast iron frames and grates. Coatings include, but are not limited to, the applications of epoxy, galvanizing and paint. The coating material is not subject to this clause, only the application process.

A Certificate of Compliance, conforming to the requirements of Section 106.04, shall be furnished for steel and iron materials. Records to be maintained by the contractor for this certification shall include a signed mill test report and a signed certification by each supplier, distributor, fabricator, and manufacturer that has handled the steel or iron product affirming that every process, including the application of a coating, performed on the steel or iron product has been carried out in the United States of America, except as allowed by this Special Attention. The lack of these certifications will be justification for rejection of the steel or iron product.

The requirements of said law and regulations do not prevent a minimal use of foreign steel and iron materials if the cost of such materials used does not exceed one-tenth of one percent (0.1%) of the total contract price or \$2,500.00, whichever is greater.

Upon completion of the project, the Contractor shall certify in writing as to compliance with this Special Attention and also provide the total project delivered cost of all foreign steel and/or iron permanently incorporated into the project. The form for this certification is entitled "Buy America Certificate of Compliance" and can be found at www.NHDOT.com.

December 24, 1998

Supersedes Spec. Attn. dated 3/29/88 & 12/5/90

FHWA Projects

SPECIAL ATTENTION

**CONTRACT AFFIDAVIT - CERTIFICATION REGARDING DEBARMENT
SUSPENSION**

The separate form entitled, CONTRACT AFFIDAVIT (As Required by Section 112(c) of Title 23 USC) has been deleted from this proposal.

Bidders are advised that the last page of the bidding proposal has been revised to include the same reference, **IN BOLD PRINT**, relative to the non-collusion statement included on the discontinued form.

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The Contractor is advised that 49 CFR 29.510, Appendix A, requires that the Contractor, including all principals, certify that they are not currently under debarment or suspension or have not been under debarment or suspension within the past three years. (For certification instructions see next page).

The certification has been added, **IN BOLD PRINT**, onto the next to the last page of the bidding proposal.

The Contractor is further advised that Appendix B of 49 CFR 29.510 regarding certification of lower tier transactions has been added to Form FHWA-1273.

Appendix A - Certification regarding Debarment, Suspension, and other Responsibility Matters - Primary Covered Transactions.

Instruction for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification" Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

1/2001
Supersedes 3/90
ALL FA PROJECTS

SPECIAL ATTENTION

LOBBYING

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

SUBJECT: LIMITATION ON USE OF GRANT OR CONTRACT FUNDS FOR LOBBYING

The lobbying restrictions were established by Section 319 of Public Law 101-121 (Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990).

The law prohibits Federal funds from being expended by the recipient or any lower tier subrecipients of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence a Federal agency or Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, or the entering into of any cooperative agreement. The extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement is also covered.

Federal-aid contractors, and consultants, as well as lower tier subcontractors and subconsultants are also subject to the lobbying prohibition. To assure compliance, a certification provision is included in all Federal-aid construction solicitations and contracts, and consultant agreements exceeding \$100,000 in Federal funds.

The Contractor shall be aware that by signing and submitting this proposal, he or she is attesting to the requirements of the certification provisions.

During the period of performance of a grant or contract, recipients and subrecipients must file disclosure form (Standard Form LLL) at the end of each calendar year quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any previously filed disclosure form.

Lower tier certifications should be maintained by the next tier above (i.e., prime contractors will keep the subcontractors' certification on file, etc.). Copies of Standard Form LLL will be included in the subcontract package for distribution to successful bidders.

ALL FHWA & FA PROJECTS
SSD: 07/02/13 (State) & 03/26/10 (Municipal)

SPECIAL ATTENTION

SUMMARY OF REQUIREMENTS FOR FEDERAL-AID PROJECTS

1. Subletting On Federal-aid Contracts.

a. On Federal-Aid projects, the following documents are required to be incorporated in and made a part of every subcontract agreement (including lower-tier subcontract agreements):

- NHDOT Policy on Subcontracting
- Required Contract Provisions (FHWA-1273)
- Disadvantaged Business Enterprise (DBE) Program Requirements (Standard Spec 103.06)
- *41 CFR 60-4 Affirmative Action Requirements
- **U.S. Department of Labor (USDOL) wage rates entitled "GENERAL WAGE DECISION" (as contained in the contract)

*Applicable only to contracts or subcontracts in excess of \$10,000

**Does not apply to companies performing non-Davis Bacon type work (testing, monitoring, and inspection services).

b. Subcontractor Approvals for Companies Who Perform Testing, Monitoring, Inspection Services

- 1) Companies and/or independent contractors performing testing, monitoring, or inspection, such as ground penetrating radar, erosion control monitoring, video inspection, SWPPP, environmental testing/monitoring or vibration monitoring, for example, require subcontractor approval (NHDOT must verify Workers Compensation (WC) Insurance coverage).

- 2) The following subcontractor approval documentation is required:

- OFC Form 15 (15a for a State managed project and 15b for Local Public Agency (LPA) projects), Transmittal
- OFC Form 26, Work Certificate
- Proof of Workers Compensation Insurance coverage (if not already on file)

c. Contractors will not be approved/authorized to work until the Department's Annual Assurances requirements have been fulfilled.

d. RSA 228:4-b shall apply to any work done by an individual contractor on any state transportation project.

e. Prime Contractors shall submit consent to sublet packages to the NHDOT at least 5 working days prior to said subcontractor (or lower-tier subcontractor)

performing work on site. On LPA projects, the Prime Contractor shall also provide a courtesy copy to the town or the town's consultant, if applicable.

- f. **LPA Projects Only:** NHDOT Office of Federal Compliance (OFC) is the sole approval authority for all LPA construction projects. Consents to sublet shall be submitted directly to the OFC.

2. **FHWA Form 1273, Required Contract Provisions.**

- a. The Prime Contractor shall insert in each subcontract all the stipulations contained in the Required Contract Provisions. Primes shall further require their inclusion in any lower-tier subcontract or purchase order that may in-turn be made. The Required Contract Provisions shall not be incorporated by reference in any case.
- b. In accordance with Section I, Paragraph 1, the Prime Contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. This shall include any unpaid wages found to be owed that is not paid by a subcontractor or lower-tier subcontractor.
- c. In accordance with Section I, Paragraph 3, "A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contact, suspension/debarment or any other action determined to be appropriate by the contracting agency and FHWA."

3. **Submission of Payrolls:** Payrolls, as required by FHWA Form 1273, shall be submitted electronically (email) as a pdf document to the NHDOT Contract Administrator, named in the following format: Contractor's name (abbreviated is acceptable) followed by the "week ending" date (year/month/day). The Contractor's and each Sub-contractor's payroll shall be submitted as separate, individual files. Example: PrimeContr - 2014-12-03; SubcontraA - 2014-12-03; SubcontraB - 2014-12-03.

4. **Sign-In Sheets.** Use of daily sign-in sheets is **mandatory** on all LPA projects. Every worker must sign in, on a daily basis, **prior** to performing work on site. The OFC Form 20 shall be used for this purpose. The Prime Contractor is responsible to ensure sign-in sheet requirements are met and are turned in to the Contract Administrator on a daily basis. Contract Administrators shall review and initial sign-in sheets daily cross matching what employees have indicated for their work classification and what employers are indicating on certified payroll reports, and verifying employers of workers signing in have been approved to work by the NHDOT. Sign-in sheets shall be co-located with certified payrolls and filed in a 3-ring binder, newest sign-in sheets on top. Sign-in sheets are an inspection item. Note: Use of sign-in sheets may also be directed by the OFC on State managed projects for any contractor who does not accurately report all workers performing work on site on their payrolls.

5. Requesting Work Classifications, Classifying Workers, and/or Payment of Wages.

- a. The Prime Contractor is required to submit an additional request to the NHDOT for any classification of labor/equipment that they or their subcontractors shall be utilizing under the contract that is not contained in the proposal's Federal General Decision.
- b. Unless otherwise instructed by the OFC, a SF 1444 shall be used for this purpose.
- c. Requests must be submitted to the NHDOT prior to any work being performed in the classification(s).
- d. Contractors who do not receive a USDOL conformance decision from the OFC within 45 days of submission should follow-up with the OFC.
- e. Once a decision is received from the USDOL, the OFC will, in-turn, notify the Prime Contractor. In cases when the USDOL stipulates a higher rate of pay than the one proposed by a contractor, and the Contractor elects not to submit an appeal, restitution, if due, shall be paid to employees within 10 calendar days of being notified by the OFC. Restitution requirements of the NHDOT shall apply.
- f. Appeals shall be filed with the USDOL within 30 calendar days and a courtesy copy forwarded to the OFC at the same time. Restitution, if applicable, does not need to be paid during the time the appeal is under review by the USDOL.
- g. Contractors shall immediately inform the OFC whenever appeal decisions (including reconsideration requests) are received from the USDOL.
- h. In those cases when a contractor indicates to the OFC he/she plans to appeal the USDOL decision but fails to provide the OFC proof of submission within 30 calendar days, the contractor shall comply with the original USDOL decision. The OFC will subsequently notify the Contractor that proof of an appeal was not received within 30 days and restitution, if applicable, must be paid to workers within 10 calendar days. Contractors who fail to provide restitution will be deemed "in non-compliance."
- i. Time Sheets: Every contractor shall create and maintain time sheets for every worker performing work on the project. This includes salaried employees who perform work in a classification, either intermittently or full time. Time sheets shall record all work performed during the work week, both Federal and non-Federal, shop time, travel time considered work time, including any time considered "hours worked" as described under the Fair Labor Standards Act, Part 785. When requested, Contractors shall provide copies of time sheets to the OFC in support of certified payroll report information being provided. Time sheets, payroll records, and other basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of work.

