

175

Project Number: 013013

PID #: 19669

Montgomery

SR 4 - 4.83

TE21-G010(167)

Certification Acceptance Project

Bridge Replacement (1 Bridge)

PROPOSAL

STATE OF OHIO

DEPARTMENT OF TRANSPORTATION

Gordon Proctor, Director

December 12, 2001

DO NOT SUBMIT MORE THAN ONE BID PROPOSAL FOR EACH BID

(EXACT PREQUALIFICATION NAME AND STREET ADDRESS MUST APPEAR BELOW)

Submitted by _____

Street _____

City _____

State _____ **Zip Code** _____

Federal Tax Id Number _____

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NOTICE TO BIDDERS

Prequalification

Bidders must apply for prequalification with the Department's Office of Contracts, Contractor Qualifications Section, at least 30 days before the date set to open bids.

Certificate of Compliance with Affirmative Action Programs

No contract shall be entered into unless the bidder possesses a valid Certificate of Compliance with Affirmative Action Programs, issued by the State EEO Coordinator, Certification Section, 30 East Broad Street, 18th Floor, Columbus, Ohio 43215, dated no earlier than 180 days prior to the date fixed for the opening of bids.

PREPARATION OF PROPOSAL (5-14-01)

Electronic Bidding Requirements

1. No Handwritten Bids.

The Department will not accept handwritten bids or bids generated electronically from software other than that used and supplied by the Department. All handwritten bids and bids generated electronically from software other than that used and supplied by the Department shall be considered non-responsive and ineligible for award. The Department will only accept and consider bids that have been produced from the Department's electronic bidding software.

2. Bidders MUST Use ODOT Electronic Bidding Software (EBS).

Bidders must prepare and submit their bids electronically and must use the EBS Software furnished by the Department of Transportation. The Department will furnish the bidder with the necessary EBS Software to install on their computers through the ODOT Web Site on the Office of Contracts' Web Page.

3. Bidders MUST Submit All Bid Prices on 3½ " Diskette.

Bidders also must use EBS to prepare and print out a hard copy of their Bid Item Schedules and submit the hard copy with the electronic disk containing that same schedule. The disk shall be marked with the bidder's name and all call order numbers for the project upon which the bidder is bidding. These shall be no more than one set of Bid Item Schedules and bid prices for each disk. Therefore, each project bid must have its own disk.

4. The Department Will Provide Bidders With the Following:

The Department shall provide planholders with all of the hard copy documents as previously provided for by the Office of Contract.

Electronic Items Provided on Web Page
EBS Files
Addenda for Estimated Quantity Changes
Addenda (Actual Text That Is Mailed Out)
Bid Bond
Supplemental Questionnaire

Hard Copy Bid Package
Proposal (2)
Plans
Bid Envelope
Bid Bond (2)
Supplemental Questionnaire
Remote Bidding (Envelope and Total Sheets)
Addenda (If Any)

5. Electronic Bids MUST Comply With All Existing Bidding Documents.

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Electronic bids must comply with all special provisions, the Standard Specifications for Highway Construction, Supplemental Specifications to the Standard Specifications for Highway Construction, and the Laws, Rules and Regulations of the Ohio Department of Transportation regarding bid preparation and bid submittal.

6. Bidders MUST Submit the Following:

| | |
|-----------------------------|----------------------------|
| Executed Bid Proposal | Bid Guaranty |
| EBS Disk (3½") | Supplemental Questionnaire |
| EBS Bid - Printed Hard Copy | Addenda (If Any) |

***NOTE: In Addition to A Diskette, An Executed Bid Proposal Will Be Required.**

7. Blank Unit Prices Will NOT Be Permitted.

Blank unit prices will be considered a non-responsive bid **EXCEPT** in the case of optional designs (where the bidder is required to bid on only one (1) of those designs). Unit prices of zero are not permitted at any time and will render your bid non-responsive at the discretion of the Director.

8. Discrepancy Between Information on Disk and Bid Item Pages Submitted.

In the event there is a discrepancy between the information submitted on the disk and the bid item pages submitted with the proposal, the figures on the bid item pages will govern.

Investigation:

The Director may conduct such investigation as he deems necessary in order to assist in the evaluation of any bid.

Supplemental Questionnaire:

Blank Supplemental Questionnaires, furnished with each proposal, must be filled out and attached to each bid submitted. Failure to complete and furnish the Supplemental Questionnaire will result in the rejection of your bid.

Bid Guaranty - (Payable to The "Director of Transportation"):

Each bidder is required to file with his bid a certified check or cashier's check for an amount equal to five percent (5%) of his bid, but in no event more than fifty thousand dollars, or a bid bond for ten percent (10%) of his bid payable to the "Director of Transportation."

In the event a bidder chooses to use a bid bond, it must be submitted on the Department's "Bid Bond" form, copies of which are enclosed herewith.

Bid Bond Form:

The **ONLY ACCEPTABLE** bid bond form to be used on this project is the form that is included in the proposal package. Any other forms submitted with the bid, including, but not limited to a form from another state agency

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or surety company will render your bid non-responsive and ineligible for award and **WILL** result in your bid being rejected.

Contract Performance Bond and Payment Bond:

The successful bidder must furnish a performance bond and a payment bond in an amount equal to one hundred percent (**100%**) of the state's estimate. (Section 5525.16 O.R.C.)

Addenda:

Bidders will receive project addenda timely either by express mail or facsimile. In the case where the addendum is faxed, the Office of Contracts will require a verification from each bidder receiving a project addendum or the addendum must be acknowledged in the bid proposal. In the case of verification, the bidder must provide their company name and (legible) signature of the person who received the fax. The bidder must fax the verification to the Office of Contracts. **Failure to acknowledge an addendum received by fax or with the bid will result in the rejection of the bid.** If further information is required, please contact a Customer Service Representative in the Office of Contracts at (614)466-3778 or (800)459-3778.

Time for Submission of Bids:

Sealed bids for the Ohio Department of Transportation Highway Improvement Projects will be received at the following four (4) locations until **10:00 a.m.** Ohio Standard Time on the day of the letting:

| | | |
|---------------------|---|-------------|
| Office of Contracts | 1980 West Broad Street, Columbus, Ohio 43223 | First Floor |
| District 2 Office | 317 East Poe Road, Bowling Green, Ohio 43402 | |
| District 8 Office | 505 South State Route 741, Lebanon, Ohio 45036 | Room 117 |
| District 12 Office | 5500 Transportation Blvd., Garfield Heights, Ohio 44125 | |

Bids must be deposited in the Bid Box of one of the above four (4) locations by 10:00 a.m. on the scheduled day of letting as listed on the Bidding Proposal. Bidders must allow sufficient time for mailing their bids to ensure delivery to one of the four (4) bidding locations prior to the opening time and date. The Department will not be responsible for a late bid due to the failure of the bidder to allow sufficient time for delivery of the bid.

All bids will be time/date stamped upon receipt by one of the four (4) bidding locations and such shall be the official time/date of receipt. Postmarks, or other times/dates appearing on the bid will not be considered as the official time/date of receipt. Delivery to any other location within the Department, including the Mail Room or to departmental personnel other than a Customer Service Representative who has authority to receive bids, does not constitute bid being received by the Department.

Bids submitted with insufficient postage will not be accepted. Bids will be received during regular business hours, 7:30 a.m. - 4:30 p.m., Monday through Friday, excluding recognized holidays. **Bids with stamped or copied signatures will be considered non-responsive.** Telegraphic, facsimiles, or any other mode of transmission other than stated above shall not be considered as a valid submission to the Department. Bidders using "express mail" or similar types of service must verify with the service as to which address is required to ensure proper delivery of the response to the Department and **time of delivery**. The Department will not be held liable for non-delivery and/or late delivery of any bid response due to a bidder listing an incorrect address.

Any bid received after 10:00 a.m. on the scheduled day of opening will be marked as late, remain sealed and will receive no further consideration for award. Late bids will be returned to the bidder. Bidders must allow sufficient time for mailing their bids to ensure delivery to the Department prior to the opening time and date. The Department will

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not be responsible for a late bid due to failure of the bidder to allow sufficient time for delivery of the bid.

Bidders submitting bids in one of the District locations must also submit a sealed white envelope which sets out the project number and firm name on the outside and which contains a completed "Bid Total Sheet" inside. The completed envelope and bid total sheet must be submitted with each bid. This information will be forwarded to and read in the Auditorium, 1980 W. Broad Street, Columbus, Ohio with the bids received in Columbus. The sealed bids received in the District locations will be sent to Columbus and publicly opened in the Office of Contracts, ODOT Central Office Headquarters on the same afternoon of the letting date. **FAILURE TO ATTACH THE WHITE ENVELOPE TO THE SEALED BID SHALL RENDER THE BID NON-RESPONSIVE AND INELIGIBLE FOR AWARD.** The Department shall return that bid to the contractor unopened.

PROMPT PAYMENT

In accordance with Section 4113.61 of the Ohio Revised Code, the prime contractor shall make payment to each subcontractor and materialman within ten (10) calendar days after receipt of payment from the Ohio Department of Transportation for work performed or materials delivered or incorporated into the public improvement, provided that the pay estimate prepared by the engineer includes work performed or materials delivered or incorporated into the public improvement by the subcontractor or materialman.

The prime contractor shall also require that this contractual obligation be placed in all subcontractor and materialman contracts that it enters into and further require that all subcontractors and materialmen place the same payment obligations in each of their lower tier contracts. If the prime contractor, subcontractors or materialmen subject to this provision fail to comply with the ten (10) day payment requirement, the offending party shall pay, in addition to the payment due, interest in the amount of eighteen percent (18%) per annum of the payment due, beginning on the eleventh (11th) day following the receipt of payment from the Department and ending on the date of full payment of the payment due plus interest.

Repeated failures to pay subcontractors and materialmen timely as defined by this statute shall result in a finding that the prime is in breach of contract and subject to all legal consequences that such a finding entails. Further, repeated failures to pay timely as defined by the statute shall result in a lower evaluation score for the prime contractor and those subcontractors who are subject to evaluation.

TRUCK LEASING

The Code of Federal Regulations Title 49, Section 26.55(d)(4)(5)(6) governs trucking operations. This section states that the Disadvantaged Business Enterprise (DBE) may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE will receive credit for only the fee or commission it receives as a result of the lease agreement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE. The law requires that a lease must indicate that the DBE has exclusive use of and control over the truck for credit to be accorded to the DBE. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

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In lieu of a truck owner displaying the name and identification number of the DBE, the truck owner shall be required to furnish a photocopy of the lease agreement. Thereby, fulfilling the rule without causing undue hardship on any entity.

Credit for expenditures with DBEs for materials or supplies toward the DBE goal is described as follows:

1. When the materials or supplies are obtained from a DBE manufacturer the prime contractor may receive credit for 100 percent of the cost of the materials or supplies toward the DBE goal. For purposes of this section, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.
2. When the materials or supplies are purchased from a DBE regular dealer or supplier the prime contractor may receive credit for 60 percent of the cost of the materials or supplies toward the DBE goal. For purposes of this section, a regular dealer or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

For subcontract agreement (C-92) purposes the following definitions will be used:

Install - DBE contractor who obtains goods, materials and supplies and fixes in place, for use, the same goods, materials and supplies. (e.g., DBE contractor obtains and fixes in place re-bar on project site). Must spend 20% or more time on project per day. 100% credit toward prime's DBE goal.

Stockpiling - DBE Contractor/Trucker who delivers materials, goods, or supplies to project site. 60% credit toward prime's DBE goal.

Tailgating - DBE Contractor/Trucker who delivers and installs materials, goods, or supplies to project site. Must spend 20% or more time on project per day. 100% credit toward prime's DBE goal.

PARTNERING AGREEMENT

The Contractor is invited to enter into a cooperative partnership agreement with the Department on this project. The objective of this agreement is the timely completion of the work and a quality product that will be a source of pride to both the Department and the Contractor. This Partnering Agreement will not affect the terms and conditions of the contract. It is a document which is solely intended to establish an environment of cooperation between the parties. The cost of the partnering workshop(s) will be agreed to and shared equally between the Department and the Contractor. The Contractor will pay all costs directly and the Department will authorize its share to the Contractor by change order. The Contractor is not entitled to any mark ups on the invoiced cost.

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EARLY COMPLETION PROPOSAL NOTE

In the event that the Contractor submits a progress schedule that anticipates completion of all work prior to the completion date established by the bidding documents, upon request of the Department the Contractor shall submit a copy of all its bidding documents in accordance with the requirements set out below. Should the Contractor fail to submit bidding documents for escrow, the Contractor has waived consideration by the Department of any claim related to a delay or portion of any delay which causes the Contractor's scheduled completion date to be extended for any period of time up to and including the completion date specified in the bidding documents. In such circumstances, should a delay cause the performance of the work to extend beyond the completion date specified in the bidding documents, the Department shall on any claim for delay consider only that portion of time by which actual completion of the work was extended beyond the completion date specified in the bidding documents.

Escrow of Bid Documents

Scope and Purpose:

The purpose of this specification is to preserve the bid documents of the successful bidder (Contractor) for use by the parties. The Contractor shall submit one (1) copy of all documentary information generated in preparation of bid prices for this project, as described below. This material is hereinafter referred to as "Escrow Documents". The Escrow Documents of the Contractor will be held shall provide in escrow for the duration of the contract.

Escrow Documents will be used to assist in the settlement of disputes and claims. They will not be used for evaluation of the Contractor's anticipated methods of construction or to assess the Contractor's qualifications for performing the work.

The Escrow Documents are, and shall always remain, the property of the Contractor, subject to joint review by the Department and Contractor, as provided herein.

Stipulations and Acknowledgments:

The Department stipulates and expressly acknowledges that the Escrow Documents, as defined herein, constitute proprietary information. This acknowledgment is based on the Department's expressed understanding that the information contained in the Escrow Documents is not known outside the bidder's business, is known only to a limited extent and by a limited number of employees of the bidder, and is safeguarded while in the bidder's possession. The Department further acknowledges that the Escrow Documents and the information contained therein are being provided for the joint use of the Contractor and the Department.

The Contractor agrees, as a requirement of the contract, that the Escrow Documents, constitute all the information used in the preparation of the bid, and that no other bid preparation information shall be considered in resolving disputes or claims. The Contractor also agrees that nothing in the Escrow Documentation shall change or modify the terms or conditions of the Contract Documents.

The Department further agrees to safeguard the Escrow Documents, and all information contained therein, against disclosure to the fullest extent permitted by law.

Format and Contents:

The Contractor may submit Escrow Documents in the usual cost estimating format. It is not the intention of this specification to cause the Contractor extra work during the preparation of the proposal, but to ensure that the Escrow Documents will be adequate to enable complete understanding and proper interpretation for their intended use.

The Escrow Documents shall clearly itemize the estimated costs of performing the work of each bid item contained in the bid schedule. Bid items shall be separated into such items as required to present a complete and detailed

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estimate of all costs. Plant and equipment and indirect costs shall be detailed in the bidder's usual format. The Contractor's allocation of contingencies, mark-up and other items to each bid item shall be identified.

If elements of pricing are developed solely based on experience or market factors, without detailed breakdowns, then that shall be noted.

All costs shall be identified. For bid items amounting to less than \$10,000, estimated unit costs are acceptable without a detailed cost estimate.