- j. OFC payment release authorization letters (Ok to Pay letters) cannot be accomplished until all wage conformances have been deemed closed (USDOL responses have been received and there are no pending contractor wage appeals).
- k. Job Classifications Descriptions (Laboring Category): While most of skilled and unskilled crafts appearing in Wage Determinations are self-explanatory, the below classifications (not all inclusive) have been described by the NHDOT and are consistent with USDOL requirements. Workers performing in these classes, according to the description, will be classified by contractors accordingly:
 - 1) Asbestos Abatement: All work associated with asbestos abatement shall be classified as "Laborer," unless said work involves piping that will be reinsulated. In these cases, "Asbestos Abatement Worker" shall be used.
 - 2) Blaster: Supervises and assists in locating, loading, and firing blast holes with explosives to break up hard materials. This work includes any of the following duties on-site: determining the spacing and depth of drilled holes; determining the amount of explosives, timing and placement of detonators; handling blasting materials in the work area; loading holes with detonators, primers and explosives; tamping and stemming holes; directing the placement of blasting mats or other flyrock controls; and detonating the charges.
 - 3) Brick Mason (also called Brick Layers): Builds and repairs walls, floors, paths/sidewalks, partitions, fireplaces, chimneys, and other structures with brick, pavers, precast masonry panels, concrete block, and other masonry materials, with or without mortar.
 - 4) Drill Operator: Unless a hand held tool, which can then be classified and performed as a Common/General Laborer, all drill work shall be performed in the "Drill Operator" classification. Conformances, if needed, shall be consistent with this requirement.
 - 5) Guardrail Installer: Except for the "pounder," each person performing guardrail installation work shall be classified as "Guardrail Installer."
 - 6) Ironworker (Reinforcing): Positions and secures steel bars to placement of reinforced concrete; determines number, size, shape and location of reinforcing rods from plans, specifications, sketches and/or oral instructions; places and ties reinforcing steel using wire and pliers, sets rods in place, spaces and secures reinforcing rods. May bend steel rods with hand tools or operate a rod-bending machine; may reinforce concrete with wire mesh; may perform other related duties.
 - 7) Ironworker (Structural): Performs any combination of the following duties to set beams, hang diaphragms, install bolts, torque bolts, test bolts, raise, place and unite girders, columns and other structural steel members to form completed structures or structure frameworks, working as a member of a crew; sets up hoisting equipment for raising and placing structural

steel members; fastens steel members to cable of hoist using chain, cable or rope; signals worker operating hoisting equipment to lift and place steel members. Guides member using guy line (rope) or rides on member to guide it into position. Reads plans; rigs, assembles and erects structural members requiring riveting or welding. May perform other related duties.

- 8) Lead Abatement Worker: All work associated with lead abatement shall be classified as "Lead Abatement Worker."
- 9) Stone Mason: Builds stone walls, as well as set stone exteriors and floors, lays/sets all cut stone, marble, slate, or stone, with or without mortar. They work with natural cut stone, such as marble, granite, limestone and artificial stone made of concrete, marble chips, or other masonry materials.
- 10) Sweeper/Broom Operators: Whenever Sweeper or Broom does not appear in the Wage Determination, contractors may use the Truck Driver classification for this service if the equipment used is of the over the road type (only). However, anytime the contract has an established classification/rate for "Sweeper or "Broom," this classification must be used and the minimum rate, as it appears in the contract, shall apply.
- 11) Traffic Coordinator: Performs sign placement and maintenance, including proper set up and relocation of construction sign packages and message boards; designs lane closures in accordance with local, state, and Federal requirements. Please do not confuse this classification with Flagger.

6. **Mandatory Training.** Prime Contractors who fail to obtain an annual average (based on the calendar year) of at least 50% "Satisfactory" ratings on all OFC Compliance Field Audit Reports will be required to attend a mandatory 4-hour Contractor Compliance Training Class each spring (as scheduled by the OFC). A principal owner (or executive officer of the company) and his/her payroll accountant shall attend. Note: Compliance ratings on all projects will be averaged whenever a Prime Contractor has multiple projects.

7. **Temporary Suspensions.**

- a. Any Contractor, Subcontractor, or Lower-tier Subcontractor found to be in violation of FHWA Form 1273, Required Contract Provisions, made part of its contract, or has failed to comply with OFC Field Audit requirements, will be required to take corrective action before participating in future projects funded by the Department. Corrective action will include, but not limited to, the submission of certified payrolls or other records and reports necessary to verify compliance with the Provisions.
- b. Any Contractor, Subcontractor or Lower-tier Subcontractor found to have repeatedly violated the FHWA Form 1273, Required Contract Provisions, may be required to complete 4-hours of Federal Contract Compliance Training conducted by the NHDOT Office of Federal Compliance. When mandated, a principal owner and/or company executive and his/her payroll accountant shall attend. Federal Contract Compliance Training must be completed before participation on future projects is authorized. This requirement does not relieve the Contractor of its

obligations under the prime contract, nor does it prevent the Department from seeking other remedies or enforcement action, as provided by the governing Rules, Laws, and Federal Regulations.

- c. Companies will be notified of suspensions in writing. Actions the company must take to have participation privileges restored will be clearly indicated. Companies will also be advised that if a satisfactory response is not received within 30 days of receipt of the suspension notice, the company will be considered "non-responsive." In cases where companies are non-responsive, and unpaid wages on the part of the subcontractor or lower-tier subcontractor are involved, the matter will then be deferred to the Prime Contractor for payment of wages as provided in Form FHWA 1273, Required Contract Provisions, Section I, Paragraph 3.

8. **Right To Withhold Payments.** The Department may withhold payments claimed by the Contractor on account of:

- a. Failure of the Contractor to make payments to Subcontractors for materials or labor.
- b. Regulatory non-compliance or enforcement.
- c. Failure to comply with NHDOT Office of Federal Compliance Field Audit Report requirements.
- d. Failure to comply with monthly reporting requirements, as applicable.
- e. For projects with an OJT requirement, failure to submit OJT 1, On-The-Job Training Acknowledgement and Statement of Intent within 30 days of the project start date.
- f. Failure to submit closeout documentation.
- g. All other causes that the Department reasonably determines negatively affect the State's interest.

9. **Final Payment Release.** Once final project records are transferred to the NHDOT Office of Federal Compliance, a final review shall be performed to determine compliance with the Federal provisions. Release of any final payment shall not be made to the Contractor until the Office of Federal Compliance issues a payment release letter (ok to pay) certifying:

- a. All required payrolls, labor, and EEO documentation have been received and deemed complete and correct.
- b. DBE requirements stipulated in the Contract and/or the Required Contract Provisions have been fulfilled.

10. **Deposits and Escrows.** Every attempt is made to complete compliance actions and resolve any disputes before the project is completed and final payments are made. Sometimes, however, corrective actions or disputes continue after completion and provisions must be made to ensure that funds are available to pay any wage restitution that is ultimately found due. In these cases, the project can proceed to final closing provided the Prime Contractor, from payments already provided him/her, provides written evidence a deposit of an amount equal to the potential liability for wage restitution and liquidated damages, if applicable, has

been deposited in an *escrow account*. When a final decision is rendered, the Prime Contractor makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

- a. Where the parties have agreed to amounts of wage restitution that are due but the employer has not yet furnished evidence that all the underpaid workers have received their back wages. The deposit is equal to the amount of restitution due to workers lacking payment evidence. As proper documentation is received, an amount corresponding to the documentation is returned to the depositor. Amounts for any workers who cannot be located are held in the escrow account for three (3) years. Amounts remaining in the account not disbursed by the end of this three-year period shall be returned to the Prime Contractor.
- b. Where underpayments are suspected or alleged and an investigation has not yet been completed. The deposit is equal to the amount of wage restitution and liquidated damages, if applicable, that is estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the depositor. If the parties agree to the investigative findings, the amounts due to workers will be disbursed from the escrow account in accordance with the schedule of wages due. Amounts for unfound workers will be retained for a period of three (3) years and subsequently disbursed to the depositor as described above in Paragraph 7a.
- c. Where the parties are waiting for the outcome of an administrative hearing that has been or will be filed contesting a final determination of wages due. The deposit shall be equal to the amount of wage restitution and liquidated dates, if applicable, that have been determined to be due. Once the final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

Direct questions relating to any of the information above to the NHDOT Office of Federal Compliance (603-271-6752).

SUPPLEMENTAL SPECIFICATION

AMENDMENT TO SECTION 109 -- MEASUREMENT AND PAYMENT

AMENDMENT TO SUBSECTION 109.09 – PAYMENTS TO SUBCONTRACTORS

109.09 Prompt Payment to Subcontractors.

The Prime Contractor shall pay all Subcontractors for the work performed no later than 21 calendar days from the date the Prime Contractor received payment from the Department for said work, including materials in accordance with 109.07 and/or 109.08 paid for in the progress payments. Subcontractors are required to pay their Subcontractors and/or material suppliers, within 21 calendar days from the date they receive payment for satisfactory work performed or supplies received. This Prompt Pay requirement shall be made part of all subcontracts and agreements.

If the Prime Contractor believes that any portion of the payment should be withheld from the Subcontractor, the Prime Contractor shall notify the NHDOT Contract Administrator in writing, prior to the estimate being processed. The NHDOT Office of Federal Compliance shall be made part of this notification. The NHDOT may withhold payment for the portion of work in dispute pending resolution.

This prompt payment provision is a requirement of 49 CFR 26.29 and does not confer third-party beneficiary right or other direct right to a Subcontractor against the Department. This provision applies to both DBE and non-DBE Subcontractors.

Satisfactory Work Performed. Satisfactory work performed shall be defined for purposes of this prompt payment provision as:

1. Upon review, the Engineer finds the work completed in accordance with the contract, plans and specifications, and;
2. Required paperwork, for Progress and Partial payments, including material certifications and payrolls, has been received.

The determination of whether work meets the standards set forth above is the responsibility of the Engineer. If the Subcontractor becomes insolvent after it satisfactorily performs work as defined above but before payment is due, the obligation to pay is not extinguished. (Payment may have to be made to the bankruptcy trustee or to an escrow account for the benefit of creditors.)

The Prime Contractor must include, in all subcontract agreements, notices to Subcontractors of their right to prompt payment, and of the Department's policy prohibiting Prime Contractor's from holding retainage from Subcontractors under 49 CFR 26.29.

Failure of a Prime Contractor or a Subcontractor to comply with these prompt payment provisions may result in sanctions.

Non-Payment Claims. All notifications of failure to meet prompt payment provisions shall be referred by Subcontractors, in writing, to the NHDOT Office of Federal Compliance with a copy supplied to the respective Contract Administrator.

Payment Certifications. The Prime Contractor or any Subcontractor who receives payment for work and/or materials (specifically supplied to the project in excess of \$10,000) shall submit a "Monthly Prompt Pay Certification," OFC Form 18, to the NHDOT Office of Federal Compliance no later than the 10th calendar day of each month.

TE/CMAQ Program
Construction Proposal

It is proposed:

To execute the Contract and begin work within 10 days from the date specified in the "Notice to Proceed" and to prosecute said work so as to complete the _____ and its appurtenances on or before _____.

To furnish a Contract Bond in the amount of 100 per cent of the Contract award, as security for the construction and completion of the _____ and its appurtenances in accordance with the Plans, Specifications and Contract. The Contractor's attention is called to Section 103.05 of the NHDOT Standard Specifications for road and bridge construction which provides the following guidance: unless specifically waived in the Proposal, upon execution of the Contract, the successful Bidder shall furnish the Agency a surety bond or bonds equal to the sum of the Contract amount. The form of the bond(s) shall be acceptable to the Agency and the bonding Company issuing the bond(s) shall be licensed to transact business in the State of New Hampshire, and....