The Escrow Documents shall include all quantity take-offs, calculations of rates of production and progress, copies of quotes from subcontractors and suppliers, the memoranda, narratives, add/deduct sheets, and all other information used by the bidder to arrive at the prices contained in the bid proposal.

Submittal:

The Escrow Documents shall be submitted by the Contractor upon request of the Department. The Escrow Documents shall be in a sealed container containing only the Escrow Documents. The container shall be clearly marked on the outside with the Contractor's name, date of submittal, project name and number and the words "Escrow Documents."

Failure to timely provide the necessary Escrow Documentation will be sufficient cause to terminate the contract in accordance with Section 108.08 of the Construction and Material Specifications. The Contractor shall not be permitted to perform work until the requested Documents have been escrowed. Finally, there will be no time extension granted for the period of time it takes the Contractor to submit the Documents for escrow.

Late Revisions:

Subcontractors shall be present if and when they are presenting a claim through the Prime Contractor or when their information is needed. Subcontractors, the Prime Contractor and ODOT shall be present to review the Escrowed Documents.

If the itemized cost breakdowns and allocations described elsewhere have not been made due to last minute bid revisions, then the Contractor shall submit information reconciling the bid preparation Documents and the bid unit prices. This reconciliation shall be considered as a part of the Escrow Documents and include in the submittal as described elsewhere.

Storage:

Receipt of the Escrow Documents will be acknowledged by the Department and the Documents will be placed in escrow, for the life of the contract, in an institution which is mutually agreed upon by both the Contractor and the Department. The cost will be paid by the Department.

Examination:

The Escrow Documents shall be examined, by the Department, the Contractor and when necessary, by the applicable Subcontractor, at any time deemed necessary by either the Department or the Contractor, to assist in the negotiation of the settlement of disputes and claims.

Examination of the Escrow Documents is subject to the following conditions:

- (1) The Escrow Documents are proprietary and confidential.
- (2) Access to the documents shall take place only in the presence of a duly designated representative of the Department and the Contractor.

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- (3) The Contractor shall designate, in writing, the personnel from within the Contractor's organization who are authorized to examine the Escrow Documents. This designation shall be submitted with the Escrow Documents. The Director or his designees may examine the Escrowed Documents.

Final Disposition:

The Escrow Documents will be released to the Contractor after all disputes and claims have been settled.

SPECIFICATION AND SUPPLEMENTAL SPECIFICATIONS, POLICIES AND SPECIAL PROVISIONS INCORPORATED BY REFERENCE AS IF REWRITTEN HEREIN:

- (1) When an aggregate source is specially designated with a 'SR' on the aggregate source group list according to 'Guidelines for Maintaining Adequate Pavement Friction in Surface Pavements', the aggregate source will be restricted for use in surface pavement pursuant to the methods in the guidelines. Remaining on the aggregate source group list is conditioned on complying with the group list procedures and requirements of Section 703 of the Construction and Material Specifications Manual.
- (2) The State of Ohio Department of Transportation Construction and Material Specifications dated January 1, 1997, will govern this improvement with the following:

| | | |
|--------------------------------|-----|----------|
| Supplemental Specification No. | 814 | 62/98 |
| Supplemental Specification No. | 828 | 12/14/00 |
| Supplemental Specification No. | 842 | 1/6/99 |
| Supplemental Specification No. | 864 | 7/11/00 |
| Supplemental Specification No. | 870 | 3/27/01 |
| Supplemental Specification No. | 877 | 4/13/99 |
| Supplemental Specification No. | 899 | 10/21/98 |

Special Provisions:

Policy 512-004 (P)

Policy 512-001 (P)

Policy 512-005 (P)

(Copies are available upon request.)

VOLUNTARY ON-THE JOB TRAINING PROGRAM PROVISIONS

This Training Special Provision supersedes subparagraph 7b of the Special Provision entitled "Special Employment Opportunity Responsibilities," and is in implementation of 23 U.S.C. 140(a).

As part of the Contractor's equal employment opportunity affirmative action program training will be as follows:

The Contractor will provide on-the-job training aimed at developing full journey persons in the type or job classification involved.

No specific number of trainees will be assigned to this project. However, the number of trainees will be distributed among the work classifications on the basis of the Contractor's needs and the availability of the journey persons in the various classifications within a reasonable area of recruitment. The Contractor will be credited for each trainee employed by him or her who is currently enrolled or becomes enrolled in an approved program.

Training and upgrading of minorities and women toward journey person status is a primary objective of this Training Special Provision. Accordingly, the Contractor will make every effort to enroll minority trainees and women

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(e.g., by conducting systematic and direct recruitment through public and private sources likely to yield minority and women trainees) to the extent that such persons are available within a reasonable area of recruitment. The Contractor will be responsible for demonstrating the steps that he or she has taken in the pursuance thereof, prior to a determination whether the Contractor is in compliance with this Training Special Provision and the EEO laws as stated in 23 CFR, Pt. 230, Subpt. C., App. A. This training commitment is not intended, and will not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

No employee will be employed as a trainee in any classification in which he or she has successfully completed a training course leading to journey person status or in which he or she has been employed as a journey person. The Contractor should satisfy this requirement by including appropriate questions in the employee's application or by other suitable means. Regardless of the method used, the Contractor's records should document the findings in each case.

The minimum length and type of training for each classification will be as established in the training program selected by the Contractor.

No payment by ODOT will be made to the Contractor for providing this training. However, if the Contractor fails to provide adequate training and cannot show good faith on his or her part to provide adequate training, he or she will be subject to a formal compliance review to determine the Contractor's efforts in meeting the EEO laws and regulations.

The Contractor will provide the following reports:

1. HRD-3 (changed to CR1 Report)
 - A. To be completed on each trainee
 - B. To be filled out only at the start of training and finish of training or at the end of the year, whichever comes first.
 - C. To be submitted to the District in which the trainee started employment with the Contractor.
2. Tracking will be on an annual basis. If the trainee begins his or her second year in a new District, the Contractor will submit the second year HRD-3 (CR1) to the new District.

The prime or subcontractor conducting the training must be involved in at least one Federal project per calendar year in order to get FHWA training credit.

All Contractors are encouraged to participate in a Voluntary Training program because it will demonstrate Good Faith Efforts toward meeting your contractual obligations.

All contractors shall submit their own Training Program/ or Apprenticeship Certificate to the District in which the training program will originate for approval.

All OJT Trainees must have appropriate certification.

DISPUTE RESOLUTION AND ADMINISTRATIVE CLAIM PROCESS (7-20-01)

This specification is the Department's dispute resolution process based on the partnering approach to project administration and the Department's administrative claim process. The Contractor must follow this process in order to resolve disputes on the project and to seek additional compensation or contract time from the Department in the form of an administrative claim.

The Contractor must exhaust this process prior to filing an action in the Ohio Court of Claims. These procedures do not compromise the Contractor's right to seek relief in the Ohio Court of Claims.

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All parties in the dispute must follow the specified steps. Personnel involved in second or third tier reviews will not consider a dispute until it has been properly reviewed by the previous tier. The Contractor's personnel shall not contact Department personnel involved in a second or third tier review until the dispute has been thoroughly reviewed by the previous tier.

Disputes will include disagreements, matters in question, and differences of opinion between ODOT's personnel and the Contractor. Claims are disputes that are not settled in the dispute resolution process and the Contractor has documented costs or time incurred as a result of such disputes.

Disputes and claims by subcontractors and suppliers may be pursued by the Contractor on behalf of subcontractors or suppliers. Disputes and claims of subcontractors and suppliers against the Contractor will not be reviewed by the Department. Disputes and claims by subcontractors and suppliers against the Department but not supported by the Contractor will not be reviewed by the Department.

Disputes and claims subject to review by the Department include:

1. Interpretation of specifications, standard drawings, plans, the proposal, working drawings, change orders, and orders by Department personnel having authority over the project.
2. Differing site conditions as defined in 104.02(a).
3. Cost and time incurred by:
 - a. Suspension of the work under 104.02(b).
 - b. Significant changes in scope of work under 104.02(c).
 - c. Utility interference with the work under 105.06 and 4A notes.
 - d. Extra work ordered under 104.03 and the policy on Change Orders.
 - e. Acts or inaction of the Department or other government agencies.
4. Adequacy and constructability of the plan design.
5. Contract time extensions due to weather, shortages of labor, equipment, or materials, or other causes beyond the Contractor's control as defined in the policy on *Postponement of Contract Completion Dates and Waiver of Liquidated Damages*.
6. Other subjects mutually agreed upon by the Department and Contractor to be under the scope of the dispute resolution and claims process.

DISPUTE RESOLUTION

Early Notice. The Contractor, or subcontractor through the Contractor, shall give to the project engineer or supervisor (PE/PS), written notice of any circumstance or dispute on the project that may result in a claim. This early notice must be given by the end of the second working day following the occurrence of the circumstances or dispute. The PE/PS and Contractor or subcontractor shall maintain records of labor, equipment, and materials used on the disputed work or made necessary by the circumstance. Such records shall start when early notice is received by the PE/PS or when the project personnel are aware of the circumstance or dispute.

Continuation of Work. The Contractor or subcontractor shall continue with all project work, including that which is in dispute. The Department will continue payments for contract work.

STEP 1 of Dispute Resolution (Project Level). The PE/PS will meet with the Contractor's superintendent within two (2) working-days of receipt of any early notice. They shall review all pertinent information and contract provisions and negotiate an equitable settlement according to the Contract Documents. If settlement is not achieved, they must escalate the dispute to Step 2.

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STEP 2 of Dispute Resolution (Administrative Level). If the dispute is escalated to Step 2, the District Construction Engineer or designee (other than the project personnel involved) shall meet with personnel from the Contractor's headquarters, and consider the dispute. This Step 2 meeting shall occur within ten (10) working days of the completion of Step 1. The DCE and Contractor's personnel shall review the information on the dispute presented by the personnel involved in Step 1 and negotiate an equitable settlement according to the Contract Documents. If settlement is not achieved, they must escalate the dispute to Step 3.

STEP 3 of Dispute Resolution (Deputy Director Level). A Deputy Directors' Board (DDB) will review disputes that are escalated to Step 3. The DDB will consist of the District Deputy Director of the District involved in the dispute, the Deputy Director of the Division of Construction Management, and the Deputy Director of the Division of Contract Administration.

To prepare for a DDB review, the DCE will assign a dispute number, create a file on the dispute, and assign a person to review and manage the dispute. This manager will advise the Office of Construction Administration on the status of the dispute. The dispute number will consist of the District number, followed by a hyphen and then the project number, followed by a hyphen and the number of disputes on the project this dispute represents.

Dispute Documentation. The Contractor shall submit documentation of the dispute to the Office of Construction Administration (4 copies) and DCE within twenty (20) working days of the completion of Step 2. Failure to meet this time frame or to request an extension necessary for the proper preparation of the documentation may terminate further review of the dispute and may act as a waiver of the Contractor's right to file a claim.

The dispute document shall be an original document that clearly and in detail gives the following information for each item of additional compensation and time extension requested:

- a) A narrative of the disputed work or project circumstances at issue with sufficient description and information to enable understanding by a third person who is not familiar with the project. This section must include the dates of the disputed work and the date of early notice.
- b) References to the applicable provisions of the plans, specifications, proposal, or other contract documents. Copies of the cited provisions shall be included in the claim document.
- c) The dollar amount of additional compensation and length of contract time extension being requested.
- d) The cost and schedule analysis and supporting documents that were the basis for the requested compensation and time extensions stated in c).
- e) Copies of relevant correspondence and other pertinent documents.

The dispute document shall be identified by County, project number, Contractor name, subcontractor, or supplier, if involved in the dispute, and dispute number.

The Office of Construction Administration will schedule a hearing on the dispute within fifteen (15) working days of receiving acceptable dispute documentation or as otherwise agreed to by the DDB and the Contractor. The Contractor's position on the dispute will be presented by executive officers of the Contractor (maximum three). The DCE will present the reasons the dispute was not resolved. The DDB will issue a written decision on the dispute, within fifteen (15) working days of the hearing.

ADMINISTRATIVE CLAIM PROCESS

Notice of Claim. The claim process is started by the Contractor, who must provide written *Notice of Intent to File a Claim* to the Secretary of the Director's Claim Board within thirty (30) calendar days of the completion of Step 3. This notice shall state the Contractor's request for a Director's Claim Board hearing on the claim or for an acceptable

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alternative dispute resolution technique.

The dispute becomes a claim when the Secretary receives the *Notice of Intent to File a Claim*. The Secretary will assign a number to the claim.

Claim Certification Requirements. When submitting any claim, the Contractor must certify the claim, under oath, in writing. Such certification shall attest to the following:

1. The claim is made in good faith.
2. To the best of the Contractor's knowledge, all data offered to support the claim is accurate and complete.
3. The claim amount accurately reflects the Contractor's actual incurred costs.

This claim certification shall also be notarized pursuant to the laws of the State of Ohio.

The following is an example of the correct form for a claim certification:

(The Contractor) certifies that this claim is made in good faith, that all supporting data is accurate and complete to the best of (the Contractor's) knowledge and belief, and that the claim amount accurately reflects the contract adjustment for which (the Contractor) believes the Department is liable.

(The Contractor)

By: _____

(Name and Title)

Date of Execution: _____

Interest on Claims. The Department shall pay interest on any amount found due on a claim, which is not paid within 30 days of the Department's receipt of the certified claim. Such interest shall be paid to the Contractor for the period beginning on the thirty-first (31st) day after the Department's receipt of the certified claim, and ending on the day that the payment of the amount due is made. Interest payments provided for in this provision shall be at the rate per calendar month that equals one-twelfth of the rate per annum prescribed by section 5703.47 of the Ohio Revised Code for the calendar year that includes the month for which the interest charge accrues.

Claims Under \$100,000. The Step 3 DDB decision on disputes of less than \$100,000 is administratively final. However, a Contractor may request an Alternative Dispute Resolution (ADR) technique inclusive of binding arbitration as defined by ORC. Section 5525.23, in lieu of filing suit in the Ohio Court of Claims.

Claims Over \$100,000. The Step 3 DDB decision on claims of more than \$100,000 may be appealed to the Director's Claim Board (Board) or the Contractor may request an ADR technique inclusive of binding arbitration as defined by ORC. Section 5525.23.

Board Hearing. If a Board hearing is requested, the Secretary will schedule a hearing after acceptable documentation of the Contractor's claim and the District's position is received by the Board, exchanged with both parties, and sufficient time for review and requests for more documentation has elapsed. Six (6) copies of all documents are required by the Board. The Contractor's claim document shall be the same format as specified in Dispute Documentation.

The Board may order consolidation of all disputes into one claim in order to have a single hearing of all project issues. The Board may schedule its hearing after the completion of the project or until such time that it is assured that all disputes on the project have been processed through Steps 1, 2 and 3 of the Dispute Resolution Process and these issues are before the Board.

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The Contractor and District will be allowed thirty (30) minutes to present their respective positions before the Board. The Board may grant more time for these presentations for complex claims, if requested prior to the hearing.

The Board will hear the entire claim. The Board is not bound by any offers of settlement or findings of entitlement made during Steps 1, 2, and 3 of the Dispute Resolution Process. The Board may, on its own initiative, request information of the Contractor in addition to that submitted for the hearing. If the Contractor fails to reasonably comply with such request, the Board may render its decision without such information.

The Board will consist of three (3) voting members. They are the Assistant Director for Highway Management who will be the chairperson, the Assistant Director for Planning and Production, and a District Construction Engineer from a District not involved with the claim. The Board may have technical and legal advisors at the hearing for assistance in reviewing and deciding the claim.

The Board will issue a written decision within thirty (30) calendar days of the hearing or receiving information requested after the hearing. The decision of the Board is the final step of the Department claim process and may not be appealed any further within the Department.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

The Contractor may request ADR on claims under \$100,000 that have proceeded through the Deputy Director Level and may request ADR in lieu of a Director's Claim Board hearing on claims of \$100,000 or greater. The Department may agree to arbitration or mediation in the manner in which those methods are practiced by the Department and allowed by law.

The Contractor may request ADR by letter to the Secretary of the Director's Claim Board within thirty (30) calendar days of receipt of a Step 3 DDB decision. The Secretary will coordinate the following: the agreement of the parties to the ADR method; the selection of a neutral third party or technical expert; and the sharing of fees of the neutral third party or technical expert equally. The Secretary will obtain a written agreement, signed by both parties, that establishes the ADR. The neutral third party or technical expert will have complete control of the claim upon execution of the ADR agreement.

SAFETY

Section 107.01 of the Construction and Materials Specifications requires among other things, compliance with Chapter 4121:1-3 of the Ohio Administrative Code entitled 'Specific Safety Requirements of The Industrial Commission of Ohio relating to Construction,' effective November 1, 1979, and with the "Federal Occupational Safety and Health Act of 1970 and Code of Federal Regulations, Title 29, Chapter XVII, Part 1926."

US ARMY CORPS OF ENGINEERS AND OHIO ENVIRONMENTAL PROTECTION AGENCY PERMITS

The above referenced permits are incorporated and made a part of this contract as special provisions incorporated herein. Therefore, in the event that the Contractor or its agents refuse or fail to adhere to the requirements of the 404 Permit, and/or the NPDES Stormwater Permit and as a result an assessment or fine is made or levied against the Ohio Department of Transportation, the Contractor shall reimburse the Department within thirty (30) calendar days of the notice of assessment or fine or the Department may withhold the amount of the fine from the Contractor's next pay estimate. All money collected or withheld from the Contractor shall be delivered to the permitting agencies issuing the assessment or fine.

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These fines are not to be construed as a penalty but are liquidated damages to recover costs assessed against the Department due to the Contractor's refusal or failure to comply with the permits.

The Contractor shall make all necessary or required adjustments to the Storm Water Pollution Plan or plan quantities to adhere to the above permits and shall be paid in accordance with the contract. The Engineer will make the weekly and rainfall inspections of the work as required by the NPDES. (Copies available in the Office of Contracts)

MAINTENANCE OF EROSION CONTROL ITEMS IN THE CONTRACT

When the Contractor properly places the erosion control items in the contract in accordance with the contract documents or as directed by the Engineer, then the Department will pay for the cost to maintain these items of work by the unit bid prices or by 109.04.

IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

(Applicable to all Federal-aid construction contracts and to all related subcontracts of \$100,000 or more.)

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

1. That any facility that is or will be utilized in the performance of this contract, unless such contract is exempt under the Clean Air Act, as amended (42 U.S.C. 1857 et seq., as amended by Pub.L. 91-604), and under the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of contract award, on the U.S. Environmental Protection Agency (EPA) List of Violating Facilities pursuant to 40 CFR 15.20.

2. That the firm agrees to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

3. That the firm shall promptly notify the SHA of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.

4. That the firm agrees to include or cause to be included the requirements of paragraph 1 through 4 of this Section in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

FEDERALLY REQUIRED EEO CERTIFICATION

The bidder hereby certifies that he **has**, **has not**, participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 10925, 11114, or 11246, and that he **has**, **has not**, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Circle the Appropriate "**has** or **has not**" above.

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FEDERALLY REQUIRED EEO CERTIFICATION CLAUSE

The Federally Required EEO Certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontractors which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

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

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

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows: Goals for minority participation is 11.5 percent for all crafts in the covered area of EA (14) shown in the attachment to ODOT letter of March 17, 1983. Goals for all other economic areas as discussed in the following paragraph are established per our letter dated March 17, 1983. Goals for female participation in each trade for the "covered area" (Ohio) is 6.9 percent.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a 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 regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

REQUIRED REPORTS

The Contractor shall provide a CR-2 Report to the ODOT District EEO Office in which the Contractor's home office is located. The CR-2 Report will summarize the minorities and females and their hours worked on ODOT projects only. It will be submitted quarterly according to the following schedule:

| Quarter | Due Date |
|----------------|-----------------|
|----------------|-----------------|

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| | |
|-----------------------------|------------|
| January, February, March | April 10 |
| April, May, June | July 10 |
| July, August, September | October 10 |
| October, November, December | January 10 |

In the event of a formal compliance review, the Contractor will be required to submit reports for the economic areas being reviewed.

Statewide Input 29 Forms must be submitted monthly to the Ohio Department of Administrative Services.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs, 200 N. High Street, Room 409, Columbus, Ohio 43215, within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, 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.

CERTIFICATION OF NONSEGREGATED FACILITIES

(a) A Certification of Nonsegregated Facilities, as required by the May 9, 1967, Order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities (is included in the proposal and must be submitted prior to the award of a Federal-aid highway construction contract exceeding \$10,000 which is not exempt from the provisions of the Equal Opportunity clause).

(b) Bidders are cautioned as follows: By signing this bid, the bidder will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in this proposal. This certification provides that the bidder does not maintain or provide for his employees facilities which are segregated on a basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the bidder will not maintain such segregated facilities.

(c) Bidders receiving Federal-aid highway construction contract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause, will be required to provide for the forwarding of the following notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

"Notice to Prospective Subcontractors and Material Suppliers of Requirement for Certification of Nonsegregated Facilities" -

(a) A Certification of Nonsegregated Facilities as required by the May 9, 1967, Order of the Secretary of Labor (32 F.R. 7439, May 19, 1967) on Elimination of Segregated Facilities, which is included in the proposal, or attached hereto, must be submitted by each subcontractor and material supplier prior to the award of the subcontract or consummation of a material supply agreement if such subcontract or agreement exceeds \$10,000 and is not exempt from the provisions of the Equal Opportunity clause.

(b) Subcontractors and material suppliers are cautioned as follows: By signing the subcontract or entering into a material supply agreement, the subcontractor or material supplier will be deemed to have signed and agreed to the provisions of the "Certification of Nonsegregated Facilities" in the subcontract or material supply agreement. This certification provides that the subcontractor or material supplier does not maintain or provide for his employees facilities which are segregated on the basis of race, creed, color, or national origin, whether such facilities are segregated by directive or on a de facto basis. The certification also provides that the subcontractor or material supplier will not maintain such segregated facilities.

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(c) Subcontractors or material suppliers receiving subcontract awards or material supply agreements exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause will be required to provide for the forwarding of this notice to prospective subcontractors for construction contracts and material suppliers where the subcontracts or material supply agreements exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity clause.

STEEL MADE IN THE UNITED STATES (Sec. 153.011 and Sec. 5525.21 O.R.C.)

Any steel products to be used or supplied in connection with this project shall be steel products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, from steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process. "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States.

Minimal amounts of foreign steel products or products whose domestic origin is not traceable may be used in bridge construction if approved by the Director in writing. The Director may grant such approval under either of the following conditions:

1. The cost of products to be used does not exceed one-tenth of one percent of the total contract cost, or two thousand five hundred dollars, whichever is greater. The cost is the value of the steel product as delivered to the project.
2. The specified steel products are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

The Director may require the Contractor to obtain letters from three different suppliers documenting the unavailability of a specified steel from a domestic source, if the shortage is not previously established.

The Contractor shall comply with Section 501.07 for any foreign or nontraceable steel product used or submit for approval, test results showing the chemical and physical properties meet the applicable specifications.

BOILER-PLATE PROPOSAL NOTE TO BE USED ON ALL DESIGN-BUILD PROJECTS USING THE 1997 CONSTRUCTION & MATERIAL SPECIFICATIONS - 8/29/00**DISPOSAL OF TREES, STUMPS, BRUSH AND OTHER LANDSCAPE WASTES - ITEM 201**

Ohio law regulates the disposal of landscape waste that result from roadway clearing and grubbing operations. The regulated wastes includes brush, trees, stumps, tree trimmings, branches, weeds, leaves, grass, shrubbery, yard trimmings, crop residue, and other plant matter, excluding soil and garbage.

This material shall not be buried off the right-of-way. This material may be buried in nonstructural areas on the project site or right-of-way, where permitted by the Engineer.

Embankment Construction (Item 203) Using Petroleum Contaminated Soil

On this project, the requirements of Supplemental Specification 814 [Embankment Construction Using Petroleum Contaminated Soil] shall apply.

Project No. 3013**Revision to the Performance Requirements of Supplemental Specification 877, Temporary Sediment and Erosion Control [4-13-99]**

On any project specifying Supplemental Specification 877, Temporary Sediment and Erosion Control [4-13-99], the requirements of 877.05 Performance are revised to be as follows:

The Contractor shall install additional erosion control features, make adjustments to meet the field conditions, anticipated future work or corrections based on the weekly stormwater inspections with the concurrence of the Engineer. The type and quantity will be paid by agreed unit prices or by 109.04.

If proper sediment and erosion controls are not being provided by the Contractor, progress estimates shall be withheld until proper controls are placed.

The Contractor agrees to comply with all applicable federal, state and local laws in the conduct of the work hereunder. The Contractor represents and warrants that the erosion control items under SS-877 will be performed so as to be in compliance with the requirements of the Clean Water Act, 33 U.S.C. Sections 1251 et seq. and the Ohio Water Pollution Control Act, O.R. C. Sections 6111.01 et seq. and related rules. The Contractor warrants and agrees that it is equipped to limit water pollution for its activity in accordance with applicable state and federal standards.

The Contractor is to determine the personnel, equipment, and other services necessary to comply with this requirement and to insert its costs for the same in its bid.

The Contractor further agrees to indemnify and hold harmless ODOT, and shall reimburse ODOT for the actual cost of any liability, damage judgment or finding, fine, penalty, or expense as a result of a violation of the above noted laws arising out of the activity of the Contractor in its performance of the contract.

The Contractor shall reimburse the Department within ten (10) calendar days of the amount of the assessment, damage judgment or finding, fine, penalty, or expense or the Department may withhold this amount from the Contractor's next pay estimate and deliver that sum to the permitting agencies issuing the assessment, damage judgment or finding, fine, or penalty.

These assessments are not to be construed as a penalty but are actual damages to recover the costs assessed against the Department due to the Contractor's refusal or failure to comply with the above requirements.

These above provisions survive the completion and /or termination of the contract.

All temporary erosion control items shall be removed before the project is accepted. Removed materials shall become the property of the Contractor and shall be disposed of in accordance with Item 203.

Compaction of Item 304 Aggregate Base in Small Areas

Paragraph 3 of 304.05 shall apply as follows: Vibratory equipment alone may be permitted only in small areas or areas where normal production rollers cannot be used. The maximum lift thickness shall be 75 mm (3 inches); the Compaction requirements shall be in accordance with 203.09(b).

Open Hearth (OH) and Basic Oxygen Furnace (BOF) Steel Slag Aggregate used for Items 203, 304, 306, 307, 410, 411, 617, 503, or 603 Required to Meet Supplemental Specification 905.

On projects requiring or specifying the use of Items 203, 304, 306, 307, 410, 411, 617, 503, or 603, the requirements of supplemental specification 905 (Open Hearth and Basic Oxygen Furnace Steel Slag Aggregate used for Items 203, 304, 306, 307, 410, 411, 617, 503, or 603) shall apply.

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Air Cooled Blast Furnace Slag Used for Items 203, 304, 306, 307, 503, 603 or S.S. 855 (Asphalt Treated Free Draining Base) Required to Meet Supplemental Specification 907.

On projects requiring or specifying the use of Items 203, 304, 306, 307, 503, 603 or S.S.855 (Asphalt Treated Free Draining Base), the requirements of Supplemental Specification 907 [Sulphur Leachate Test for Air Cooled Blast Furnace Slag for Acceptance of Items 203, 304, 306, 307, 503, 603 or S.S.855 (Asphalt Treated Free Draining Base)] shall apply.

Asphalt Binder Price Adjustment

Any item specifying asphalt concrete or bituminous aggregate base is eligible for a price adjustment, if the Department's asphalt binder index shows the price for asphalt binders has increased or decreased in excess of 5 percent and the adjustment is more than \$100.00 for any individual item.

If PI / BI is greater than 1.05 or less than 0.95, compensation the Contractor receives for work done each month under contract items specifying asphalt concrete or bituminous aggregate base will be adjusted for the change in price for asphalt binder used in those items in accordance with the following formula:

$$\begin{aligned} \text{For a price increase:} & \quad PA = ((PI / BI) - 1.05) \cdot C \cdot Q \\ \text{For a price decrease:} & \quad PA = ((PI / BI) - 0.95) \cdot C \cdot Q \end{aligned}$$

where: PA = Price Adjustment
C = BI \cdot percent virgin asphalt binder /100
PI = Placing Index *
Q = quantity of asphalt concrete in tons (metric tons)
BI = Bidding Index *

* Use the Group Level for the asphalt binder used

The Placing Index (PI) is calculated from the prices of different asphalt binder grades (F.O.B.) quoted by a majority of Ohio suppliers for the month the asphalt concrete or bituminous aggregate base is placed. The asphalt binder grades will be divided into two Group Levels (A and B) and a Placing Index will be calculated for each Group Level. Prices will be secured by the Department on the first business day of each month and the Placing Index for each Group Level, along with a list of the asphalt binders contained in each Group Level, will be posted in the Office of Contracts. The Metric Placing Index shall be used if the project is in "Metric Units," otherwise the English Placing Index shall be used. Only the calculated average prices will be available. If the price is not available from a majority of the Ohio suppliers, then the Director's determination will be final.

The Bidding Index (BI) is equal to the Placing Index for each Group Level for the month immediately before the month the project is bid. The Metric Placing Index shall be used if the project is in "Metric Units," otherwise the English Placing Index shall be used.

The percent of virgin asphalt binder used to calculate "C" is determined from the approved job mix formula.

The quantity of asphalt concrete items (Q) is the authorized constructed quantity in tons (metric tons) placed in the month being considered. When the item is in cubic yards (cubic meters), it shall be converted into tons (metric tons) using the conversion factor established in accordance with 401.17.

When items specifying asphalt concrete or bituminous aggregate base are placed beyond an approved contract completion date and liquidated damages are applied for completion of the contracts, price adjustments will be based on either the Placing Index for the last month before liquidated damages were applicable or the Placing Index for the actual month of placing, whichever is less.

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Price adjustments will be calculated and applied at the end of each construction season and as soon as practical after the completion of the project.