To certify that the Bidder, in accordance with the requirements of 103.06 and 108.01, intends to sublet, assign, sell, transfer or otherwise dispose of one or more portions of the work and (1) has contacted the appropriate listed disadvantaged businesses and afforded such disadvantaged businesses equal consideration with non-disadvantaged business for all work the Bidder currently proposes to sublet, assign, sell, transfer or otherwise dispose of, (2) may contact additional appropriate disadvantaged businesses and will afford such businesses equal consideration with non-disadvantaged businesses for all work the Bidder in the future proposes to sublet, assign, sell, transfer or otherwise dispose of, and (3) will complete enclosed "DISADVANTAGED BUSINESS ENTERPRISE COMMITMENT FORM" and Letters of Intent for each disadvantaged business. The name of the person in the Bidder's organization who has been designated as the liaison officer to administer the disadvantaged business enterprise program is:

(To be completed by the Bidder)

To guarantee all of the work performed under this Contract to be done in accordance with the Specifications and in good and workmanlike manner, and to renew or repair any work which may be rejected, due to defective materials or workmanship, prior to final completion and acceptance of the project.

Enclosed herewith find certified check or bid bond in the amount of _____ dollars (\$ _____), made payable to the Agency as a proposal guarantee which it is understood will be forfeited in the event the Contract is not executed, if awarded by the Agency to the undersigned.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters – Primary Covered Transactions.

(1). The prospective primary participant certifies to the best of its knowledge and belief, that it and all its principals: (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency; (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in Paragraph (1) (b) of this certification and (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default. (2). Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Contract Affidavit

I/We declare under penalty of perjury under the laws of the United States and the State of New Hampshire that, in accordance with the provisions of Title 23 USC, Section 112(c), have not either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this Proposal.

Dated: _____

(If a firm or individual)

Signature of Bidder _____

By _____

Address of Bidder _____

Names and Addresses of Members of the Firm:

(If a Corporation)

Signature of Bidder _____

Title _____

By _____

Business Address _____

Incorporated under the laws of the State of _____

Names of Officers:

President _____

Name _____

Address _____

Secretary _____

Name _____

Address _____

Treasurer _____

Name _____

Address _____

11/07/12

Page 1 of 2

S U P P L E M E N T A L S P E C I F I C A T I O N

SECTION 107 -- LEGAL RELATIONS AND RESPONSIBILITIES TO PUBLIC

SUBSECTION 107.01 – LAWS TO BE OBSERVED

The intent of this Supplemental Specification is to clarify Bulletin Board requirements.

Replace 107.01's third paragraph titled *Bulletin Board Requirements* with the following:

Bulletin Board Requirements: The Contractor shall erect and maintain a bulletin board on which to post the notices, rates, and related items that are required to be posted. The board shall be a **minimum of 4 foot by 8 foot in order to** allow sufficient space, without overlapping, for both State and Federal poster/information, as required. Additional work classifications and their rates, requested by the Contractor and subsequently approved by the USDOL, shall also be posted. Bulletin boards shall be an enclosure and the posted documents shall be protected from the elements by glass or Plexiglas. Boards shall be erected on the site of work, be placed in a conspicuous and accessible location where it can be easily seen by all workers. **If placing the bulletin board on the site of work is not feasible, either for safety reasons or due to the work taking place, the Contractor may recommend placing it in an adjacent location subject to NHDOT approval.** If the NHDOT deems the alternate location as unsuitable (the location is too distant or will not be utilized by all subcontractors, etc.), the NHDOT may instead require the use of employee bulletin board handouts in accordance with FHWA policy. Contractors have two options for posters: Option 1 - Using "all-in-one" Federal and State posters; or Option 2 - Arranging posters in a predetermined manner (see attached) as provided by the NHDOT. The bulletin board shall remain the property of the Contractor and shall be removed upon completion of the Work.

New Hampshire Department of Transportation Bulletin Board Diagram

(Revision 11-8-12)

NHDOT PROJECT: (NAME) (NUMBER)

Federal Posters		State Posters		Other Required Postings	
1 Equal Employment Opportunity (EEO) is The Law (OFCCP-1420) Rev. 11/09	2 NOTICE Federal Aid Project (FHW-1022) Rev. 11/11	3 Employee Rights Under the Davis Bacon Act (WH-1321) [Substitute for FHW-1495] Rev. 1/09	4 Employee Rights and Responsibilities Under the Family & Medical Leave Act (WH-1420) Rev. 1/09	5 Employee Polygraph Protection Act (WH-1462) Rev. 1/12	6 Your Rights Under Uniformed Services Employment & Reemployment Rights Act (USERRA) Rev. 10/08
8 Protective Legislation Law (Pay Day Notice) Rev. 10/12	9 The Whistleblowers' Protection Act (RSA 275-E Requirement) Rev. 8/12	10 The Workers' Right to Know (Toxic Substances) Rev. 10/12	11 Unemployment Notice (NH Employment Security Office) Rev. 1/12	14 24-Hour Emergency Contact Information	15 Contractor's EEO Officer Appointment Letter (must have all contact information)
12 Workers' Compensation (from Insurance Provider) Eff. 8/06/12	13 Criteria to Establish an Employee or Independent Contractor Eff. 8/06/12	16 Contractor's EEO & Harassment Policy Statement	17 NHDOT Federal Compliance Officer Contact Information (OFC Poster 1)	18 Davis-Bacon Wage Rates	19 Additionally Approved Wage Rates

12/05/12

SPECIAL ATTENTION**CONVICT PRODUCED MATERIAL**

In accordance with the requirements of the Federal regulations (23 U.S.C. 114(b)(2), 23 CFR 635.417), essentially all convict produced material is prohibited from Federal-aid highway construction projects. More specifically, materials produced after July 1, 1991, by convict labor, may only be incorporated in a Federal-aid construction projects if: 1) such materials have been produced by convicts who are on parole, supervised release, or probation from a prison; or 2) such material has been produced in a qualified prison facility, e.g., prison industry, with the amount produced during any 12-month period, for use in Federal-aid projects, not exceeding the amount produced, for such use, during the 12-month period ending July 1, 1987*.

* Because the Department, Federal Highway Administration, nor New Hampshire Correctional Industries can produce documents to meet condition 2 above, this condition cannot be met for New Hampshire convict produced material.

SSD: 09/01/10, 10/05/10, 12/01/10, 02/08/11, 03/07/11, 04/21/11, 09/06/11, 10/02/11, 01/15/12, 11/07/12, 12/05/12,

01/10/13, 04/05/13, 09/14/13, 10/16/13, 11/13/13, 02/04/14, 03/11/14, 04/14/14, 07/07/14, 09/09/14, 12/16/14, 01/06/15, 01/16/15

S P E C I A L A T T E N T I O N**THIS PROJECT IS TO BE BID AND CONSTRUCTED UNDER THE
2010 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION****NOTICE OF SUPPLEMENTAL SPECIFICATIONS**

The following table is a list of all of the Supplemental Specifications that have been adopted as additions or revisions to the *Standard Specifications for Road and Bridge Construction, August 2010* Edition as of the date of this Proposal. The Bidder is responsible to examine each item to determine its effect, if any, upon the Contract.

Note: Due to the limited scope of some projects, not all Supplemental Specifications will be included in all Proposals. All Supplemental Specifications are available on-line: www.nh.gov/dot/org/projectdevelopment/highwaydesign/specifications/.

Section	Description	Revision	Last Revision Date	Current Revision Date
<i>DIVISION 100</i>				
104.04	Scope of Work	Clarifies what materials may be re-used or mined		01/23/15
104.07	Railway-Highway Provisions	Changes Railroad Flagging from a Pay Item to a Force Account through DOT		01/14/15
107.01	Laws to be Observed	Bulletin Board Requirements	11/07/12	04/05/13
107.01 (7 th ¶)	Legal Relations and Responsibility to Public	Revises wording pertaining to discharge and spillage into water		01/23/15
108.06	Methods and Equipment	Highlights Contractor's responsibility to prevent runoff of polluting materials		01/23/15
108.09	Failure to Complete on Time	Liquidated Damages Chart	10/05/10	04/14/14
109.04	Differing Site Conditions, Changes and Extra Work	Regional Adjustment Factor	03/12/10	09/01/10
109.04.4.4	Equipment and Plant	Rental Equipment Mark-up		11/07/12
109.09	Payments to Subcontractors	Prompt Payment		09/06/11
109.11	Measurement and Payment	Final Pay Quantity		11/07/12
<i>DIVISION 200</i>				
214	Fine Grading	3.1 – Amends the tolerance for specific slopes prior to paving to 0.2%		01/10/13
<i>DIVISION 300</i>				
304	Aggregate Base Course	3.1.4 – Specifies what recycled materials can be used as an aggregate base course		01/23/15
306	Reclaimed Stabilized Base	3.2 – Specifies what is to be done when stone is included or ordered		01/23/15

DIVISION 400

401	Recycled Asphalt Shingles; TRB	Amends 1.2 & 2.10 – Disallows use of Recycled Asphalt Shingles in Asphalt Amends 2.4.3 – Amends use of Total Reclaimed Binder (TRB)	10/15/14
401	Recycled Oil in Asphalt	Amends 2.2.1 – Disallows use of used oil in Asphalt Adds 2.2.3.1 – Disallows use of used oil in Asphalt	09/08/14
401	Job Mix-General	2.5.1 - Revises ESAL/Minimum Binder Content Criteria and adds more sizes into Table 1 2.5.1.1 – Specifies that all 25mm base course mixes be designed using 50 gyration.	01/10/13 01/23/15
401	Asphalt Modifiers	2.11 - Adds QC/QA Specifications to High-Strength Mix Quantities over 2,000 Tons	01/10/13
401	MSCR Test	2.11.1 – Changes the requirements to AASHTO M 332.	01/23/15
401	Warm Mix Asphalt	2.11.2 – Allows the use of WMA 3.4.11, 3.6.3.1 & 3.10.7.2 – Amends minimum delivery temperature to 260° F	01/23/15
401	Joints	2.12.1 - Adds Pavement Joint Adhesive Properties 3.13.4 – Assures full head of Material for Permanent Transverse Joints 3.13.5 - Removes Requirement for Hot Air Lance, Adds Requirements for Melting Kettle, and Allows Echelon Paving In Lieu of Pavement Joint Adhesive	01/24/12
401	Placing	Adds 3.10.4 - Sets limit of maximum compaction at 5 inches. 3.10.7.2 – Adds reference to WMA Supplemental	03/27/17 01/23/15
401	Pavers	Removes 3.11.3 – Performance Requirements to 3.11.1.1 for both QC/QA and Method Work Renames 3.11.1.1 – MTV Requirements to 3.11.3 and Assures Ability to Re-mix and Movable Discharge Conveyors for MTVs 3.11.1.2 – Specifies use of MTVs for 600 tons of asphalt	12/14/11 01/23/15
401	Roller Trains	3.12.1 – Clarifies the equipment needed for a roller train	01/23/15
401	Compaction	3.12.2.4 (formerly 3.12.1.4) - Requires Informational Density Cores for Shoulder Overlays and Lessens Density Penalty for Overlays Not Previously Leveled	01/10/13