406.02 MATERIALS FOR MICRO-SURFACING [406, SS881]

On this project, 406.02 shall be modified as follows:

1. Sand Equivalence (ASTM D 2419) shall be a minimum of 45 percent. It shall be run on the aggregate as part of the mix design procedure and reported on the design. It shall also be run as part of the Contractor's quality control and reported as part of the quality control records.
2. A second polymer modified asphalt emulsion CSS-1m may be used in designing the micro-surfacing mixture and it shall meet the following requirements:

Tests on Emulsion, ASTM D 244, unless otherwise designated:

| | |
|--|----------|
| Viscosity, Saybolt Furol, ASTM D 88, at 25°C, sec | 20-100 |
| Storage Stability Tests, 24-hr, % difference, max | 1 |
| Particle Charge Tests | Positive |
| Sieve Tests, % max (Distilled Water) | 0.10 |
| Distillation to 260 C, % by Weight, Residue, min * | 62 |

Tests on Distillation Residue:

| | Min. | Max. |
|--|------|------|
| Penetration, 25 C, 100g, 5 sec, dmm, ASTM D5 | 70 | 90 |
| Ductility, 4 C, 5 cm/min, cm/min, ASTM D113 | 40 | - |
| Elastic Recovery, 4C, 10 cm (%) ** | 65 | - |
| Softening Point, Ring & Ball, C, ASTM D 36 | 60 | - |

* ASTM D 244, with modifications to include a 204 C (± 6 C) maximum temperature to be held for 15 minutes.

** Straight molds. Hold at test temperature for 90 minutes. Place in ductilometer and elongate 10 cm at 5 cm/minute. Hold for 5 minutes and cut. After 1 hour retract the broken ends to touch and measure the elongation (X) in centimeters. Use the following formula to calculate the elastic recovery:

$$\text{Elastic Recovery (percent)} = ((10 - X) / 10) \times 100$$

The Contractor shall select the emulsion type to be used, based upon the stated the Design Designation in the plans. The modified CSS-1m emulsion shall only be used on projects where the Design Designation indicates the current year trucks are less than 2000.

Item 448 -- Asphalt Concrete Surface Course, Type 1 (Driveways)

Item 448 -- Asphalt Concrete Intermediate Course, Type 1, Under Guardrail

For all driveways and all asphalt concrete used under guardrails, regardless of the PG binder specified, the following shall apply:

1. The asphalt concrete used shall be constructed using a PG 64-22 binder.

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2. If the asphalt concrete on the project is specified to be constructed for a "heavy traffic volume," then a Type 1 medium gradation designed using the Heavy design requirements shall be used, but the requirements of Supplement 1055 shall not apply.

ASPHALT CONCRETE MIX DESIGN, QUALITY CONTROL, CONSTRUCTION AND ACCEPTANCE - ITEM 441

On this project, the following requirements shall be changed for 441 asphalt concrete:

1. 441.02 Table A values shall be modified as follows for the listed columns and rows:

| | Heavy | Type 1 Surface | Medium Light |
|----------------------------|--------------|-----------------------|---------------------|
| VMA, min | 14 | | |
| Total binder | 5.6 - 10.0 | 5.8 - 10.0 | 6.0 - 10.0 |
| Virgin Binder (min) | | 5.0 | 5.2 |
| Design Air Voids | 3.5 | | |

2. If a Type 1H asphalt concrete mix is used, it shall be modified with a polymer in accordance with Supplement 1055. The requirements of the specified asphalt concrete mix (446 or 448) shall apply, except as modified under Supplement 1055. When the Type 1H mix is placed, the surface of the existing pavement shall be a minimum of 10°C (50°F) and minimum air temperature shall be 10°C (50°F). No Type 1H mix shall be placed after November 1 regardless of daytime pavement or air temperature.
3. If a Type 2 asphalt concrete mix designed for a Heavy traffic volume is specified, a PG 64-28 binder shall be used regardless of the amount of reclaimed asphalt concrete pavement or reclaimed bituminous aggregate base used in the mix. The analysis specified in 441.03 is still required.

4. For all mix designs designed for Heavy traffic volume, the following cure times shall apply:

- 441.02 A two-hour cure shall be used for all mix samples used in the design process. The cure temperature for all samples shall be the mix holding temperature used prior to specimen compaction.
- 441.10 A one hour cure shall be used for all mix samples used in voids analysis. The Contractor may use a two-hour cure time, if voids are consistently near the low void warning band. The two-hour cure shall then be used for all voids testing through the remainder of the project. The cure temperature for all samples shall be the mix holding temperature used prior to specimen compaction.

5. For all mixes designed at 3.5 percent air voids, 441.10 Table C shall be modified as follows:

| Mix Characteristic | Specification Limits | Warning Band Limits |
|---------------------------|-----------------------------|----------------------------|
| Air Voids | 2.5 to 4.5 | 2.7 to 4.3 |

6. 401.09 shall be modified as follows: The Contractor shall provide a place off the project for cleaning of trucks when excessive sticking of material in truck beds occurs. If excessive sticking of material in truck beds is not resolved in a reasonable time and the sticking is in areas of the truck that would indicate excessive cooling of the mix (front corners, bottom, etc.) due to a long haul, an insulated bed will be required. Changes in policy regarding release agents for beds or other procedure changes desirable by the Contractor for better mix handling shall be at the discretion of the Laboratory.
7. If a Type 1H mix is used, 401.11 shall be modified as follows. A copy of the JMF approval letter containing the design compaction temperature shall be given to the Project Engineer or Inspector responsible for asphalt inspection by the Contractor before any mix is placed. The mix temperature immediately prior to rolling shall

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at no time be less than 145°C (290°F). Screeds shall be preheated. Pneumatic tire rollers are not recommended for polymer asphalt concrete because of excessive pick up. The breakdown roller shall operate immediately behind the paver and be rolling anytime the paver is laying asphalt.

- 8. 446.05 Table A shall be modified as follows for all 3.5 percent air void surface course mixes 38 mm (1.50 inches) or greater in lift thickness:

| Mean of cores(1) | Pay Factor |
|-------------------------|-------------------|
| 98.0% or greater | (2) |
| 97.0% to 97.9% | 0.94 |
| 93.0% to 96.9% | 1.00 |
| 92.0% to 92.9% | 0.94 |
| 90.0% to 91.9% | 0.88 |
| 89.0% to 89.9% | (3) |
| Less than 89.0% | (2) |

- 9. Polymer Compatibility and Performance: Should excess fat spots, regular random areas of flushing or excess drain down occur on a project and not be attributable to over rolling, plant operation or mix quality compared to the JMF, the polymer will be considered incompatible with the PG binder or improperly handled. Any on-hand PG binder will be rejected because of incompatibility. Correction of problem areas will be at the District's discretion depending on the problem severity, but if an unsafe condition exists, the area in question will be removed and replaced at Contractor expense. The Contractor or binder supplier will demonstrate to the Laboratory through reporting actual testing analysis the compatibility of another polymer binder and that proper equipment is in place before any work is allowed to resume.
- 10. Supplement 1036, Method of test for Determination of Percent Air Voids in Compacted Dense Bituminous Paving Mixtures, shall be modified as follows. AASHTO T 209-94, Maximum Specific Gravity of Bituminous Paving Mixtures, shall be modified to control partial vacuum in Section 6.3 to 25 +/- 2 mm Hg absolute pressure at the vacuum container through the testing period. Section 3, Apparatus, shall contain an in-line control device for maintaining the above requirement and contain a line Hg manometer housed in an enclosed box or other safe enclosure with clear cover for validating vacuum control.

Item 301 or 302 -- Bituminous Aggregate Base, Quality Control and Acceptance

On this project, the plant requirements, quality control, and acceptance shall be performed in accordance with Supplement 1056. The requirements of 301 or 302 shall apply except as modified under Supplement 1056.

Payment for accepted quantities, complete in place, will be made at the contract price or at the contract price as modified in Supplement 1056.06.

Convert Item 402, 403, or 404 Asphalt Concrete to 448

On this project, all references to 402, 403, or 404 Asphalt Concrete shall be changed as follows:

- 402 Asphalt Concrete shall be changed to 448 Asphalt Concrete Intermediate Course, Type 2.
- 403 Asphalt Concrete shall be changed to 448 Asphalt Concrete Intermediate Course, Type 1.
- 404 Asphalt Concrete shall be changed to 448 Asphalt Concrete Surface Course, Type 1.

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Item 615 -- Temporary Pavement (PG 64-22 Binder)

For the construction of a temporary pavement, if a flexible pavement is specified or the Contractor chooses to use a flexible pavement, the following shall apply, unless part of the temporary pavement is going to be incorporated into the permanent pavement:

1. The asphalt concrete or bituminous aggregate base used to construct the temporary pavement shall be constructed using a PG 64-22 binder.
2. If the temporary pavement is specified to be constructed for a "heavy traffic volume," the requirement for the surface course to contain a polymer is waived.

614.12 BITUMINOUS CONCRETE FOR MAINTAINING TRAFFIC

In lieu of 402 or 404 Asphalt Concrete AC-20, the Contractor shall use a Type 1 or Type 2 mix of 448 Asphalt Concrete, PG 64-22, or a bituminous premixed surface course approved by the Engineer.

Antistrip Additive for Asphalt Concrete; Supplemental Specification 906 Required.

On this project, the requirements of Supplemental Specification 906 [Antistrip Additive for Asphalt Concrete] shall apply.

702.01 BITUMINOUS MATERIAL (PG BINDER REQUIREMENTS) 1-6-99

All bituminous materials used in any asphalt concrete (PG 64-22, PG 64-28, AC - 20, etc.) shall meet the requirements of Supplemental Specification 908 [Performance Grade Binder Requirements, 1-6-99].

703.01 Aggregate from Open Hearth, Basic Oxygen (BOF) and Electric Arc (EAF) Steel Slag

When 703.04 aggregate for Bituminous Aggregate Base or any 703.05 aggregate is called for, the fourth paragraph of 703.01 regarding open hearth and basic oxygen furnace slag will not apply. In place of the above, open hearth, basic oxygen (BOF) and electric arc (EAF) steel slag aggregate (known as steel slag) shall conform to the following requirements.

All steel slag shall be supplied from sources in accordance with Supplement 1071, Quality Control Requirements for Steel Slag Aggregate. Steel slag shall be furnished to a size meeting the specified grading requirements. Steel slag aggregate shall meet the specified coarse or fine aggregate quality requirements. Measurement of soft pieces shall include soft lime, lime oxide or magnesia agglomerations or any foreign materials prone to rapid disintegration under construction processing and weathering conditions. Additional testing beyond those listed may be performed or required any time poor quality steel slag is suspected due to visual inspection, testing or field performance problems.

For every shipment of steel slag aggregate to the Contractor, the Contractor shall provide to the Engineer a letter of certification from the processor and copies of quality control records from the processor (according to Supplement 1071) covering steel slag in the shipment. The letter of certification shall document that steel slag production and processing or slag by product stockpile retrieval and processing was according to Supplement 1071. Failure to follow the processor QC plan or continued problems with performance recognized by the Laboratory to be attributable to steel slag shall be cause for limiting steel slag use from that processor.

No open hearth, basic oxygen, or electric furnace slag (steel slag) is permitted for coarse or fine aggregate (virgin or recycled) used in any surface course mix or any mix used as a surface course in accordance with 703.05.

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441.02 shall be modified as follows:

If 100 percent of coarse aggregate in an asphalt mix design is steel slag, a maximum of up to 50 percent of fine aggregate may be steel slag. Should a steel slag source be shown to cause bulking in asphalt concrete courses, limits on the amount of steel slag allowed in a mix design will be required by the Laboratory. Bulking may occur when a large percentage of an asphalt mix design is steel slag aggregate. It may be shown as present through testing such as ASTM D 4792 or through field failure such as, but not limited to, flushing on newer pavement or apparent over-asphalting in production. The steel slag processor may be required at any time to perform additional testing to verify steel slag properties. Potential pavement performance problems due to poor control of steel slag aggregate may be bulking (expansion resulting in flushing or material loss), poor gradation and specific gravity control resulting in highly variable pavement densities or void properties, pock marks resulting from excess soft pieces, flushing, etc.

Use of Asphalt Ignition Ovens

On this project, for any 301, 401 or 441 item, other than where required by another specification, the Contractor may use a Laboratory approved asphalt ignition oven to obtain a sample for checking gradation in lieu of any required gradation sample.

An asphalt ignition oven sample must be split from the same sample used to prepare and perform an AC Gauge test or be performed on the AC Gauge sample. The gradation and/or F/A ratio, as required, shall be calculated for each asphalt ignition oven test. The F/A ratio and/or gradation shall be calculated using the percent passing the 75 µm (No. 200) sieve from a washed or adjusted gradation of the asphalt ignition oven sample in accordance with AASHTO T 30-93 and the asphalt content from the AC Gauge. A washed and dry gradation shall be performed for every test the first two days of production or if production problems exist until the problems are resolved to the District's satisfaction. After initial washed gradation tests, the 75 µm value used in the F/A calculation can be determined from a dry gradation adjusted by the average of the three most recent washed gradation 75 µm values. A washed gradation shall be performed once every third production day thereafter or when problems exist. Dry and washed gradation 75 µm values shall be reported on the TE-199. Oven testing shall be performed in accordance with Supplement 1054.

703.13 Coarse Aggregate for 451, 452 and 453 Portland Cement Concrete Pavement.

In addition to the requirements of 703.02, the following aggregate requirements shall apply for 451, 452 and 453.

If crushed air cooled blast furnace slag is selected for the concrete coarse aggregate, No. 57 or 67 size shall be used.

Where gravel or limestone is selected and the total combined quantity of the listed items is greater than 8000m² (10,000 square yards), the coarse aggregate shall be Size No. 57 or 67. If the total combined quantity of the listed items is less than 8000m² (10,000 square yards), the coarse aggregate shall be one of the following sizes: No. 7, No. 78, No. 8, No. 57 or No. 67. Where Size No. 7, No. 78 or No. 8 is selected, the coarse aggregate shall be tested in accordance with 703.02. If gravel or limestone Size No. 57 or 67 is selected in either of the above cases, the coarse aggregate incorporated into the concrete shall meet 703.02 and be tested in accordance with ASTM C 666 Procedure B. The area generated under the curve obtained by plotting the expansions of test specimens versus the number of test cycles shall not exceed 2.05 at 350 or less cycles.

The validity of results of freeze thaw-resistance testing will be as outlined below:

| <u>Range of Area under Curve (1)</u> | <u>Status of Source Approval</u> |
|--------------------------------------|--|
| 0.00 - 1.00 | Valid for two years from date approved (2) |
| 1.01 - 2.05 | Valid for one year from date approved (2) |
| 2.06 - 4.00 | Not Approved, one retest allowed (3) |
| > 4.00 | Not Approved, no retesting allowed (3) |

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Notes :

- (1) As measured at 350 Cycles.
- (2) If a notable change in the properties of aggregate originating from the affected source is determined from quality control testing, a retest of freeze-thaw resistance may be requested before the original expiration date. The determination to require retesting will be made by the Office of Materials Management.
- (3) Except as noted, retesting will not be done unless the producer of the material sends a written request to the Department with substantiation that significant changes in operation have been made (e.g., new processing equipment, material from a new ledge, etc.).

The Office of Materials Management will maintain a list of approved sources. Copies of the listing will be sent to each District Engineer of Tests, the Ohio Aggregate Association and the Ohio Ready Mix Concrete Association on a monthly basis. Interim reports on samples undergoing testing may be obtained from the Cement and Concrete Section.

Modifications to Item 499 Concrete - General.