401	Acceptance Testing - Air Voids	3.17.3.2 - Revises AASHTO reference to ASTM reference, Requires Information Shoulder Cores, Eliminates Upper Limit of Core Thickness	01/10/13
401	Disputed Cores	3.17.3.2.2 – Amends number of cores required in a dispute to be three	01/23/15
401	Pavement Thickness	3.17.3.3 – Clarifies what should and should not be measured for thickness	01/23/15
401	Cross Slope Tolerance	3.17.3.5.2 – Amends cross slope tolerance to be 0.2%	01/23/15
401/403	Bridge Base Pavement	Delete 401.4.3 & 403.5.3 Amend Pay Item to Remove Final Pay from Bridge Base Pavement	03/27/14
410.2.1	Bituminous Surface Treatment	2.1 - Identifies Asphalt Emulsion Grades & Changes last line in table to °C, as well as changes the CRS-1 and CRS-1h temperature values 5.3 – Updated reference due to 401.3.10 revision	03/11/14 03/27/14
411	Surface Treatment	2.1.1 – Asphalt binder PG grade will be called for via Special Provision 2.1.2 – Removes Type G mix from use 3.4.4 – Amends minimum delivery temperature to 260° F (except for specified circumstances)	01/23/15
417	Cold Planing Bituminous Surfaces	3.1.1 & 3.1.3 – Specifies acceptable equipment for planing bituminous surfaces	01/23/15
<u>DIVISION 500</u>			
511	Preparation for Concrete Bridge Deck Repairs	Adds the Application of Anti-corrosion Coating to Uncoated Reinforcing Steel in Patch Areas 3.1.3.2.1(k) – Performance Requirements (QC/QA) – Requires Ceramic or Porcelain Dishes	01/10/13
520	Portland Cement Concrete	Replaces 2.8 - Identifies bearing strip material and bonding agent Adds 3.6.3.3 – Specs bearing strip Amends 2.3.3.2 – Updates corrosion inhibitors	03/27/14 01/14/15
520	Excess Cover and Grout	2.9 – Removes Concrete Bonding Agent 2.9.1 – removes bridge deck overlays 5.9.5.2 – addresses negative pay adjustment for excess cover over Rail Support Slabs	01/23/15
520	Portland Cement Concrete	Specifies the Surface Resistivity Test as a replacement for Rapid Chloride Penetration Test	01/23/15
528	Prestressed Concrete Members	Specifies the Surface Resistivity Test as a replacement for the Rapid Chloride Penetration Test	01/23/15

538	Barrier Membrane	3.1.1 & 3.3.1.4 – Adds Requirement of Digital Ambient Temperature, Dew Point, and Infrared Surface Temperature Instruments 3.3.5 – Specifies Laydown Temperature of Pavement Overlays	01/23/13
559	Asphaltic Plug Expansion Joints, Asphaltic Plug Crack Control	New Section	10/16/13
560	Prefabricated Compression Seal Expansion Joint	Replaces Section 560 – Prefabricated Compression Seal Expansion Joint	10/16/13
561	Prefabricated Expansion Joint	Replaces Section 561 – Prefabricated Expansion Joint	10/16/13
563	Bridge Railing	Removes Final Pay (F) Designation from Items	11/07/12
566	Elastomeric Joint Seal	Deletes Section 566	01/23/15
582	Slope Paving	Removes Bed of Sand Requirement	11/25/14
591	Structural Plate Pipes, Pipe-Arches, and Arches	3.1.2 – Expands LRFD Bridge Construction Specifications to include assembly and installation of structural plate structures.	01/23/15
593	Geotextile	Amends paragraphs 2.1 and replaces 2.3.2 to present NTPEP audit program and update test methods	03/27/14

DIVISION 600

603	Culverts and Storm Drains	Revises 1.1 and 5.1 - Stipulates sawed pavement required for this work shall be subsidiary Adds 3.1.10 – Conformance to 628.3.4 Amends 2.9.1 – PVC Manufacturers' Participation in NTPEP Revises structure of Materials section and adds new requirements for pipe manufacturers.	04/14/14	06/30/14
604	Catch Basins, Drop Holes, and Manholes	Revises 1.1 and 5.1 - Stipulates sawed pavement required for this work shall be subsidiary Adds 3.1.3 – Conformance to 628.3.4	04/14/14	
605	Underdrain	605.2.3 – PVC Manufacturers' Participation in NTPEP	12/05/12	06/30/14
606	Guardrail	Updates Retroreflective Sheeting to current AASHTO standards		01/23/15
606	Guardrail	Amends 3.3 to require Contractors to provide detail sheets and installation plans to the Engineer.		01/14/15
608	Detectable Warning Devices	Revises Description, Equipment, and Construction Requirements sections		06/30/14

614	Electrical Conduit	Revises 1.1 and 5.1 - Stipulates sawed pavement required for work shall be subsidiary Adds 3.1.3 – Conformance to 628.3.4	04/14/14
618	Training Requirements for Uniformed Officers and Flaggers	Deletes and Adds revised Description, Equipment, and Construction Requirements sections 2.1 – Specifies blue lights of officers' vehicles having 360° visibility	01/04/12 01/23/15
619	Trailer Mounted Speed Signs	2.1.3 & 2.1.3.1 – Updates Retroreflective Sheeting to current AASHTO standards 3.2.3.1 – Revises how the Contractor gets approval	01/23/15
621/622	621 - Delineators 622 - Markers and Bounds	621 – AASHTO Update & Required Documentation; specifies posts; updates colors 622 – Required Documentation	04/03/14 09/08/14
624	Railroad Protection	Removes Railroad Protection as a Pay Item and updates reference to 104.07	01/14/15
628	Sawed Pavement	Replaces 5.2 and Adds 4.2 - Stipulates sawed pavements requirements Adds 5.3 – When payment is under 628.3	04/14/14
632	Retroreflective Pavement Markings	Adds 2.2.1 – Levels of Arsenic and Lead in Glass Beads Deletes 632.3.2.8.1 & 632.3.2.8.2	03/07/11 11/07/12
644	Grass Seed – Slope Seed (WF) Type 45 Mix	Amends 2.3	10/02/11
645	Erosion Control	3.2.1.2 – Clarifies ambiguous CESSWI language 3.1.7 – Amends Requirement for Permanent Stabilization from 14 Days to 3 Days Amends 4.6.1, 4.6.1.1, and 5.6 regarding SWPPP and SWPPP monitoring measurement and payment	01/24/14 01/23/15
698*	Field Facilities (Field Office Equipment)	Updates Field Offices and Required Equipment by Replacing Section 698	01/15/12 01/06/15
DIVISION 700			
718	Retroreflective Sheeting	Updates for current ASTM Specifications and Removal of Certain Film Requirements	09/04/13 11/06/13

* Supplemental will not be included if there is no Field Office item in the Contract.

SPECIAL ATTENTION**INVASIVE SPECIES**

The statutory authority of NH Department of Agriculture RSA 430:55 and NH Department of Environmental Services RSA 487:16-a prohibits the spread of invasive plants listed on the NH Prohibited Species list. Construction activities should avoid impacting areas containing invasive plant species in order to avoid spreading these plants to new sites. If invasive plants cannot be avoided, then the following suggested best management practices (BMPs) should be incorporated into all projects. These BMPs have been summarized from the NHDOT manual *“Best Management Practices for Roadside Invasive Plants.”*

Earthwork:

- Minimize soil disturbance whenever possible outside the limits of excavation.
- Stabilize disturbed soils by seeding and/or using mulch, hay, rip-rap, or gravel that is free of invasive plant material.
- Materials such as fill, loam, mulch, hay, rip-rap, and gravel should not be brought into project areas from sites where invasive plants are known to occur.

Movement of equipment:

- Equipment movement should be from areas not infested by invasive plants to areas infested by invasive plants whenever possible.
- Staging areas should be free of invasive plants to avoid spreading seeds and other viable plant parts.

Removing vegetation:

- In areas where invasive plants will be impacted by construction activities, vegetation should be cut or removed prior to seed maturation (approximately August 1st).
- These invasive plants have the ability to sprout from stem and root fragments: purple loosestrife, phragmites, and Japanese knotweed. Mowing these plants should be avoided. When these plants are cut by other means, all plant material must be destroyed and extra care should be taken to avoid spreading plant fragments.
- Equipment used to cut or remove invasive plants should be cleaned at least daily, as well as prior to transport.

The NHDOT manual *“Best Management Practices for Roadside Invasive Plants”* and supporting fact sheet documents are available on line at www.nh.gov/dot/org/projectdevelopment/environment/documents.htm or through the NHDOT Records Section (603-271- 1601).

Items will be included in the contract under Sections 201 or 697 for projects that will require these control methods.

SALEM-WINDHAM
BICYCLE PEDSTRIAN
TRAIL

Salem & Windham, NH

04/29/15

SPECIAL PROVISION**SECTION 585 – STONE FILL****Item 584.3 – Gabion Retaining Wall**

This special provision provides for Item 584.3, Gabion Retaining Wall, and amends Section 585, Stone Fill of the Standard Specifications.

Description:**Add 1.2**

1.2: This work shall consist of the placement of Gabion Retaining Walls at the areas designated in the plans. Gabions shall consist of wire mesh, cubical-celled or mattress-style baskets that are filled on the project site with hard, durable rock. Standard gabion sizes and the overall plan and profile dimensions of the gabion structures shall be as shown on the plans. Each standard gabion size shall be divided into three foot (3') long cells by diaphragm panels. Empty gabion baskets shall be assembled individually and joined successively. Individual gabion mesh panels (base, front, ends, back, diaphragms, and lid) and successive gabions shall be assembled so that the strength and flexibility along the joints is comparable to a single panel.

Materials**Add 2.4:**

2.4: All materials for the gabions and gabion assembly shall conform to the provisions in these special provisions. Each shipment of gabion baskets to the project site shall be accompanied by a Certificate of Compliance. Contractor shall provide the Engineer with manufacturer's catalog cuts and specifications for approval prior to delivery.

At the Contractor's option, either twisted mesh or welded mesh shall be used. For each standard gabion size, the same mesh style shall be used for the base, front, ends, back, diaphragms, and lid panels. Individual wires of either the twisted-mesh style or the welded-mesh style shall conform to the definitions and requirements in ASTM Designation: A641/A641 M. Cubical-celled gabion baskets that are three feet high by three feet wide shall be fabricated from 11-gage twisted mesh or welded mesh gages between 11-gage and 9-gage inclusive.

Twisted-mesh wires shall form a uniform hexagonal pattern and shall be formed with a nonraveling twist. Twisted-mesh gabion panels shall be manufactured from 11-gage wires with 9-gage selvage wires.

SALEM-WINDHAM
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Salem & Windham, NH

04/29/15

Standard tie wire and standard spiral binder shall conform to the definitions and requirements in ASTM Designation: A641/A641 M and shall conform to the following provisions:

Minimum Tensile Strength	ASTM A370	410 MPa {60 ksi}
Tie Wire		
Wire Size (Minimum)	USA Steel Wire Gage ASTM A641/A641 M	13.5 2.19 mm
Wire Diameter (Minimum)	ASTM A641/A641 M	{0.086 in.}
Zinc Coating	ASTM A641/A641 M, Class 3 and ASTM A90 / A90M	2.09 mm {0.082 in.} 220 g/m ² {0.70 oz/ft ² }
Spirals		
Wire Size (Maximum)	USA Steel Wire Gage ASTM A641/A641 M	9 3.76 mm
Wire Diameter (Minimum)	ASTM A641/A641 M	{0.148 in.}
Zinc Coating	ASTM A641/A641 M, Class 3 and ASTM A90 / A90M	3.66 mm {0.144 in.} 270 g/m ² {0.85 oz/ft ² }

Spiral binders shall have a 3-inch to 3 1/2-inch separation between continuous, successive loops. Alternative fasteners shall have the configurations, wire diameters, and other dimensions shown on the plans. Alternative fasteners shall conform to the definitions and requirements in ASTM Designation: A764 for "Metallic Coated Carbon Steel Wire, Coated at Size and Drawn to Size for Mechanical Springs." Interlocking fasteners shall conform to Tensile Requirement Class I, Finish 2 and shall have a Class 3 zinc coating, Overlapping fasteners shall conform to Tensile Requirement Class II, Finish 1 and shall have a Class 3 zinc coating.

Internal Connecting Wire

Internal connecting wires shall be 13.5-gage minimum. Each wire shall conform to the minimum requirements for standard tie wire in these special provisions and shall be installed in conformance with the provisions in these special provisions and according to manufacturer's recommendations. Alternatively, at the Contractor's option, preformed stiffeners may be substituted for internal connecting wires. Preformed stiffener wire shall meet the requirements specified for standard tie wire and shall be installed in conformance with these special provisions and the manufacturer's recommendations.

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Fabric for Separation

Geotextile fabric for use with gabions shall conform to the provisions in Section 593 – Geotextile and shall be paid under Item 593.421 Geotextile; Permanent Erosion Control, CL 2, Nonwoven.

Rock

Rock for filling gabions shall be angular and shall vary in size from 4 to 8 inches.

Rock shall conform to the material provisions for rock slope protection in Section 585 Stone Fill.

Add 3.5:

3.5: Gabion Retaining Wall shall be installed according to contract plans, approved manufacturer's recommendations and as directed by the Engineer.

Add 4.1.1

4.1.1: Gabion Retaining Wall will be paid for by the cubic yard complete in place including gabion cages and stone fill.

Add 5.1.1

5.1.1: Gabion Retaining Wall will be paid for under the contract unit price per cubic yard.

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BICYCLE / PEDESTRIAN TRAIL

April 29, 2016

SPECIAL PROVISION**SECTION 604 –CATCH BASINS, DROP INLETS, AND MANHOLES****Item 604.292– Drop Inlet – Special, Type B**

This Special Provision provides for Item 604.292 and amends the provisions of Section 604 – Catch Basins, Drop Inlets, and Manholes.

Description**Add to 1.11:**

1.11 This work shall consist of furnishing and constructing special drop inlet basins as shown on the plans.

Materials**Add to 2.11:**

The materials shall be as detailed in the plans. Grates and frame shall be standard Type B. The Contractor shall provide precast units that meet the general plan dimensions. Contractor shall provide shop drawings to the Engineer for approval prior to ordering materials.

Method of Measurement**Add 604.4.11:**

604.4.11 Drop Inlet-Special, Type B will be measured by the number of units installed, complete in place including setting bed material, frames and grates.

Basis of Payment

Add 604.5.1.0:

604.5.1.0 The accepted quantities of Drop Inlet-Special, Type B will be paid for at the contract unit price per unit.

Pay Item and Unit

604.292 Drop Inlet-Special, Type B Unit

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TRAIL

Salem & Windham, NH

04/29/15

SPECIAL PROVISION**SECTION 607 - FENCES****Item 607.5342 – Wood Rail Fence, 42 In.****Item 607.653605 – Single Gate, Wood Rail Fence, 3Ft. – 6 In. High, 5 Ft. Wide****Item 607.538 – Shadow Box Fence, 8 Ft.****Add 2.7:****2.7:** All materials utilized shall be as shown in the contract plans.**Add 2.8:****2.8:** All wood utilized shall be pressure treated or approved equal. All hardware and fasteners shall be galvanized.**Add 3.8:****3.8:** Wood Rail Fence, Wood Rail Gate and Shadow Box Fence shall be constructed at the locations shown on the plans and as directed by the Engineer.**Add to items:**

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>UNITS</u>
607.5342	Wood Rail Fence, 42 In.	Linear Feet
607.653605	Single Gate, Wood Rail Fence, 3Ft.–6 In. High, 5 Ft. Wide	Unit
607.538	Shadow Box Fence, 8 FT	Linear Feet

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SALEM & WINDHAM, NH

4/29/15

S P E C I A L P R O V I S I O N

AMENDMENT TO SECTION 607 – FENCES

Item 607.68361 – SECURITY GATE

This special provision provides for security gates and amends or modifies this standard section as noted below.

Description

1.1 This work shall consist of furnishing, fabricating, painting, transporting, and erecting lockable steel security gates as shown on the plans and as directed. The steel security gates shall include steel bollards, one to lock to and a second as a companion to prevent motor vehicles from entering the trail.

Materials

2.1 Steel pipe shall be standard weight conforming to ASTM A 53 or ASTM A 501, with dimensions as tabulated:

NPS Size	Pipe Schedule
5" and 6" as shown on the plans	40

2.2 The Contractor may submit for review and approval a prefabricated locking steel swing gate and bollard as an alternative to fabricating provided that it meets the minimum dimensions and specifications shown on the plans and described herein.

2.3 Paint

2.3.1 Subject to compliance with requirements, provide alkyd paint products of one of the following manufacturer or approved equal. Color shall be gloss yellow.

- a) Benjamin Moore and Company (Moore)
- b) Pratt and Lambert (P & L)
- c) The Sherwin Williams Company (S-W)

2.3.2 Primer coat shall be one of the following:

- a) Moore: Industrial Alkyd Metal Primer M0670
- b) P & L: Tech Guard Rust Inhibitor Primer S4551
- c) S-W: Kemm Kromik University Metal Primer B50Z

2.4 Concrete shall conform to 520, Class B

2.5 A padlock intended for exterior use shall be included with each gate, including keys. The padlocks shall all be keyed to meet the requirements of the Town of Salem Fire Department. Contact Deputy Chief Jeffrey S. Emanuelson. CFPE Phone: 603-890-2035 E-mail: jemanuelson@ci.salem.nh.us

Construction Requirements

3.1 General

3.1.1 Welding and fabrication shall conform to the latest edition of ANSI/AWS D1.1, "Structural Welding Code"

3.2 Shop Drawings

3.2.1 The fabricator shall furnish working shop drawings of all the details of the steel bollards. The shop drawings shall show details, dimensions, size and grade of materials, match marking diagrams for field connections, procedures, and other information necessary for the complete fabrication and erection of work.

3.2.2 The shop drawings shall be furnished sufficiently in advance of fabrication to allow for review, resubmission, and approval.

3.2.3 The fabricator shall submit three sets of shop drawings to the Engineer for approval. After receiving approval, the fabricator shall supply the Engineer with seven distribution sets of revised working drawings.

3.2.4 Fabrication shall not begin until written approval of the submitted shop drawings has been received from the Engineer.

3.2.5 Detailed welding procedures shall be considered an integral part of shop drawings and shall be submitted for approval along with the shop drawings. The shop drawings shall indicate the welding procedure to be used for each weld shown.

3.2.6 The fabricator shall expressly understand that the Engineer's review of shop drawings submitted by the fabricator covers requirements for strength and arrangement of component parts, and the Engineer assumes no responsibility for errors in dimensions.

Method of Measurement

4.3.1 Security Gates will be measured as a Unit complete in place including excavation and backfilling, gravel base, concrete footings, companion bollards, locks, keys and reflective tape.

Basis of Payment

5.1.2 The accepted quantity of Security Gates will be paid at the Contract unit price per Unit.

<u>Pay Item</u>	<u>Description</u>	<u>Units</u>
Item 607.68361	SECURITY GATE	Unit

**SALEM-WINDHAM
BICYCLE / PEDESTRIAN TRAIL
16031**

APRIL 29, 2015

SPECIAL PROVISION

SECTION 608 -- SIDEWALK

Item 608.54 — Detectable Warning Devices, Cast Iron

This Special Provision provides for Item 608.54 and neither modifies nor amends any provisions of this section unless specifically noted.

Description

1.1 This work shall consist of furnishing and installing a detectable warning surface and accessories on sidewalk ramps at locations shown on the plans, as specified herein, or as ordered including any and all required surface preparation. Detectable warnings shall be installed at sidewalk ramps where a sidewalk crosses a vehicular way, excluding unsignalized driveway crossings. Detectable warnings shall measure 24 in (600 mm) in the direction of travel and extend the full width of the sidewalk ramp and the edge nearest the curbline shall be located 6 to 8 in (150 to 200 mm) from the face of curbline.

Materials

2.1 Detectable Warning Devices:

2.1.1 Material. Detectable warning devices shall be gray cast iron conforming to AASHTO M105 and AASHTO M306 as manufactured by East Jordan Iron Works, Inc., 301 Spring Street, East Jordan, Michigan 49727, www.ejiw.com (Phone: (800) 626-4653), or Neenah Foundry Company, 2121 Brooks Avenue, Neenah, Wisconsin. 54956 www.NFCO.com (Phone: (800) 558-5075) distributed in New Hampshire by Waste, Incorporated, Route 106, Concord, New Hampshire 03301 www.wasteinc.com (Phone: (603) 224-6596), or approved equal.

2.1.2 Color. Cast iron panels shall have no surface coating, and shall be allowed to transition to their natural patina.

2.1.3 Detectable Warning Panel Truncated Dome Geometry:

2.1.3.1 Detectable warning devices shall be in full compliance with ADAAG guidelines (Title 49 DFR Transportation, Part 37.9 Standard for Accessible Transportation Facilities, Appendix A, Section 4.29.2- Detectable Warning on Walking Surfaces).

2.1.3.2 Size and spacing for truncated domes shall be as follows: base diameter of nominal 0.9 in (23 mm), top diameter of nominal 0.4 in (10 mm), height of nominal 0.2 in (5 mm), with a center to center spacing of nominal 2.35 in (60 mm)

2.1.3.3 The truncated domes shall be arranged in a grid pattern and shall align properly from panel to panel.

Construction Requirements

3.1 The Contractor shall submit manufacturer's descriptive literature for materials specified in accordance with 105.02.

3.2 Transport, storage, and handling of products shall be in accordance with manufacturer's instructions.

3.3 Install detectable warning devices and any anchoring hardware in accordance with manufacturer's instructions. Panels shall be set into a bed of 4 in minimum wet unreinforced concrete.