On this project, the requirements of Item 499 Concrete - General are replaced by Supplemental Specification 899, Concrete General (10-21-98), in their entirety.

Waterproofing: Items 512.06, 512.07, 512.09, 705.09 and 702.06.

- (1.) When 512.06 Type B Waterproofing or 512.07 Type D Waterproofing are specified, asphalt for waterproofing meeting ASTM D 312, Type III, may be used in lieu of 702.06 and 702.11.
- (2.) When Items 512.09 Type 3 Membrane Waterproofing and 705.09 Type 3 Membrane Primer are specified, the following modifications shall apply: (a.) Application of the membrane and primer shall be as follows. The application rate of 2.3 liters per square meter (0.5 gallons per square yard) is waived. Apply the primer no more than 1.5 m (5 feet) ahead of the waterproofing membrane application by squeegeeing out over the entire surface, filling all voids and imperfections. Apply membrane from the low to the high side of the surface. An extra bead of primer shall be applied at the edge of the membrane. Lap joints in membranes shall be a minimum of 75 mm (3 inches). After completing installation of the membrane over the entire surface, all joints in the membrane shall be sealed by applying primer and smoothing with a V squeegee. (b.) Only primer meeting ASTM D 3405 is permitted for 705.09 Type 3 Membrane Primer.
- (3.) 702.06 Asphalt for Waterproofing: ASTM D 449, Type II or ASTM D 312, Type III. Approval shall be by the Office of Materials Management.

Item 511 Concrete for Structures and Supplemental Specification 842 (1-6-99); Supplemental Specification 844 High Performance Concrete (1-6-99).

All references and requirements of Item 511 [Concrete for Structures] of the Construction and Material Specification are superseded by Supplemental Specification 842 Concrete for Structures (1-6-99).

All requirements and pay items for High Performance Concrete shall conform to Supplemental Specification 844, High Performance Concrete, dated 1-6-99.

Item 513 Structural Steel; Supplemental Specification 863 (10-12-99)

1. On this project, all references and requirements of Item 513 of the Construction and Material Specification including Sections 501.04, 501.05 and 501.07 as they apply to Section 513 are superseded by Supplemental Specification 863 Structural Steel Members, 10-12-99.

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2. The current edition of Supplemental Specification 863, Structural Steel Members, dated 10-12-99, shall apply to all projects.

711.31 Reinforced Propylene Plastic Manhole Steps (Item 604)

Where 709.01, Grade 60 deformed steel bars are utilized for 711.31, the steel may be coated per ASTM A 934/A 934M; the manufacturer shall furnish written certification.

Item 622 Concrete Barrier - Construction Joint Curing Requirements

In addition to the requirements of 622.07, the following shall apply. Horizontal construction joints between the foundation and the upper portion of the barrier, and between portions of the upper barrier placed separately, shall be water cured, or the membrane shall be removed before placing the rest of the barrier.

Modifications to Item 603 Pipe Culverts, Sewers and Drains

In 603.02 Materials, use of 707.32 (corrugated polyethylene drainage pipe) for Type D conduit is not permitted.

In 603.02 Materials, use of 707.31 (Corrugated polyethylene drainage tubing) for Type E conduit is not permitted.

In 603.08 Backfilling, paragraph 5 is void and is replaced by:

The backfill for thermoplastic Type C or D pipe shall be granular material to a minimum depth of 300 mm (12 inches) above the top of the conduit. In addition, for thermoplastic Type C conduit a 150 mm (6 inch) minimum depth of suitable soil shall be placed above the granular backfill.

In 603.081 Compaction Requirements, the requirements for Granular Material Type 2 are modified as follows: Each lift of granular material Type 2 shall be flooded with water to the satisfaction of the Engineer.

Item 617 Reconditioning Shoulders - Percent Passing No. 200 (75 um) Sieve

In 617.03, the Total Percent Passing the No. 200 (75 um) Sieve is changed from 1-13 to 0-15.

Reflective Sheeting (614, 630, 730)

1. Reflective sheeting for orange and object markers (614) shall be as follows. Orange object markers and vertical orange reflectorized stripes on glare screen paddles shall be reflectorized with Type G or Type H fluorescent orange sheeting complying with 730.19 and 730.192, respectively.

2. Fluorescent yellow green reflective sheeting is required for school, bicycle, and pedestrian signs (630.04, 730.19) in accordance with Supplemental Specification 808.

3. The sign fabrication requirements of 630.04 are revised as follows. The requirement in the first paragraph of 630.04 on pages 506-507 of the 1997 Construction and Material Specifications that the legends on extrusheet or temporary overlay signs be of demountable embossed copy is changed to require that reflective legends be of direct applied copy, reflective, Type G, and that nonreflective legends be of direct applied copy, black. The provision in 630.04 (3) on page 508 allowing the use of Type F sheeting where the plan does not require Type G sheeting for permanent signs is changed to require the use of Type G sheeting for all permanent signs. The requirement in 630.04 (5) (c) on page 509 that demountable flat copy, reflective, be of Type F sheeting is changed to require the use of Type G sheeting. The requirement in 630.04 (5) (e) on page 509 requiring that the numbers and border on interstate shields mounted on guide signs be of demountable copy with reflector units is changed to require that the numbers and border be fabricated by the reverse screen process or by the use of direct applied copy, reflective, Type G. The requirement in 630.04 (5) (f) on page 509 requiring the use of Type F white reflective sheeting is changed to require the use of Type G white reflective

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sheeting.

Raised Pavement Markers - Item 621

1. Where the plans ~~or Conceptual Documents~~ specify the use of Item 621 Raised Pavement Markers, use of recycled markers is required. On this project, the transfer, loading and shipping of recycled raised pavement markers (Item 621) shall conform to Supplement 1082, Recycled Pavement Markers (RPMs) authorization and Transfer Slip.
2. All materials required for Item 721, Raised Pavement Markers, shall be tested and prequalified in accordance with Supplement 1062.

Acceptance of Pressure Treated Lumber Made in the State of Ohio

The acceptance procedure in Supplement 1072 shall apply to all pressure treated lumber furnished under 507, 517, 521, 606, 607, 710, 711, and 712, and made within the State of Ohio.

Sealing Joints in Cast-in-Place Concrete Curb and Combination Curb and Gutter (609.04)

It is not required to seal transverse joints in cast in place concrete curb and combination curb and gutter (609.04).

Backfill Requirements for Cellular Retaining Walls - Item 610

Backfill requirements for cellular retaining walls in 610.06 are modified as follows: Above the elevation of the proposed ground line at the face of the wall, the interior of the cell spaces formed by the units shall be filled with granular material Type I or II in accordance with 703.11. The granular material shall be compacted in accordance with 203.09(b); 96 percent of the maximum density shall be permitted.

Seeding Requirements for Slopes Steeper Than 3 to 1 (659.09).

All areas with slopes steeper than 3 to 1 shall be seeded with either Crown Vetch at the rate and mixture specified in 659.09, or with low growing grass seed mix meeting the following requirements:

The low growing grass seed mix below shall be thoroughly mixed and then evenly sown over the prepared area at the rate of 100 lbs/acre (11.2 kg/1000 sq m). Seed shall be sown dry or hydraulically.

LOW GROWING GRASS SEED MIX
55 percent Hard Fescue (Festuca)
35 percent Creeping Red Fescue (Festuca rubra)
10 percent Annual Ryegrass

The remaining seeding and mulching requirements shall conform to 659.09.

Fertilizer Analysis (659.08)

The standard application of fertilizer in 659.08 is changed to 10-20-10. When the grass has been established but is exhibiting thin or spotty germination, fertilizer 12-12-12 at one-half rate shall be spread on the effected areas. The Contractor shall perform a soil test to determine the exact project fertilizer ratio, and provide the results to the Engineer.

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CORRECTIONS TO THE 1997 CONSTRUCTION & MATERIAL SPECIFICATIONS

499 CONCRETE - GENERAL (10-21-98)

On this project, the requirements of Item 499 Concrete - General are replaced by Supplemental Specification 899, Concrete - General (10-21-98), in their entirety.

518.02 Materials. In the gradation for porous backfill, change the reference to “50 mm (No. 2) sieve” to “50 mm (2 inch) sieve.”

605.02 Materials. Paragraph 3 is revised to read:

“When the size of the underdrains required is 150 mm (6 inches) and the kind of pipe is not specifically itemized, 100 mm (4 inch) 707.31 perforated corrugated polyethylene drainage tubing may be used.”

608.06 Concrete Steps. In paragraph (c), the rate of slope of step treads shall be 0.01 toward the next lower step.

625.15 Unit Type Duct-Cable System. In paragraph one, change “Director” to “Engineer”.

641.04 Equipment. In line 4 of paragraph 1, “performed” is changed to “preformed”.

700 MATERIAL DETAILS: Minimum Requirements for Sampling Materials. On page 642 of the 1997 CMS. The “Specification Section Number” for hook bolts is changed from “Std. Drawing BP-3” to “Std. Drawing BP-2.1M.”

703.01 General. In Table 703-1 on page 659, the Number 18 sieve size is Number 16; in Table 703-1 on page 660, the 1.16 sieve size is 1.18.

703.02/703.04/703.05. The correct unit weights for slag under section “2. Physical properties” of Items 703.02, 703.04 and 703.05 are as follows:

703.02 1120 kilograms per cubic meter (70 pounds per cubic foot).

703.04 1040 kilograms per cubic meter (65 pounds per cubic foot).

703.05 1120 kilograms per cubic meter (70 pounds per cubic foot).

703.06 Sand Cover, 407, 408. The paragraphs beginning “Other requirements...” and “Statistical evaluation...” are deleted.

703.11 Granular Materials for Bedding and Backfill. Paragraph 6 is revised as follows: Granulated slag shall only be used for Type 1 and Type 2 material, and shall conform to 703.08.

707.01 Metallic Coated Corrugated Steel Conduits and Underdrains. Under the metric pipe-arch sizes in paragraph 8.1.2, the wall thickness for the 1950X1320mm size is changed from 3.51 mm to 4.27 mm.

707.32 Corrugated Polyethylene Drainage Pipe. The exception to AASHTO M 294, paragraph 11.1, is changed to 12.1.

707.33 Corrugated Polyethylene Smooth Lined Pipe. The exception to paragraph 6.1.1 shall be as follows: The cell class shall be 335420C in lieu of the given. The maximum density shall be 0.955 grams per cubic centimeter. The exception to paragraph 10.1.3 is changed to 11.1.3.

711.25 Type 2 Membrane Waterproofing. Under “Elongation”, the reference to ASTM D142 is changed to ASTM D412. The requirement for “Puncture Resistance-Film ASTM D 781 (In. Ounce tear) 250 min.” is eliminated.

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DESIGN REQUIREMENTS FOR PLANT MIX PAVEMENTS (MEDIUM) - 12/07/95

On this project, all 301, 402, 403, 404, 412, 446 and 448 materials shall be designed for MEDIUM traffic volumes.

Project No. 3013**SECTION 100****OF THE****1997 ODOT CONSTRUCTION AND MATERIAL SPECIFICATIONS,****MODIFIED FOR****DESIGN-BUILD PROJECTS**

The text of this document is taken from the Department's 1997 Construction and Material Specifications except that **additional text is underlined and bold.**

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NOTE: The fact that the bid items for this Design-Build project are general rather than specific shall not relieve the Contractor of the requirement that all work performed and all materials furnished shall be in reasonable conformity with the specifications. The Contractor's Consultant shall reference in the plans the appropriate Construction and Materials Specifications for all work to be performed and all materials to be furnished.

101 DEFINITIONS AND TERMS

Wherever in these specifications or in other contract documents the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

101.01 Abbreviations. Wherever the following abbreviations are used in these specifications or on the plans, they are to be construed the same as the respective expressions represented:

| | |
|--------|--|
| AAN | American Association of Nurserymen |
| AASHTO | American Association of State Highway and Transportation Officials |
| ACI | American Concrete Institute |
| AISC | American Institute of Steel Construction |
| AISI | American Iron and Steel Institute |
| ANSI | American National Standards Institute |
| AREA | American Railway Engineering Association |
| ASCE | American Society of Civil Engineers |
| ASME | American Society of Mechanical Engineers |
| ASTM | American Society of Testing and Materials |

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| | |
|--------|---|
| AWG | American Wire Gauge |
| AWS | American Welding Society |
| AWWA | American Water Works Association |
| AWPA | American Wood Preservers' Association |
| CMS | Construction and Material Specifications of the Ohio Department of Transportation |
| EI | Edison Electric Institute |
| EPA | Environmental Protection Agency |
| FHWA | Federal Highway Administration, Department of Transportation |
| FSS | Federal Specifications and Standards, General Services Administration |
| IEEE | Institute of Electrical and Electronic Engineers |
| IES | Illuminating Engineering Society |
| IMSA | International Municipal Signal Association |
| IPCEA | Insulated Power Cable Engineers Association |
| ITE | Institute of Transportation Engineers |
| ISSA | International Slurry Seal Association |
| NEMA | National Electrical Manufacturers Association |
| OSHA | Occupational Safety and Health Administration |
| ODOT | Ohio Department of Transportation |
| OMUTCD | Ohio Manual of Uniform Traffic Control Devices |
| ORDC | Ohio Rail Development Commission |
| ORC | Ohio Revised Code |
| REA | Rural Electrification Administration |
| SSPC | Steel Structures Painting Council |
| UL | Underwriters' Laboratories, Inc. |

101.02 Advertisement. The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished.

101.03 Award. The written acceptance by the Director of a bid.

101.04 Bidder. An individual, firm or corporation submitting a bid for the advertised work, acting directly or through the duly authorized representative, and qualified as provided in 5525.02 to 5525.09 inclusive, ORC.

101.05 Bridge. A structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads and having a length measured along the center of roadway of more than 3.048 m (10 feet) between undercopings of abutments or extreme limits of openings for multiple boxes.

Length. The length of a bridge structure is the over-all length measured along the center line of roadway of the surface of the roadway.

Roadway width. The clear width measured at right angles to the longitudinal centerline of the bridge between the bottom of curbs or guard timbers or, in the case of multiple height of curbs, between the bottoms of the lower risers. For curb widths of 0.3 m (1 foot) or less, the roadway width shall be measured between parapets or railings.

101.06 Calendar Day or Day. Every day shown on the calendar.

101.061 Certified Test Data. A test report from a manufacturer's or an independent laboratory approved by the Director listing actual test results of samples tested for compliance with specified Department requirements. Certified test data will be accepted from manufacturers' laboratories if their products have been used satisfactorily on prior Department contracts and their test data has been confirmed. The report shall include a statement that the test data furnished is representative of the material furnished to a Department project or to a supplier. The report is

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identified by number and/or date and identifies the Department project or supplier to which the material is shipped. The report shall be signed by a person having legal authority to act for the manufacturer or independent laboratory.

101.07 Change Order. A written order issued by the Director to the Contractor, covering changes in the plans or quantities or both, within or beyond the scope of the contract and establishing the basis of payment and time adjustments for the work affected by the changes.

101.071 Completion Date. The date, as shown in the proposal, on which the work contemplated shall be completed.

101.072 Consultant or Contractor's Consultant. The Contractor's Design firm which is on the Department's Pre-Qualified list for the type of work involved. Also the Engineer or Engineering firm, or other pre-qualified specialized entity identified to perform specialized or professional services as a signatory to an agreement with the Contractor or as a part of the Contractor's staff.