3.4 Use a combination of available panel widths as manufactured to cover the full sidewalk ramp width to the extent practicable. Field cutting of panels is not permitted.

3.5 Care shall be taken to ensure the safety of pedestrians when sidewalks must remain in service during construction.

Method of Measurement

4.1 Detectable Warning Devices will be measured by the square yard to the nearest 0.1 of a square yard.

Basis of Payment

5.1 Detectable Warning Devices will be paid for at the contract unit price per square yard complete in place including accessories, anchoring hardware and any required surface preparation.

Pay Item and Unit

608.54 Detectable Warning Devices, Cast Iron Square Yard

**SALEM-WINDHAM
16031**

May 7, 2015

S P E C I A L P R O V I S I O N

AMENDMENT TO SECTION 616 - TRAFFIC SIGNALS

Item 616.191 – Alterations to Traffic Signals

This special provision provides for the reconstruction of the existing traffic control signal at the intersection of NH Route 28 (North Broadway) and Old Rockingham Road in the Town of Salem, NH. The signal will be coordinated with the traffic control signal at the following intersection:

- NH Route 28 and NH Route 97 (Main Street)

GENERAL:

All provisions of Section 616, except as modified or changed below, shall apply.

1. The Contractor shall be responsible for the traffic signal operation and maintenance once alterations to the existing signals, excavation or other work within 75 feet of the stop bar at any leg of the intersection has begun. The Contractor shall notify the NHDOT Bureau of Traffic and furnish the Contract Administrator and the Transportation Management Center (TMC, 603-271-6862) with names and phone numbers of persons to be contacted in case of a malfunction. The Contact person(s) must be available 24 hours a day, seven days a week. The Contractor shall also keep a signal log in the cabinet to track all maintenance work the Contractor completes on the signal system. This log shall be placed within a plastic cover and shall at least include the description of the trouble call, corrective action taken, date, time, and personnel who completed the work.
2. There shall be no change to the current payer of record for the power costs.

Add to 2.1:

2.1.3 List of Major Materials:

- 1 – Modify traffic signal controller programming to add exclusive pedestrian phase, including modified phase timings.
- 3 – Pedestal mounted 16 inch by 18 inch, LED countdown pedestrian signal heads with solid hand symbol, solid man symbol, and countdown timer.
- 3 – Bracket mounted 16 inch by 18 inch, LED countdown pedestrian signal heads with solid hand symbol, solid man symbol, and countdown timer.
- 5 – Accessible Pedestrian Signal (APS) push-button with ADA compliant audible and tactile features complete with R10-3e countdown pedestrian sign.
- 1 – Aluminum pedestal pole. The pedestal pole shall be 8 feet. Pedestal pole shall be manufactured by Valmont Industries, Inc., or Union Metal Corp., or approved equivalent.
- 10 – 5-inch retroreflective fluorescent-yellow 2-inch outside perimeter strip of Type IX or XI sheeting 3-section backplates retrofit onto existing signal heads.
- 2 – 5-inch retroreflective fluorescent-yellow 2-inch outside perimeter strip of Type IX or XI sheeting 4-section backplate retrofit onto existing signal head.
- 2 – Aluminum signs Type C, R9-5 “[bike symbol] USE PED SIGNAL” 12-inch by 18-inch, mounted on galvanized steel U-channel supports.

Add to 5

5.1.1 All work for failures due to pre-existing conditions will be negotiated and paid for as extra work as provided in 109.04. The labor and equipment necessary to complete this application will be subsidiary.

5.4 When no item for pull boxes or conduit appears in the Contract, any pull boxes and conduit required will be subsidiary.

**SALEM-WINDHAM
16301**

May 7, 2015

S P E C I A L P R O V I S I O N

AMENDMENT TO SECTION 616 - TRAFFIC SIGNALS

Item 616.192 – Alterations to Traffic Signals

This special provision provides for the reconstruction of the existing traffic control signal at the intersection of NH Route 28 (Rockingham Road/North Broadway) and Range Road/ Lake Street/ Shadow Lake Road in the Town of Salem, NH.

GENERAL:

All provisions of Section 616, except as modified or changed below, shall apply.

1. The Contractor shall be responsible for the traffic signal operation and maintenance once alterations to the existing signals, excavation or other work within 75 feet of the stop bar at any leg of the intersection has begun. The Contractor shall notify the NHDOT Bureau of Traffic and furnish the Contract Administrator and the Transportation Management Center (TMC, 603-271-6862) with names and phone numbers of persons to be contacted in case of a malfunction. The Contact person(s) must be available 24 hours a day, seven days a week. The Contractor shall also keep a signal log in the cabinet to track all maintenance work the Contractor completes on the signal system. This log shall be placed within a plastic cover and shall at least include the description of the trouble call, corrective action taken, date, time, and personnel who completed the work.
2. There shall be no change to the current payer of record for the power costs.

Add to 1.1:

The work also shall include geotechnical engineering services before, during and after installation of the mast arm foundation system.

Add to 2.1:

2.1.3 List of Major Materials:

- 1 – Modify traffic signal controller programming to add concurrent pedestrian phase, including modified phase timings.
- 6 - One-way, three-section, 12-inch aluminum signal heads with LED modules, DIOLUX™ brand or approved equivalent, mounted on mast arms with Pelco Astro-Bracs, with 5-inch retroreflective fluorescent-yellow 2-inch outside perimeter strip of Type IX or XI sheeting louvered backplates.
- 2 – One-way, three-section, 12-inch pole top mounted aluminum signal heads with LED modules, DIOLUX™ brand or approved equivalent, with 5-inch retroreflective fluorescent-yellow 2-inch outside perimeter strip of Type IX or XI sheeting louvered backplates.
- 1 - One-way, four-section, 12-inch pole top mounted aluminum signal heads with LED modules, DIOLUX™ brand or approved equivalent, with 5-inch retroreflective fluorescent-yellow 2-inch outside perimeter strip of Type IX or XI sheeting louvered backplates.
- 9 – 5-inch retroreflective 3-section backplates retrofit onto existing signal heads
- 1 - Galvanized steel mast arm pole with 50-foot signal arm. Mast arm pole shall be manufactured by Valmont Industries, Inc., or Union Metal Corp., or approved equivalent.
- 2 – Pedestal mounted 16 inch by 18 inch, LED countdown pedestrian signal heads with solid hand symbol, solid man symbol, and countdown timer.
- 2 – Accessible Pedestrian Signal (APS) push-button with ADA compliant audible and tactile features complete with R10-3e countdown pedestrian sign.
- 1 – Aluminum pedestal pole. The pedestal pole shall be 8 feet. Pedestal pole shall be manufactured by Valmont Industries, Inc., or Union Metal Corp., or approved equivalent.
- 2 – Aluminum pedestal pole. The pedestal pole shall be 10 feet. Pedestal pole shall be manufactured by Valmont Industries, Inc., or Union Metal Corp., or approved equivalent.
- 9 – Quadrupole roadway loop detectors, 6-foot by 50-foot, with 2-4-2 turns.
- 2 – Remove and relocate existing emergency preemption equipment to new mast arm, complete with new preemption cabling.
- 1 – Street name sign designated as D3-1d, 12 inch by 30 inch, Type BB aluminum sign “Lake St” mast arm pole upright mounted on cantilever bracket. Text shall be in upper/lower case legend in 6C. Sign shall be dual-faced.

- 1 – Street name sign designated as D3-1g, 16 inch by 54 inch, Type BB aluminum sign “[left arrow] Lake St” mast arm pole upright mounted. Text shall be in upper/lower case legend in 8B.
- 1 – Street name sign designated as D3-1h, 30 inch by 90 inch, Type BB aluminum sign “[left arrow] Shadow Lake Rd / Range Rd [right arrow]” mast arm mounted. Text shall be in upper/lower case letter in 8B. The center of the street sign shall be mounted on the mast arm half the sign width distance plus two (2) feet from the signal pole upright.
- 2 – Aluminum signs Type C, R9-5 “[bike symbol] USE PED SIGNAL” 12-inch by 18-inch, mounted on galvanized steel U-channel supports.

Add to 2:

2.10 The submittal for the mast arm pole foundation shall include the following for approval in accordance with Section 105.02:

2.10.1 Design calculations for the foundation, signed and stamped by a Professional Engineer licensed in the State of New Hampshire. The mast arm foundation shall be designed in accordance with the current *AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals* and the NHDOT Standard Specifications.

2.10.2 Manufacturer’s specifications and applicable catalog cuts for all materials and components.

2.10.3 Complete sets of shop drawings for the foundation, signed and stamped by a Professional Engineer licensed in the State of New Hampshire.

2.10.4 Elevations and dimensions.

2.10.5 If not provided with the Contract Documents, the Contractor shall submit cross-section(s) and plan views(s) showing the pole(s) location, the foundation(s) and the proposed slopes plotted on cross-sections showing no interference with utilities, drainage pipes or structures and showing cofferdams with sheeting left-in-place if needed for construction of foundation.

2.10.6 Geotechnical services as described in Section 3.4 of this special provision.

2.11 When more than one Engineer is responsible for the design of separate components (i.e. mast arm and pole, foundation, geotechnical information, attachment information), the Contractor shall make one submittal containing all of the components unless otherwise allowed by the Town of Salem.

2.12 Mast Arm Pole Foundation: The mast arm pole foundation shall be designed by a NH licensed Professional Engineer in accordance with the current AASHTO *Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals* and the NHDOT Standard Specifications. Foundations shall be cast in place. No precast foundations shall be permitted.

2.12.1 Concrete foundations shall be constructed against undisturbed material.

2.12.2 The foundation shall be placed in a dewatered drilled hole or in an excavated hole using the proper forms.

2.12.3 Anchor rods shall conform to the requirements of ASTM F1554 Grade 55 (minimum). Do not use ASTM A615 reinforcing steel. Galvanize the entire rod per ASTM A153. Each anchor rod shall be supplied with a minimum of two hex nuts (ASTM A563 or ASTM A194) and a minimum of two flat hardened washers (ASTM F436). Lock washers shall not be used.

2.12.4 Structural fill shall conform to Section 508.

2.12.5 All reinforcing steel shall conform to AASHTO M31/ 31M, Grade 60 (420), and Section 544, unless noted otherwise.

2.12.6 If the drilled hole method is performed and the soils are found to be unsuitable, an excavated hole shall be completed as approved by the Engineer.

2.12.7 Grout shall not be used between the opening of the structure base plate and the top of the foundation. The grout on existing foundations have cracked, allowing water and salt to stay in the cracks and not dry out which has led to corrosion of the anchor rods.

2.12.8 A stainless steel standard grade wire cloth (1/4" (6.4mm) maximum opening with minimum wire diameter of AWG No. 16) shall be installed around the space between the structure base plate and concrete foundation with a 2-inch (51 mm) lap and 3/4" stainless steel banding, secured in a manner that will permit its removal for maintenance. The screen is to eliminate debris beneath the base plate, keep animals out and to protect electrical wires if no other base protection is provided.

2.12.9 The top of the foundation should be placed 3 inches (76 mm) higher than adjacent highest soil but not more than 6 inches higher than adjacent highest soil, unless otherwise specified in the Contract Documents.

2.12.10 The connection of the pole to the foundation shall be a double-nut joint moment connection.

2.12.11 The distance from the top of the concrete footing to the bottom of the pole base plate shall be the nut height plus 1-inch (preferred) or nut height plus the anchor rod diameter (maximum). (Note the nut height equals the rod diameter.)

Add to 3.4:

3.4.6 Geotechnical Engineering Services

3.4.6.1 The Contractor shall employ the services of a professional geotechnical engineering firm to provide geotechnical design and construction services for the mast arm support pole foundations. The Contractor's geotechnical engineer shall be responsible for identifying and performing all geotechnical investigations, engineering analyses and constructability assessments required to design and construct the mast arm support pole foundations. Design and analysis methods, construction control, quality assurance and documentation shall be prepared in accordance with the current *AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals*, the accepted standards of practice in the industry and in conformance with the NHDOT Standard Specifications, project special provisions, FHWA design manuals for the selected foundation systems, and other standards as applicable. The results of any subsurface investigations, geotechnical evaluation and engineering shall be summarized in a geotechnical engineering report. The Contractor's selection of a geotechnical engineering firm shall be a firm on the NHDOT's approved list of geotechnical engineering companies.

3.4.6.2 The Contractor shall conduct geotechnical explorations and testing as needed to design and construct the selected foundation system. Only the geotechnical explorations and testing shall conform to *AASHTO LRFD Bridge Design Specifications*. The number and location of geotechnical explorations shall follow the guidance provided in Table 10.4.2-1 of the AASHTO manual for the foundation type and size. In general, one test boring per foundation location shall be completed. The test boring report shall meet the standards of Section 10.4.2 in AASHTO. The evaluation of the subsurface conditions shall be the full responsibility of the Contractor, and shall be sufficiently thorough to ensure that all geotechnical related aspects of the project are covered. The Contractor shall access subsurface exploration or field-testing locations through State-owned or Town-owned Right-of-Way unless the Contractor makes their own arrangements with private landowners for access through private property. Subsurface explorations and field testing shall be conducted with proper traffic control devices in place, as needed, according to the Manual of Uniform Traffic Control Devices (MUTCD) and Department standards, and the work shall be conducted in compliance with Dig Safe and environmental regulations.

3.4.6.3 The Contractor shall select a suitable foundation system for each pole foundation location based on an evaluation of the subsurface conditions and design in accordance with *AASHTO Standard Specifications for Structural Supports for Highway Signs, Luminaries and Traffic Signals*. Possible foundation configurations include spread

footings, spread footings with ground improvements, driven pile foundations with various pile types, drilled shafts, and drilled micropiles.

3.4.6.4 The Contractor shall provide to the Department geotechnical calculations, computer analysis results (e.g. software input and output), laboratory and field test results, and subsurface information in accordance with the standard of practice that demonstrates the design basis of the structure. Brom's design procedure will not be accepted for the final design.

3.4.6.5 The Contractor shall select the foundation construction method and provide construction control and documentation in accordance with the standard of practice. Where applicable, the NHDOT Standard Specifications shall be used for material, construction and testing requirements of the foundation and the NHDOT Standard Plans for a Type 1 or Type 2 foundation shall guide the size and shape of the selected foundation.

3.4.6.5.1 For foundation systems not covered by the NHDOT Standard Specifications and Standard Plans, the Contractor (or their professional geotechnical engineering firm) shall develop specifications for materials, construction and testing that shall be modeled on similar NHDOT special provisions and/or AASHTO specifications for the selected foundation system. The specifications shall be provided to the Town of Salem as working drawings for review and approval before their use. Construction control and performance testing shall also be supported by geotechnical instrumentation if needed. All field personnel responsible for construction control shall have experience with the foundation system that is selected, and shall report directly to the professional geotechnical engineering firm.

3.4.6.6 All geotechnical services shall be completed prior to the construction of any foundations.

Add to 4.2:

4.2 Support pole and foundation designs and geotechnical services will not be measured for payment but shall be subsidiary to the traffic signal unit item.

Add to 5.1:

5.1.1 Foundation design and geotechnical engineering services shall be subsidiary.

5.1.2 All work for failures due to pre-existing conditions will be negotiated and paid for as extra work as provided in 109.04. The labor and equipment necessary to complete this application will be subsidiary.

5.4 When no item for pull boxes or conduit appears in the Contract, any pull boxes and conduit required will be subsidiary to 616.



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

April 23, 2015

Town of Salem
c/o Leon I. Goodwin III
Asst. Town Manager / Director of Community Affairs
33 Geremonty Drive
Salem, NH 03079

RE: NH Dept. of Transportation - File # 2015-00225
Salem Tax Map 45,54,63,64,72 / Lot Nos. 11091, 12069

Dear Mr. Goodwin:

Attached please find Wetlands Permit # 2015-00225 to: Dredge and fill a total of 9,534 sq. ft. of palustrine scrub-shrub & emergent wetlands in ten (10) locations for work associated with the construction of a 1.6 mile multi-use trail along the state-owned former Manchester-Lawrence railroad corridor ROW adjacent to NH Rt 28 from the existing Windham Rail Trail located just north of NH Rt 111 in Windham to the intersection of Old Rockingham Rd. and NH Rt 28, in Salem. The trail will consist of a 10 ft. wide multi-use paved path with 2 ft. wide granular shoulders.

The decision to approve this application was based on the following findings:

1. This is a minor impact project per Administrative Rule Env-Wt 303.03(h), projects involving less than 20,000 square feet of alteration of nontidal wetlands.
2. The need for the proposed impacts has been demonstrated by the applicant per Env-Wt 302.01.
3. The applicant has provided evidence which demonstrates that this proposal is the alternative with the least adverse impact to areas and environments under the department's jurisdiction per Env-Wt 302.03.
4. The applicant has demonstrated by plan and example that each factor listed in Env-Wt 302.04(a) Requirements for Application Evaluation, has been considered in the design of the project.
5. DES Staff conducted a field inspection of the proposed project on April 17, 2015. Field inspection determined that most wetland impacts are to previously disturbed or man-made wetland areas & culvert outlets along the old rail bed.
6. NH Natural Heritage Bureau memo dated May 29, 2014 indicated no recorded occurrences for sensitive species near the project area.
7. US Fish & Wildlife Service review indicated that there were no listed species or critical habitats within the project area.

Any person aggrieved by this decision may appeal to the N.H. Wetlands Council ("Council") by filing an appeal that meets the requirements specified in RSA 482-A:10, RSA 21-O:14, and the rules adopted by the Council, Env-WtC 100-200. The appeal must be filed directly with the Council within 30 days of the date of this decision and must set forth fully every ground upon which it is claimed that the decision complained of is unlawful or unreasonable. Only those grounds set forth in the notice of appeal can be considered by the Council.

Your permit must be signed, and a copy must be posted in a prominent location on site during construction. If you have any questions, please contact our office at (603) 271-2147.

Sincerely,

Frank D. Richardson, Ph.D.
Senior Wetlands Inspector
Southeast Region Supervisor
DES Wetlands Bureau

cc: Salem Conservation Commission



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

WETLANDS AND NON-SITE SPECIFIC PERMIT 2015-00225

Permittee: **Town of Salem**
c/o Leon I. Goodwin III
Asst. Town Manager / Director of Community Affairs
33 Geremonty Drive
Salem, NH 03079

Project Location: **Old Rockingham Road to NH Route 111, Salem**
Salem Tax Map 45,54,63,64,72 / Lot Nos. 11091,12069

Waterbody: **Unnamed Wetlands**

**NOTE --
CONDITIONS**

APPROVAL DATE: 04/23/2015 EXPIRATION DATE: 04/23/2020 Page 1 of 2

Based upon review of the above referenced application, in accordance with RSA 482-A and RSA 485-A:17, a Wetlands Permit and Non-Site Specific Permit was issued. This permit shall not be considered valid unless signed as specified below.

PERMIT DESCRIPTION: Dredge and fill a total of 9,534 sq. ft. of palustrine scrub-shrub & emergent wetlands in ten (10) locations for work associated with the construction of a 1.6 mile multi-use trail along the state-owned former Manchester-Lawrence railroad corridor ROW adjacent to NH Rt 28 from the existing Windham Rail Trail located just north of NH Rt 111 in Windham to the intersection of Old Rockingham Rd. and NH Rt 28, in Salem. The trail will consist of a 10 ft. wide multi-use paved path with 2 ft. wide granular shoulders.

THIS APPROVAL IS SUBJECT TO THE FOLLOWING PROJECT SPECIFIC CONDITIONS:

1. All work shall be in accordance with plans by Vanasse Hangen Brustlin, Inc. dated January 16, 2015, as received by the NH Department of Environmental Services (DES) on January 28, 2015.
2. Any further alteration of wetlands for this project will require a new application or further permitting (permit amendment) by the Wetlands Bureau.
3. DES Wetlands Bureau Southeast Region staff and the Salem Conservation Commission shall be notified in writing prior to commencement of work and upon its completion.
4. Dredged materials shall be placed outside of the jurisdiction of the DES Wetlands Bureau.
5. Appropriate siltation, erosion, and turbidity controls shall be in place prior to construction, shall be maintained during construction, and remain in place until the area is stabilized. Silt fence(s) must be removed once the area is stabilized.

GENERAL CONDITIONS THAT APPLY TO ALL DES WETLANDS PERMITS:

1. A copy of this permit shall be posted on site during construction in a prominent location visible to inspecting personnel;

DES Web site: www.des.nh.gov

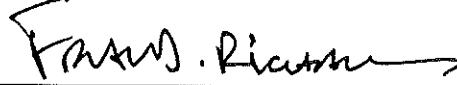
P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095

Telephone: (603) 271-3503 • Fax: (603) 271-6588 • TDD Access: Relay NH 1-800-735-2964

WETLANDS AND NON-SITE SPECIFIC PERMIT 2015-00225 Page 2 of 2

2. This permit does not convey a property right, nor authorize any injury to property of others, nor invasion of rights of others;
3. The Wetlands Bureau shall be notified upon completion of work;
4. This permit does not relieve the applicant from the obligation to obtain other local, state or federal permits, and/or consult with other agencies as may be required (including US EPA, US Army Corps of Engineers, NH Department of Transportation, NH Division of Historical Resources (NH Department of Cultural Resources), NHDES-Alteration of Terrain, etc.);
5. Transfer of this permit to a new owner shall require notification to and approval by DES;
6. This project has been screened for potential impacts to **known** occurrences of rare species and exemplary natural communities in the immediate area. Since many areas have never been surveyed, or have received only cursory inventories, unidentified sensitive species or communities may be present. This permit does not absolve the permittee from due diligence in regard to state, local or federal laws regarding such communities or species.
7. Review enclosed sheet for status of the US Army Corps of Engineers' federal wetlands permit.