101.073 Conceptual Documents. Any graphic or written materials, criteria and information concerning the Department's requirements for the Project. These items include the Addenda, Proposal including the Scope Of Services and Attachments, Plans, Special Provisions, Specifications, Design Standards and parts of the "Specifications for Consulting Services" which show or describe the character and scope of, or relate to, the work to be performed or furnished and which have been prepared by or for the Department.

101.08 Contract. The written agreement between the Department and the Contractor setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the work, the furnishing of labor and materials, and the basis of payment.

The contract includes the invitation for bids, **Conceptual Documents**, contract form and required bonds, specifications, supplemental specifications, general and detailed plans, notice to contractor, change orders and supplemental agreements that are required to complete the construction of the work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

101.09 Contract Bond. The approved forms of security, executed by the Contractor and his sureties, guaranteeing complete execution of the contract and all supplemental agreements pertaining thereto and the payment of all legal debts pertaining to the construction of the project which security shall comply with and be subject to 5525.16 and 5525.13 and related provisions, ORC.

101.10 Contract Item (Pay Item). A specifically described unit of work for which a price is provided in the contract.

101.14 Contractor. The individual, firm or corporation contracting with the Department for performance of prescribed work, acting directly or through a duly authorized representative and qualified under the provisions of 5525.02 to 5525.09 inclusive and 5517.01, ORC, and any amendments thereto.

101.15 County. The designated county in which the work specified is to be done.

101.16 Culvert. Any structure not classified as a bridge which provides an opening under the roadway.

101.17 Department. The Department of Transportation, State of Ohio.

101.170 Design-Build Scope Of Services (SOS). A project specific written document prepared for or by the Department to define all services including but not limited to the survey, design, construction and general requirements of the project.

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101.1700 Design-Build Team (DBT) . The team consisting of the Contractor, as defined in 101.14, and the Contractor's Consultant, as defined in 101.072.

101.171 Director. Administrative head of the Department appointed by the Governor.

101.18 Engineer. Duly authorized agent of the Department acting within the scope of his/her authority for purposes of engineering and administration of the Contract.

101.19 Equipment. All machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper **design**, construction and acceptable completion of the work.

101.20 Extra Work. An item of work not provided for in the contract as awarded but found essential to the satisfactory completion of the contract within its intended scope.

101.21 Extra Work Contract. A contract concerning the performance of work or furnishing of materials involving extra work. Such extra work may be performed at agreed prices or on a force account basis as provided in 5525.14, ORC.

101.22 Fabricator. The individual, firm, or corporation that fabricates structural metals or prestressed concrete members as an agent of the Contractor.

101.23 Inspector. The Engineer's authorized representative assigned to make detailed inspections of contract performance.

101.24 Invitation for Bids. The invitation for proposals for all work or materials on which bids are required. Such proposal will indicate with reasonable accuracy the quantity and location of the work to be done or the character and quality of the material to be furnished and the time and place of the opening of proposals.

101.25 Laboratory. The Testing Laboratory of the Department.

101.27 Materials. Any materials or products specified for use in the construction of the project and its appurtenances.

101.29 Plans. The plans, profiles, typical cross sections, standard construction drawings, working drawings and supplemental drawings, **provided by the department or produced by the contractor's consultant** or exact reproductions thereof, which show the location, character, dimensions, and details of the work.

101.30 Profile Grade. The trace of a vertical plane intersecting the top surface of the proposed wearing surface, usually along the longitudinal centerline of the roadbed. Profile grade means either elevation or gradient of such trace according to the context.

101.301 Progress Schedule. Critical Path Method (CPM) schedule or Relationship Bar Chart schedule submitted by the Contractor as required in the Design-Build Scope Of Services.

101.31 Project. The specific section of the highway together with all appurtenances, **design and** construction to be performed thereon under the contract.

101.311 Project Engineer. The Department's construction representative to the DBT.

101.312 Project Manager. The Department's design representative to the DBT.

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101.32 Proposal Bid. The offer of a bidder, on the prescribed form properly signed and guaranteed, to perform the work and to furnish the labor and materials at the prices quoted.

101.33 Proposal Form. The approved form on which the Department requires bids to be prepared and submitted for the work.

101.34 Proposal Guaranty. The security furnished with a bid to guarantee that the bidder will enter into the contract if his bid is accepted.

101.35 Questionnaire. The specified forms on which the Contractor shall furnish required information as to his ability to perform and finance the work required under 5525.01, ORC

101.351 Reasonably Close Conformity. Reasonably close conformity means compliance with reasonable and customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, reasonably close conformity means compliance with such working tolerances. Without detracting from the complete and absolute discretion of the Engineer to insist upon such tolerances as establishing reasonably close conformity, the Engineer may accept variations beyond such tolerances as reasonably close conformity where they will not materially affect the value or utility of the work and the interests of the Department.

101.36 Right-of-way. A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to a highway.

101.37 Road. A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way, as defined in 5501.01, ORC.

101.38 Roadbed. The graded portion of a highway within top and side slopes, prepared as a foundation for the pavement structure and shoulder.

101.39 Roadside. The areas between the outside edges of the shoulders and the right-of-way boundaries. Unpaved median areas between inside shoulders of divided highways and infield areas of interchanges are included.

101.40 Roadside Development. Those items necessary to the complete highway which provide for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; such suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the highway.

101.41 Roadway. The portion of a highway within limits of construction.

101.42 Shoulder. The portion of the roadway contiguous to the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

101.43 Sidewalk. That portion of the roadway primarily constructed for the use of pedestrians.

101.431 Signatures on Contract Documents. All signatures on contract documents must meet the requirements of 102.06. Contract documents include the contract, change orders, extra work contracts and all other binding correspondence.

101.44 Special Provisions. Additions and revisions to the standard and supplemental specifications covering conditions peculiar to an individual project.

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101.45 Specifications. The directions, provisions and requirements contained herein as supplemented by the supplemental specifications and special provisions.

101.47 State. The State of Ohio acting through its authorized representative.

101.48 Street. A general term denoting a public way for purpose of vehicular travel, including the entire area within the right-of-way.

101.49 Structures. Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, buildings, sewers, service pipes, underdrains, foundation drains and other features which may be encountered in the work and not otherwise classed herein.

101.50 Subcontractor. An individual, firm or corporation to whom the Contractor sublets part of the contract to be performed on the job site, who prior to such undertaking receives the written consent of the Director, and who is qualified under 5525.02 through 5525.09 inclusive, ORC. **This may also include the consultant, retained by the contractor, to provide the detailed design of the project.**

101.51 Subgrade. The portion of a roadbed upon which the pavement structure and shoulders are constructed.

101.52 Substructure. All of that part of the structure below the bearings of simple and continuous spans, skewbacks of arches and tops of footings of rigid frames, together with backwalls and wings.

101.53 Superintendent. The Contractor's authorized representative in responsible charge of the work.

101.54 Superstructure. The entire structure except the substructure.

101.541 Supplement. A list of requirements for fabrication plants, methods of test, or other miscellaneous requirements which are maintained on file in the Office of the Director.

101.542 Supplemental Agreement. A written agreement executed by the Contractor and by the Director covering necessary alterations.

101.55 Supplemental Specifications. Detailed specifications supplemental to or superseding these specifications.

101.56 Surety. The corporation, partnership or individual, other than the Contractor, executing a bond furnished by the Contractor.

101.57 Titles (or Headings). The titles or headings of the sections and subsections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

101.60 The Work. **The entire completed design and construction of the various separately identifiable parts thereof required to be performed or furnished under the Contract Documents. Work includes and is the result of performing or furnishing Design Professional Services and Construction required by the Contract Documents.**

101.62 Working Drawings. Stress sheets, shop drawings, erection plans, false-work plans, frame work plans, cofferdam plans, bending diagrams for reinforcing steel, or any other supplementary plans or similar data which the Contractor is required to submit for approval, **but not including the design plans prepared by the contractor's consultant.**

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101.64 Interpretations. In order to avoid cumbersome and confusing repetition of expressions in these specifications, it is provided that whenever anything is, or is to be, done, if, as, or, when, or where "contemplated, required, determined, directed, specified, authorized, ordered, given, designated, indicated, considered necessary, deemed necessary, permitted, reserved, suspended, established, approval, approved, disapproved, acceptable, unacceptable, suitable, accepted, satisfactory, unsatisfactory, sufficient, insufficient, rejected, or condemned," it shall be understood as if the expression were followed by the words "by the Engineer" or "to the Engineer."

102 BIDDING REQUIREMENTS AND CONDITIONS

102.01 Prequalification of Bidders. Contractors expecting to bid who are not currently pre-qualified with the Department, shall, at least ten days prior to the date specified for receipt of bids, file a confidential financial statement and experience questionnaire in accordance with 5525.02 to 5525.09 inclusive, ORC, and Rules and Regulations For Qualification of Bidders promulgated thereunder. (Foreign Contractors - See 5525.18 ORC and Rule VIII of above Rules and Regulations). **The bidder shall select a consultant which is currently determined by the Department to be qualified to perform the class(es) of work required.**

102.02 Contents of Proposal Forms. Upon request, the Department will furnish the prospective bidder with a proposal form. This form will state the location and description of the contemplated construction and will show **the types** of work to be performed or materials to be furnished, and will have a schedule of items for which bid prices are invited. The proposal form will state the date on which the work must be completed, the amount of the proposal guaranty, and the date, time and place of the opening of proposals. The form will also include any special provisions or requirements which vary from or are not contained in the **conceptual documents.** **The contractor is required to identify the consultant in the proposal.**

The **conceptual documents** designated in the proposal form, will be considered a part of the proposal whether attached or not.

The prospective bidder will be required to pay the Department the sum stated in the pamphlet "Proposed Highway Improvements for Contract Letting" for each set of **conceptual documents.**

102.03 Issuance of Proposals. The Department reserves the right to disqualify or refuse to consider a proposal if a bidder is in default for any of the following reasons:

- (a) Lack of competency and adequate machinery, plant and other equipment, as revealed by the financial statement and experience questionnaires required under 102.01.
- (b) Uncompleted work which, in the judgment of the Department, might hinder or prevent the prompt completion of additional work if awarded.
- (c) Failure to comply with any qualification regulation of the Department.
- (d) Default under previous contracts.
- (e) **Failure to identify a consultant which is properly qualified and listed in the Department's pre-qualified list for the type of work specified.**

102.04 Interpretation of Quantities in Proposal. **The lump sums bid for design and construction of the project, plus any unit bid prices (multiplied by the appropriate quantity) required in the proposal shall be the sole basis for comparison of bids. These will also be used to determine the progress of the work and to provide guidance in the issuance of partial payments during design and construction.** Any quantities appearing in the proposal are approximate only and are prepared for the comparison of bids. The Department does not assume any responsibility that the quantities will actually be required in the project construction, nor will the Contractor be

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allowed to plead misunderstanding or deception because of the quantity estimate or because of the character of the work, the location, or other conditions.

102.05 Examination of Plans, Specifications, Special Provisions, and Site of Work. The Bidder must examine the site of the proposed work, **and the Conceptual Documents**, before submitting a proposal. The submission of a bid shall be considered evidence that the Bidder has made such examination and is satisfied as to the conditions to be encountered in performing the work and as to the requirements of the **Conceptual Documents**.

Reference to standards, specifications, manuals or codes of any technical society, organization or association, or to the Laws or Regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard, specification, manual, code or Laws or Regulations in effect on the last day for receipt of Proposals except as may be otherwise specifically stated in the Contract Documents.

102.06 Preparation of Proposal. The Bidder shall submit his proposal upon the forms furnished by the Department. However, a computerized bid form approved by the Department may be attached to the bid proposal in lieu of completing the printed estimated quantities in the bidding documents. The Bidder shall specify a unit price in figures for each pay item for which a quantity is given **or a complete price for any item which is designated a lump sum** and shall also show the products of **any** respective unit prices and quantities written in figures in the column provided for that purpose and the total amount of the proposal obtained by adding the amounts of the several items. All the words and figures shall be in ink or typed.

When an item in the proposal contains a choice to be designated by the Bidder, the Bidder shall indicate his choice in accordance with the specifications for that particular item , and thereafter no further choice will be permitted.

The proposal shall include a properly executed Noncollusion Affidavit.

The Bidder's proposal must be signed with ink by the individual, by one or more members of the partnership, by one or more members or officers of each firm representing a joint venture, or by one or more officers of a corporation, or by an agent of the Bidder legally qualified and acceptable to the State. If the proposal is made by an individual, his name and business address must be shown; by a partnership, the name and business address of each partnership member must be shown; as a joint venture, the name and business address of each member or officer of the firms represented by the joint venture must be shown; by a corporation, the name of the state under the laws of which the corporation is chartered and the name and title of the officer or officers having authority under the bylaws to sign contracts, the name of the corporation and the business address of its corporate officials must be shown.

Anyone signing a proposal as agent must file with it legal evidence of his authority to do so.

102.07 Irregular Proposals. Proposals will be considered irregular and may be rejected for the following reasons:

- (a) If the proposal is on a form other than that furnished by the Department; or if the form is altered or any part thereof is detached. Computer generated facsimiles of the Department's format are acceptable.
- (b) If there are unauthorized additions, conditional or alternate bids, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning.
- (c) If the Bidder adds any provisions reserving the right to accept or reject an award, or to enter into a contract pursuant to an award. This does not exclude a bid limiting the maximum gross amount of

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awards acceptable to any one Bidder at any one bid letting, provided that any selection of awards will be made by the Department.

- (d) If the proposal does not contain a unit price for each pay item listed except in the case of authorized alternate pay items or lump sum items.
- (e) If the Department determines that any of the unit bid prices are significantly unbalanced to the potential detriment of the Department.
- (f) If the proposal is not properly signed.
- (g) If the proposal is not typed or in ink.

102.08 Proposal Guaranty. No proposal will be considered unless accompanied by a guaranty of the character and in an amount not less than the amount indicated in the proposal form made payable to the Director of Transportation, in accordance with 5525.01 to 5525.15, ORC.

102.09 Delivery of Proposals. The proposals for each project shall be placed, together with the proposal guaranty, in a sealed envelope so marked as to indicate the identity of the project and the name and address of the Bidder. If forwarded by mail said envelope shall then be placed in another envelope which shall be sealed and addressed as indicated in the proposal. Proposals will be received until the hour and date set for the opening thereof and must be in the hands of the official indicated by such time. Proposals received after the time for opening of bids will be returned to the Bidder unopened.

102.10 Withdrawal of Proposals. A Bidder may withdraw a proposal, provided the request in writing is in the hands of the official indicated in the proposal by the time set for opening proposals. When such request is received, the proposal will be returned to the Bidder unopened. Withdrawal of proposals pursuant to 5525.01 ORC is also available.

102.11 Combination or Conditional Proposals. If the Department so elects, proposals may be issued for projects in combination and/or separately, so that bids may be submitted either on the combination or on separate units of the combination. The Department reserves the right to make awards on combination bids or separate bids to the best advantage of the Department. No combination bids, other than those specifically set up on the proposals by the Department, will be considered. Separate contracts will be written for each individual project included in the combination.

102.12 Public Opening of Proposals. Proposals will be opened and read publicly at the time and place designated by the Director. Bidders, their authorized agents, and other interested parties are invited to be present.