APPROVED:


Frank D. Richardson, Ph.D.
DES Wetlands Bureau

**BY SIGNING BELOW I HEREBY CERTIFY THAT I HAVE FULLY READ THIS
PERMIT AND AGREE TO ABIDE BY ALL PERMIT CONDITIONS.**

OWNER'S SIGNATURE (required)

CONTRACTOR'S SIGNATURE (required)

STATE OF NEW HAMPSHIRE INTER-DEPARTMENT COMMUNICATION


FROM Kevin T. Nyhan
Administrator
SUBJECT Environmental Commitments Memo
SALEM-WINDHAM
X-A001(097)
16031
Bicycle/Pedestrian Rail Trail (NH Route 28 Corridor)
TO William Rose
Project Manager
Bureau of Planning and Community Assistance

AT (OFFICE) Department of Transportation
DATE December 2, 2014
Department of Environment

An environmental document has been prepared for the subject project by VHB, Inc. A fully executed copy of both this memorandum, and the environmental document are available on the v:\drive at: V:\Town\Salem\16031\Environment_Commits.pdf and Envdoc.pdf respectively. *In addition, this memorandum has been uploaded to the project "Document Center" in STYP RMS.*

In accordance with the *Agreement* executed by the Department and the Federal Highway Administration, the subject project has been determined to meet the criteria for processing as a *Programmatic Categorical Exclusion* (12/02/2014). This project qualifies for use of the *Programmatic Wetlands Finding*. These determinations represent design approval. **This concludes the NEPA process.**

The NEPA process for this project began on or about 06/01/2014, and was completed on 12/02/2014.

This project is exempt from FHWA oversight.

It is expected that appropriate erosion control and stormwater management measures will be implemented in the field, as necessary. This is particularly important where wetlands and/or other water resources lie adjacent to construction zones.

Environmental commitments have been made for this project, as noted on page 2 of the environmental document and as detailed below:

1. *Standard best management practices will be in place during the construction phase of the project to ensure that there are no impacts to surrounding surface waters.*
2. *Temporary fencing shall be used during construction to avoid unintended impacts to the surrounding areas.*
3. *Precautions shall be used to minimize noise and dust levels during construction.*
4. *Archaeological monitoring of excavation work on the south side of the Range Road intersection will be performed to identify any underground deposits and/or features associated with the non-extant Canobie Lake Depot which may occur in this area.*

Project classification is contingent upon successful implementation of this environmental commitment.

Please be advised, if project changes occur this bureau should be consulted to determine if a follow-up review of environmental impacts is required.

Please forward a copy of this memorandum, as appropriate, to the Town of Salem and VHB, Inc.

KTN:ktn

Encl.

c.c. W. Rose (via E-mail)
 R. Radwonski (w/Encl.)
 J. Sikora (w/Encl.)
 R. Crickard (via E-mail)
 N. Spaulding (via E-mail)

S:\Environment\PROJECTS\DESIGN\16031\Commits.doc

TEMPORARY USE AGREEMENT

WHEREAS, the State is the owner of a railroad corridor in Town of Salem, State of New Hampshire. The State-owned railroad corridor is managed by the Town of Salem (Trail Manager).

WHEREAS, the Permittee is desirous of obtaining permission to enter onto a portion of the State-owned Manchester & Lawrence Branch railroad corridor to construct a multi-use trail within the railroad corridor from approximate Engineering Station 1774+00, Map Valuation Sheet V.10/4 (Old Rockingham Road) to approximate Engineering Station 1836+70, Map Valuation Sheet V.10/6 (Range Road). The Prosecution of Work dated 10/16/15 and the approved plan titled "Salem-Windham Bicycle Pedestrian Trail" (Exhibit A), are hereby incorporated in the Agreement.

NOW THEREFORE, subject to and conditioned upon the performance by the Permittee of all the covenants set forth below, the State grants to the Permittee, permission to enter onto the Property to perform the road work as described in this Agreement. By agreeing to the terms of this Temporary Use Agreement, the Permittee agrees to pay all costs for constructing the trail, maintaining access locations and cleaning up the site.

1. Use of the Property

- 1.1 The Permittee agrees that it is liable for the cost of all work performed on the Property and that any such work shall be performed according to the attached Prosecution of Work and at a time and under conditions acceptable to State. Such liability shall include the cost of all on-site inspectors or other representatives of the State, if such individuals are necessary in the sole judgment of the State. At no time shall any work interfere with the use of the Property by the State, its lessees or assigns. The Permittee is solely responsible for the presence of its equipment on the Property or in the adjacent Railroad Corridor.
- 1.2 The Permittee is required to obtain and keep in force before their work begins, any and all other permissions, permits, and easements required for the project by federal, state, county, or town governments; and their agencies or boards; or any other political subdivision thereof. The Permittee shall be responsible for investigating and determining the need for and applying for all relevant permits and approvals.
- 1.3 The Permittee shall coordinate any and all work on the Property with the State by contacting the NHDOT's Rail and Transit Bureau at (603) 271-2468 and the Town of Londonderry at (603) 603-432-1100 respectively. The Permittee shall contact the State and Trail Manager a minimum of one week prior to beginning their work to obtain approval to enter the Property.
- 1.4 The NHDOT Railroad personnel may inspect the site during and after the work is performed.
- 1.5 This TUA only provides authorization to perform the multi-use recreational trail work.

2. Indemnification and Insurance

2.1 The Permittee acknowledges that the use of the Property is requested for the Permittee's advantage and does not involve the State's performance of their duties to the public. The Permittee further acknowledges that the use of the Property by the Permittee will expose the State to additional liability to which it would not otherwise be exposed. Accordingly, the Permittee agrees that the State shall not be liable for injury or death of the Permittee or agent of Permittee or for loss or destruction of or damage to any property of the Permittee or any agent of the Permittee while upon or about, the Property. The Permittee and its employees, contractors and agents agree to defend, indemnify, and hold harmless the State, its officers, agents and employees, from and against any and all losses suffered by the State, its successors and assigns, officers, agents, employees, from any and all claims, liabilities or penalties asserted against the State, its successors and assigns, officers, agents and employees, by or on behalf of any person on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Permittee and its employees, contractors and agents. Without limiting the foregoing, it is agreed that this covenant of indemnification shall apply to all cases of loss, damage, injury, death, cost or expense for which the State may or shall be liable. For the purpose of this Agreement, all officers, directors, and members of Permittee and all of their designees, invitees, and agents using the Property shall be deemed agents of the Permittee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this Agreement. In addition the Permittee shall pay the premiums on a policy or policies of insurance covering the use of the Property designating the State of New Hampshire as additional insured, as follows:

2.1.1 Commercial General Liability: \$1,000,000.00 each occurrence/\$2,000,000.00 in the aggregate.

2.2 The Permittee shall maintain Worker's Compensation Insurance or Pooled Risk Management Coverage in the amount as required by current State Statute.

2.3 The Permittee shall maintain comprehensive automobile liability insurance or pooled risk management coverage covering all motor vehicles, including owned, hired, borrowed and non-owned vehicles, for all claims of bodily injury, death or property damage: \$500,000.00 combined single limit.

2.4 The Permittee shall provide to the State and maintain in force a certificate of insurance demonstrating that the required coverage has been obtained and containing the following wording. "The State of New Hampshire is named as additional insured with respect to liability arising from the use and/or occupation of State-owned premises under this Temporary Use Agreement between the State and the Named Insured." Nothing contained herein shall be construed as a waiver of sovereign immunity.

3. Fees and Property Taxes

3.1 In consideration of this Agreement, the Permittee shall pay to the State an initial preparation fee of three hundred fifty (\$350.00) dollars, then fifty (\$50.00) dollars administrative fee per annum, due on the date first written above.

4. Term

4.1 This Agreement shall be effective one year from the date of approval by the Attorney General or _____, whichever is later, at which time it shall terminate, if not terminated, sooner by Item 5 or Item 7. At the request of the Permittee, this Agreement may be extended for an additional period upon the approval by the State, if the scope of work described above (Exhibit A) and in the Prosecution of Work has not been completed.

5. Termination

5.1 This Temporary Use Agreement will terminate when the term listed in Item 4 and any additional extension has expired. This Temporary Use Agreement may also be terminated by the State upon written notice to the Permittee for any just cause as described in Item 7.

6. Bond

6.1 The Permittee shall post with the Bureau, proof of a Performance Bond for the total cost of the trail construction contract prior to the beginning of any construction work. The Bond must be held in force for a period of 12 months after the Town of Salem receives written notification from the Bureau of the acceptable completion of the work contemplated in the Final Plans and the Scope of Work, in the judgment of the Bureau.

7. Default and Removal

7.1 Should the Permittee fail to perform any of the above specified covenants, the State shall, after fourteen (14) calendar days written notice to Permittee, deny access to the Permittee and require the Permittee to repair any damage to the facility.

7.2 The State may revoke this Agreement for any reason at any time upon thirty (30) calendar days written notice to the Permittee, without compensation to the Permittee.

7.3 In the event of the Permittee's breach of any of the provisions of the Agreement, the State shall be compensated for its damages, including all consequential damages which arise out of the breach, and attorneys' fees and costs incurred in connection with undertaking such an action.

8. Non-Assignment and Amendment

8.1 This Agreement may not be assigned or transferred. Until terminated, this Agreement shall inure to the sole benefit of and be binding upon the parties hereto.

8.2 This Agreement may be amended only by an instrument in writing, signed by the parties hereto, and only after approval of such amendment by the State.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate, effective on the date of approval by the Attorney General.

PERMITTEE

By: _____

Date: _____

Print Name and Title

STATE OF _____
COUNTY OF _____

On, _____, before the undersigned officer personally appeared _____ known to me (or satisfactorily proven) to be the _____ of the corporation identified in the foregoing document, and acknowledged that he executed the foregoing document.

In witness whereof I hereunto set my hand and official seal.

Date

Notary Public

STATE

By: _____

Michelle Winters, Administrator
Bureau of Rail & Transit
for Patrick Herlihy, Director
Division of Aeronautics, Rail & Transit

The foregoing Agreement, having been reviewed by this office, is approved as to form and execution on _____, 20 ____.

OFFICE OF THE ATTORNEY GENERAL

By: _____
Assistant Attorney General