102.13 Disqualification of Bidders. Any of the following reasons may be considered as being sufficient for the disqualification of a Bidder and the rejection of his proposal or proposals:

- (a) More than one proposal for the same work from an individual, firm, or corporation under the same or different name.
- (b) Evidence of collusion among Bidders. Participants in such collusion will receive no recognition as Bidders for any future work of the Department until any such participant shall have been reinstated as a qualified Bidder.

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- (c) Bid prices which obviously are materially unbalanced. Mathematically unbalanced bid prices are those that do not reasonably reflect the cost of the item bid, inclusive of labor, profit, overhead and material costs. Some examples of a mathematically unbalanced bid are 'front-end loading' and 'covering' (moving money from one item to another). Bidders must bid at least the cost of the materials for every item bid. Rejection of a bid will result if the Department determines that the bid prices submitted are 'materially unbalanced'. A bid is materially unbalanced if there is a reasonable doubt that the award to the bidder submitting the mathematically unbalanced bid will result in the lowest ultimate cost to the Department.

102.14 Material Guaranty. Before any contract is awarded, the Bidder may be required to furnish a complete statement of the origin, composition, and manufacture of any or all materials to be used in the construction of the work together with samples, which samples may be subjected to the test provided for in these specifications to determine their quality and fitness for the work.

103 AWARD AND EXECUTION OF CONTRACT

103.01 Consideration of Proposals. After the proposals are opened and read, they will be compared on the basis of the summation of **all lump sums bid.**

The right is reserved to reject any or all proposals, to waive technicalities or to advertise for new proposals, if in the judgment of the awarding authority the best interests of the Department will be promoted thereby.

103.02 Award of Contract. The award of contract, if it be awarded, will be made within 10 calendar days after the opening of proposals to the lowest or best Bidder whose proposal complies with all the requirements prescribed. In no case will an award be made until all necessary investigations are made as to the responsibility of the Bidder to whom it is proposed to award the contract. The successful Bidder will be notified, by letter mailed to the address shown on his proposal, that his bid has been accepted and that he has been awarded the contract.

In cases where the estimate is not confidential, no award will be made for a sum greater than the estimated cost of the improvement plus 5 percent of such estimated cost. Where the estimate is confidential the award may be made under the provisions of 5525.15 ORC. Where bids are taken in the form of separate proposals on portions of one project, the work will ordinarily be awarded to the Contractor, otherwise qualified, whose combined bid is the lowest. No Contractor bidding on all such proposals shall be required to enter into a contract covering less than the entire project without his consent.

103.03 Cancellation of Award. The Department reserves the right to rescind the award of any contract at any time before the execution of said contract by all parties without any liability against the Department.

103.04 Return of Proposal Guaranty. All proposal guaranties, in the form of a certified check or cashier's check, except those of the three lowest Bidders, will be returned immediately following the opening and checking of the proposals. The retained proposal guaranties of the unsuccessful Bidders, in the form of a certified check or cashier's check, will be returned within 10 days after the date on which the bids are opened. The proposal guaranty of the successful Bidder, if certified check or cashier's check, will be returned after a properly executed contract, performance bond, payment bond and other contract documents have been furnished, and the contract has been executed by the Director. Bid bonds will not be returned because they automatically expire.

103.042 Progress Schedule. Prior to execution of the contract and within 10 days of receiving notice of award, the successful bidder shall furnish a Progress Schedule as required in the Design-Build Scope Of Services.

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Controlling items of work are those which specifically and directly control the completion of the project (or which control partial completion, lane closures and lane openings which are specified in the proposal or scope of services).

Time extensions will only be considered when controlling items of work on the Progress Schedule are affected due to no fault of the contractor.

When additional work is required, time extensions will only be granted for controlling items on the Progress Schedule.

Additional requirements are listed in the Design-Build Scope Of Services.

103.05 Requirement of Contract Bond. Prior to execution of the contract, and within 10 days of receiving Notice of Award, the successful Bidder shall furnish a contract performance bond and a payment bond, each to be in an amount equal to the Department's estimate, in accordance with the requirements of 5525.16 ORC on the prescribed form for approval by the Director.

103.06 Execution of Contract. The contract shall be signed by the successful Bidder and returned, together with the certificate of compliance from the Industrial Commission, contract bond and other required contract documents, within 10 days after the Bidder has received notice that the contract has been awarded. No proposal shall be considered binding upon the State of Ohio until the execution of the contract. If the contract is not executed by the Director within 20 days following receipt from the Bidder of the required contract documents, the Bidder will have the right to withdraw his bid without prejudice.

103.07 Failure to Execute Contract. Failure to execute the contract and file acceptable bonds shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty which shall become the property of the Department, not as a penalty, but in liquidation of damages sustained. Award may then be made to the next lowest responsible Bidder, or the work may be re-advertised and constructed under contract or otherwise, as the Director may decide.

104 SCOPE OF WORK

104.01 Intent of Contract. The intent of the contract is to provide for the ~~design~~, construction and completion in every detail of the work described. The **DBT** shall perform all items of work covered and stipulated in the **Conceptual Documents** and perform altered and extra work, furnish all labor, **engineering, supervision,** materials, equipment, tools, transportation and supplies required to complete the work in accordance with the **Conceptual Documents** and terms of the contract. Should any misunderstanding arise as to the intent or meaning of the plans, specifications, special provisions or proposal, or any discrepancy appear, the decision of the Director shall be final and conclusive. **The DBT shall attend partnering, pre-design and pre-construction meetings to review project, location of data sources and identify contact persons, and review relevant ODOT procedures. At the meeting the DBT shall review and clarify with ODOT; project issues, data needs and availability, and the sequence of events and team meetings that are essential to the satisfactory completion of the proposed construction by the project completion date.**

104.011 Design of the Project. **The Contractor's Consultant will provide all necessary services to design all permanent and temporary portions of the project. All work shall conform to current Department, FHWA and AASHTO standards, practices, policies, guidelines and specifications.**

The Department's standards, practices, policies, guidelines and specifications shall control in case of a conflict.

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The standard of care for all such services performed or furnished under this Agreement will be the care and skill ordinarily exercised by members of the engineering profession practicing under similar conditions at the same time and locality.

~~**The Contractor shall require the Consultant to assign only qualified engineers and surveyors, professionally registered in the State of Ohio, in direct responsible charge of engineering and surveying endeavors. When services required are predominantly oriented toward other disciplines such as environmental, landscaping, transportation planning, or architectural applications, the Consultant shall assign other professionally competent personnel registered in Ohio or certified as required by law, to be in charge of the work.**~~

Full size, ink on mylar, 22" x 34" plans will be developed by the Consultant in accordance with the Location and Design Manual. In addition, electronic files in the format defined in the Conceptual Documents may also be required.

The Consultant's design shall be reviewed by the Department. The Consultant shall be available during construction to answer questions, issue clarifications, and correct errors and omissions. At the completion of the work, prior to final acceptance of the construction, the Consultant shall furnish the Department as-built construction plans as required in the Scope Of Services.

Design for relocation or accommodation of any utilities within the project shall be coordinated by the Contractor. The DBT shall determine and show on the plans the names of all existing utilities within project limits. The DBT shall identify and resolve utility conflicts and the plans and details shall reflect the resolutions and decisions accepted. The DBT shall call any utility meetings needed to ensure that the concerns are addressed on the plans involving utilities. The DBT shall notify the Project Engineer at least two working days in advance of any utility meeting. An ODOT representative shall be in attendance at all utility meetings. The Department will authorize project funds for utility relocations eligible for reimbursement and issue permits to the utilities relocating facilities that require relocation within the right of way. The DBT will be responsible for working with the individual utilities to ensure that all utility concerns are addressed and that any required utility relocation plans, estimates and support material are developed and copies are provided to the district utility office. The DBT will keep the district utility office aware of all utility coordination information. Also see additional requirements regarding Cooperation with Utilities in Section 105.06.

The Contractor's Consultant Shall:

- A. Consult with Department to understand the requirements for the Project and review available data.
- B. Advise the Department as to the necessity of providing or obtaining from others additional reports, data or services of the types provided in paragraph 104.012 and assist the Department in obtaining such reports, data, or services.
- C. Develop maintenance of traffic plans in accordance with the current Standard Construction Drawings, L&D Manual, OMUTCD and the Scope Of Services.
- D. Maintain and make available to ODOT, at ODOT's request, a Project Record which includes a history of significant events (changes, comments, etc.) which influenced the development of the project.
- E. Perform any surveys (see ODOT Survey Manual) required for this project.

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- F.** Perform hydraulic analysis as set forth in the Scope Of Services document. The results of the analyses must show no harmful interference to adjacent riparian vegetation (along streams). Results must be certified by the Contractor's Consultant. The certification must state that the proposed structure will have an equal to or greater hydraulic capacity and that a deletion of existing auxiliary openings and overflow areas is not planned.
- G.** Perform any additional needed soils surveys, soils borings, and geotechnical investigations, with appropriate analysis to produce the proposed design.
- H.** Provide plans, specifications and supporting documents for review by ODOT at the several stages of plan development review required by the proposal.
- I.** The Contractor's Consultant has additional duties and requirements which are explained in "Specifications for Consulting Services".
- J.** Provide the district utility office with copies of billing and supporting cost data from utilities for review prior to paying a utility if a bid item is in the plans for reimbursable utility relocation. When paid these costs may be claimed in accordance with Section 109.04e.

104.012 Department's Responsibilities for Design Activities. The Department shall do the following in a timely manner to facilitate the activities of the Contractor's Consultant.

Furnish to the DBT , as required for performance of Services the following, all of which the Contractor may use and rely upon when performing services under this Agreement:

- (a) Environmental assessment and impact statements,**
- (b) Engineering surveys to establish reference points for design and construction which in the Department's judgement are necessary to enable the Contractor to proceed with the Work.**
- (c) Existing subsurface data used in preparation of the conceptual documents.**

The Department will provide information, known to, or in the possession of the Department, relating to the presence of materials and substances at the site which could create a Hazardous Condition.

The Department shall not supervise, direct or have control or authority over, nor be responsible for, Contractors' means, methods, techniques, sequences or procedures of construction or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the furnishing or performance of the Work. Department will not be responsible except that the Department may order immediate remediation of conditions which endanger the public welfare as required in 105.14/105.15/107.07/107./10/107.11/107.12. The Department will not be responsible for Contractor's failure to perform or furnish the Work in accordance with the Contract Documents.

104.02 Differing Site Conditions, Suspension of Work and Significant Changes in the Scope of Work.

- (a) Differing Site Conditions Clause**

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1. Should the Contractor encounter subsurface or latent physical conditions at the site differing materially from those indicated in the **conceptual documents, contractual documents, ancillary documents or the contractor's design investigations** or unknown physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for the contract, the Contractor shall promptly notify the Engineer in writing of the specific differing conditions before they are disturbed or the affected work is performed.
2. Upon written notification, the Engineer will promptly investigate the conditions.

a) If the Engineer determines that the differing site conditions are not anomalous for This area and type of work, even though they may not have been visible or indicated by soil borings or other investigations performed, or which reasonably should have been performed, the Engineer will require the Contractor to make appropriate changes to the design and construction which will assure the integrity and quality of the completed project. No adjustment of contract cost or time required for performance of added or changed work shall be permitted for this purpose. Anomalous is defined as a condition, or set of independent conditions, which typically do not occur.

b) If the Engineer determines that the differing site conditions are an anomaly for this area and type of work, that they were not visible or indicated by soils borings or other investigations performed or which reasonably should have been performed and that the conditions do materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an equitable adjustment will be made. Should the Engineer and the Contractor disagree, disputes will be resolved in accordance with 105.17

3. No Contract adjustment for the benefit of the Contractor will be allowed unless the Contractor has given the written notice required.

(b) Suspension of Work

1. The Engineer reserves the right to suspend all or any portion of the work for any reasons during the execution of the work. If the work is suspended for a period of time and the Contractor believes the period is unreasonable and additional compensation and/or contract time is due, the Contractor shall submit to the Engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall include the justification for adjustment.
2. Upon receipt, the Engineer will consider the Contractor's request. If the Engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and was caused by conditions beyond the control of and not the fault of the Contractor, suppliers, subcontractors, or by weather the Engineer will make an equitable adjustment (excluding profit) and modify the contract in writing accordingly.
3. No contract adjustment will be allowed unless the Contractor has submitted a request for adjustment within the time prescribed.

104.03 Extra Work. The Contractor shall perform unforeseen work, for which there is no price included in the contract, whenever it is deemed necessary or desirable in order to complete fully the work as contemplated. Such work shall be performed in accordance with the specifications and as directed . **No adjustment of the**

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contract cost or the time required for performance of added or changed work will be permitted unless the Contractor demonstrates to the satisfaction of the Engineer that:

a. The need for the extra work was not reasonably evident during the design by inspection or investigations which were performed, or reasonably should have been performed during the design process, and

b. The need for the extra work is anomalous for this area and type of project

If the Engineer determines that the need for the extra work was not reasonably evident, and the likelihood of needing the extra work was anomalous, the work will be paid for as provided under 109.04.

The provisions of this section are subject to the limitations of 5525.14, ORC.

104.04 Maintenance of Traffic. When construction interferes with the normal use of the highway, temporary traffic facilities shall be provided. For local traffic, facilities for pedestrian and vehicular ingress and egress shall be provided at all times for the property adjacent to the work. For through traffic, the special provisions, plans or Scope Of Services will designate whether the highway will be closed with detours, temporary roads and run-around provided or whether traffic will be maintained through all or portions of the project.

Temporary traffic facilities shall be furnished, maintained, **and, where necessary, removed, and the work (which may include temporary traffic control devices, temporary pavement and structures, temporary raised pavement markers, temporary barriers, guardrail, connections and end treatments, and similar work) shall be included within the Lump Sum for Item 614 Maintaining Traffic. All work shall be** in accordance with the provisions of 614 Maintaining Traffic and 615 Temporary Roads and Pavements, **and other pertinent portions of the specifications.** The provisions of these items and this section shall not in any way relieve the Contractor of any of his legal responsibilities or liabilities for the safety of the public. The attention of the Bidder is directed to the provisions of 107.07 of these specifications and 5517.03, ORC.

104.05 Rights in and Use of Materials Found on the Work. The Contractor, with the approval of the Engineer, may use on the project such stone, gravel, sand, or other material determined suitable by the Engineer as may be found in the excavation and will be paid both for the excavation of such materials at the corresponding contract unit price and for the pay item for which the excavated material is used. He shall replace at his own expense with other acceptable material all of that portion of the excavation material so removed and used which was needed for use in the embankments, backfills, approaches, or otherwise. No charge for the materials so used will be made against the Contractor. The Contractor shall not excavate or remove any material from within the highway location which is not within the grading limits, as indicated by the slope and grade lines, without written authorization from the Engineer.

Unless otherwise provided, the material from any existing old structure may be used temporarily by the Contractor in the erection of the new structure. Such material shall not be cut or otherwise damaged except with the approval of the Engineer.

104.06 Cleaning Up. The Contractor shall maintain the project in a presentable condition. The highway, including stream channels and banks within the right-of-way at drainage structures, and all borrow and waste areas, storage sites, temporary plant sites, haul roads and other ground occupied by the Contractor in connection with the work shall be cleaned of all rubbish, excess materials, temporary structures, and equipment. These areas shall have suitable vegetative cover established by seeding and mulching in accordance with 659 and all parts of the work shall be left in an acceptable condition. The cost of cleanup shall be incidental to other items and no separate payment shall be made, however, ten percent of the payment for the mobilization item, if included, will be withheld until performance under this section is complete. See 624.06.

Project No. 3013**105 CONTROL OF WORK**

105.01 Authority of the Engineer. The Engineer will decide all questions which may arise as to the quality and acceptability of materials furnished and work performed, all questions which may arise as to the interpretation of the plans and specifications; all questions as to the acceptable fulfillment of the contract on the part of the **Contractor** and as to compensation.

The Engineer will have the authority to suspend the work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the workers or the general public, for failure to carry out provisions of the contract and to carry out orders. The Engineer may suspend the work for such periods as deemed necessary due to adverse weather conditions, for conditions considered adverse to the prosecution of the work or for any other condition or reason deemed to be in the public interest.

105.02 Plans and Working Drawings. The plans **shall** show details of structures, the lines, grades, typical cross sections of the roadway and the location and design of structures.

The plans shall be supplemented by working drawings when required to control the work adequately. Working drawings shall be furnished by the Contractor.

Specific items of work shall require working drawings. These requirements are stated in the specification section that is applicable to the item of work.

Where work consists of repairs, extension, or alteration of existing structures, the Contractor shall make such measurements of original construction as may be required to accurately join old and new work.

All working drawings will be reviewed by the Department for conformance with the **Conceptual Documents and** contract. Following the Department's review of each submittal of working drawings, the Department will indicate its action taken in response to the submittal by a written response to the Contractor showing action as follows:

1. "ACCEPTED", which means accepted for construction, fabrication or manufacture, subject to the provision that the work shall be in accordance with the requirements of the contract. Final acceptance of the work shall be contingent upon such compliance;
2. "ACCEPTED AS NOTED", which means unless otherwise noted on the drawings approved for construction, fabrication or manufacture, subject to the provision that the work shall be carried out in compliance with all comments or corrections indicated and in accordance with requirements of the contract. Final acceptance of work shall be contingent upon such compliance. If also marked "RESUBMIT", accepted as noted is valid, and a corrected submittal of the drawings is required; or
3. "NOT ACCEPTED", which means that deviations from the requirements of the contract exist in the submittal such that no work based on such drawings shall be constructed, fabricated, or manufactured. The Contractor shall revise the drawing in compliance with the comments and pursuant to all requirements of the contract and shall resubmit the working drawings for another review.

The Department's acceptance shall not relieve the Contractor of responsibility under the contract for the successful completion of the work. Any work done or materials ordered prior to the approval of such working drawings shall be at the sole risk of the Contractor.

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The cost of furnishing all working drawings shall be considered as included in the contract **Lump Sum** price for one or more of the contract items.

105.03 Conformity with Plans and Specifications. All work performed and all materials furnished shall be in reasonably close conformity with the lines, grades, cross sections, dimensions, and material requirements shown **in the Conceptual Documents**, on the plans or indicated in the specifications.

In the event the Director finds the materials or the finished product in which the materials are used not within reasonably close conformity with the plans and specifications but that reasonably acceptable work has been produced, he shall then make a determination if the work shall be accepted and remain in place. In this event, the Director will document the basis of acceptance by contract modification which will provide for an appropriate adjustment in the contract price for such work or materials as he deems necessary to conform to his determination based on engineering judgment.

In the event the Director finds the materials or the finished product in which the materials are used or the work performed are not in reasonably close conformity with the plans and specifications and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor.

105.04 Coordination of the Conceptual Documents . The specifications, the supplemental specifications, the plans, **the Scope Of Services**, special provisions, and all supplementary documents are essential parts of the contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work.

In case of discrepancy , **the Addenda will govern over the Proposal, the Proposal will govern over the Scope Of Services, the Scope Of Services will govern over all specifications, the Department's specifications and manuals will govern over FHWA and AASHTO standards and specifications.**

The Contractor shall take no advantage of any apparent error or omission in the **Conceptual Documents**. In the event the Contractor discovers such an error or omission, he shall immediately notify the Engineer. The Engineer will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the **Conceptual Documents. The Contractor shall cause the Consultant to make appropriate changes to the plans and drawings to implement that intent.**

105.05 Cooperation by Contractor.

The Contractor shall give the work the constant attention necessary to facilitate the progress thereof. The Contractor shall cooperate with the Engineer, the inspectors, and all other contractors of any agency in every way possible.

The Contractor shall have on the work at all times, as his agent, a competent superintendent capable of reading and thoroughly understanding the plans and specifications and thoroughly experienced in the type of work being performed, who shall receive instructions from the Engineer or his authorized representatives. The superintendent shall have full authority to execute orders or directions of the Engineer without delay, and to promptly supply such materials, equipment, tools, labor, and incidentals as may be required. Such superintendence shall be furnished irrespective of the amount of work sublet. The superintendent shall be in charge of all construction operations regardless of who performs the work.

105.06 Cooperation with Utilities. As a part of the design, the Contractor shall work with utilities as outlined in 104.011.

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As a part of the construction work, and based on utility relocation plans and estimates accepted by the Contractor and approved by the Department, **the Contractor** will notify all utility companies, all pipe line owners or other parties affected and **arrange** to have all necessary adjustments of the public or private utility fixtures, pipe lines and other appurtenances within or adjacent to the limits of construction, made as soon as practicable.

All utility facilities and all other utility appurtenances within the limits of the proposed construction which are to be relocated or adjusted will be moved by the owners at the direction of the Department at no cost to the Contractor, unless otherwise provided for in the proposal or noted on the project plans.

The **design plans developed by the Contractor's Consultant** will indicate various utility items, some of which will be relocated or adjusted by the utility owner, including a time frame or date by which the relocation work is expected to be completed. The Contractor shall give adequate notification to the utility owner who is adjusting their facilities during construction so as not to conflict with the Contractor's schedule of operations.

It is understood and agreed that the Contractor has considered in the bid all of the permanent and temporary **utility facilities and** utility appurtenances in their present **positions and will coordinate and gain approval of all necessary relocations or adjustments, establish a schedule of adjustments that are mutually agreeable to the Contractor, the State and the utilities, and will take all necessary steps to assure that utility adjustments will not delay the project.**

The Contractor shall cooperate fully with each utility company and **shall make every effort to avoid delays.**

In accordance with 153.64 ORC, at least 2 working days prior to commencing construction operations the Contractor shall notify the Engineer, the registered utility protection service and the owners of each underground utility facility who are not members of the registered utility protection service.

The owner of the underground utility facility shall, within 48 hours, excluding Saturdays, Sundays, and Legal Holidays, after notice is received, stake, mark or otherwise designate the location of the existing underground utility facilities in the construction area in such manner as to indicate their course together with the approximate depth at which they were installed. The marking or locating shall be coordinated to stay approximately 2 days ahead of the planned construction.

If, through the failure of the utility owners to relocate or adjust their facilities as provided for in the contract, the Contractor **is delayed by causes** which could not have been avoided by **judicious design efforts, effective utility coordination and reasonable accommodation or by** the judicious handling of forces, equipment and plant or by reasonable revision in the Contractor's schedule of operations, the Contractor **may be granted a time extension [as the Engineer may find to be fair and reasonable.**

The acceptability of such loss of time will be evaluated as follows:

- (1) The Engineer shall be satisfied that the Contractor has made every effort to prosecute the **design and construction** work despite any delays encountered or revisions in the Contractor's scheduling of work.
- (2) There will be no compensation for delay in prosecuting the work.
- (3) If performance of the Contractor's work is delayed because the utility owners fail to relocate or adjust their facilities as **previously agreed**, the contract time will be adjusted in accordance with the provisions of 108.06.

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105.07 Cooperation Between Contractors. The Department reserves the right at any time to contract for and perform other or additional work on or near the work covered by the contract.

When separate contracts are let within the limits of any one project, each Contractor shall conduct his work so as not to interfere with or hinder the progress or completion of the work being performed by other contractors. Contractors working on the same project shall cooperate with each other as directed.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with his contract and shall protect and save harmless the Department from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by him because of the presence and operations of other contractors working within the limits of the same project.

The Contractor shall arrange his work and shall place and dispose of the materials being used so as not to interfere with the operations of the other contractors within the limits of the same project. He shall join his work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

105.08 Construction Stakes, Lines and Grades. The Contractor shall set construction stakes establishing lines, slopes, and continuous profile-grade in road work, centerline and bench marks for bridge work, culvert work, protective and accessory structures and appurtenances as the Engineer may deem necessary. The Contractor shall provide all necessary information relating to lines, slopes and grades. These stakes and marks shall constitute the field control by and in accordance with which the Contractor shall establish other necessary controls to perform the work.

The Contractor shall be held responsible for the preservation of all stakes and marks, and if any of the construction stakes or marks have been destroyed or disturbed the Contractor shall replace them.

The Contractor will be responsible for the accuracy of lines, slopes, grades, and other engineering work which is set forth under this section. The layout work shall be done under the direct supervision of a registered Professional Engineer or a Registered Surveyor who is qualified in the use of plans, cross sections and specifications.

The provisions of 623 shall govern all staking work.

105.09 Authority and Duties of Project Engineer or Supervisor. As the direct representative of the Department, the project engineer or supervisor has immediate charge of the engineering details of his/her construction project. The project engineer or supervisor is responsible for the administration and satisfactory completion of the project. The project engineer or supervisor has the authority to reject defective material and to suspend any work that is being improperly performed.

105.10 Authority and Duties of the Inspector. Inspectors employed by the Department will be authorized to inspect all work done and materials furnished. Such inspection may extend to all or any part of the work and to the preparation, fabrication or manufacture of the materials to be used. The Inspector is not authorized to alter or waive the provisions of the contract. He is authorized to call the attention of the Contractor to any failure of the work or materials to conform to the specifications and contract. He is authorized to reject materials which do not meet specification requirements or suspend the portion of the work involved until any question at issue can be referred to and decided by the Engineer. The Inspector is not authorized to issue instructions contrary to the plans and specifications, or to act for the Contractor.

105.11 Inspection of Work. All materials and each part or detail of the work shall be subject to inspection by the Engineer. The Engineer or his representative shall be provided access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

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If the Engineer requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed, will be at the Contractor's expense.

Any work done or materials used without supervision or inspection by an authorized department representative may be ordered removed and replaced at the Contractor's expense. Failure to reject any defective work or material shall not in any way prevent later rejection when such defects are discovered, or obligate the State of Ohio to final acceptance.

When any unit of government or political subdivision or any railroad corporation is to pay a portion of the cost of the work covered by this contract, its representatives shall have the right to inspect the work. Such inspection shall in no sense make any unit of government or political subdivision or any railroad corporation a party to this contract, and shall in no way interfere with the rights of either party hereunder.

105.12 Removal of Unacceptable and Unauthorized Work. All work which does not conform to the requirements of the contract will be considered unacceptable unless otherwise determined acceptable under the provisions in 105.03.

Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause found to exist prior to final acceptance of the work, shall be removed immediately and replaced in an acceptable manner.

Work done contrary to the instructions of the Engineer, work done beyond the lines shown on the plans, or as given, except as herein specified, or any extra work done without authority, will be considered as unauthorized and will not be paid for under the provisions of the contract. Work so done may be ordered removed or replaced at the Contractor's expense.

Upon failure on the part of the Contractor to comply with any order of the Director under the provisions of this section, the Director will have authority to cause unacceptable work to be remedied or removed and replaced and unauthorized work to be removed and to deduct the costs from any monies due or to become due the Contractor.

105.13 Load Restrictions. The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads. A special permit will not relieve the Contractor of liability for damage which may result from the moving of equipment.

The operation of equipment of such weight or so loaded as to cause damage to structures or the roadway or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base or structure before the expiration of the curing period. In no case shall legal load limits be exceeded unless permitted in writing. The Contractor shall be responsible for all damage done by his equipment.

105.131 Haul Roads. Prior to using any roads or streets for hauling equipment or materials, the Contractor shall first notify the Engineer, in writing, as to the specific roads or streets he desires to use. When, in the judgment of the District Construction Engineer, a road is available which is under the jurisdiction and control of the State of Ohio, the Contractor, upon written instructions of the Engineer shall use such state road for said hauling purposes.

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In the event that it is determined by the District Construction Engineer that such state controlled road(s) are not available, or the use thereof would be impractical, then the Contractor may use such local roads and streets as are not restricted by local authorities.

If, during the course of construction, it is determined by the Engineer that damages have occurred to said local roads or streets as a direct result of the proper use thereof for the hauling of equipment or materials, then pursuant to 5517.04 ORC the Engineer may order the Contractor to make immediate temporary repairs so as to assure reasonably normal conditions for the traveling public in so far as is practicable. Payment for such repairs shall be in accordance with the applicable provisions of 109.03 or 109.04.

The Contractor shall save the state harmless from any and all disputes between the Contractor and the local authorities regarding the use or continued use of said local roads or streets, and from any claim for delaying the project or otherwise hindering the fulfillment of the contract on the part of the Contractor.

105.14 Maintenance During Construction. The Contractor shall maintain the work during construction and until the project is accepted. This maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces to the end that the roadway or structures are kept in satisfactory condition at all times.

In the case of a contract for the placing of a course upon other courses or a subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

All cost of maintenance work during construction and before the project is accepted shall be included in the **Lump Sum Bid Price** for the various pay items and the Contractor will not be paid an additional amount for such work.

105.15 Failure to Maintain Roadway or Structure. If the Contractor, at any time, fails to comply with the provisions of 105.14, the Engineer will immediately notify the Contractor of such noncompliance. If the Contractor fails to remedy unsatisfactory maintenance within 24 hours after receipt of such notice, the Engineer may immediately proceed to maintain the project, and the entire cost of this maintenance will be deducted from monies due or to become due the Contractor on his contract.

105.151 Borrow and Waste Areas. The terms borrow area and waste area as used in this section refer to locations outside the right-of-way from which all materials are removed for use in the work or upon which materials from the work are to be deposited as waste.

No waste or borrow areas shall be approved in a regulated wetland.

Before any borrow or waste disposal operations are begun, the Contractor shall submit his plan for operation, control of drainage water, cleanup, shaping and restoration of disturbed areas and obtain the Engineer's written approval. The plan for operation shall include the saving of topsoil, and proposed measures to keep sediment and other contaminants from entering streams, lakes and reservoirs by the use of methods such as diversion channels, dikes, sediment traps, and vegetative covers. When it becomes necessary to locate such areas in or near streams, special precautions shall be taken.

The stability of borrow and waste areas and any damage to surrounding property resulting from movement of the areas shall be the sole responsibility of the Contractor.

Restoration of all borrow or waste areas shall include cleanup, shaping, replacement of topsoil and establishment of vegetative cover by seeding and mulching in accordance with the requirements of 659 at no additional cost to the State. The restored area shall be well drained unless approval is given to convert a pit area into a pond or lake, in which case restoration measures shall be confined to the disturbed areas above the anticipated normal water level.

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The cost of work described herein necessary to secure these results shall be included in the contract **Lump Sum Bid Price**.

105.152 Storm Water Permit. The Contractor shall comply with all current provisions of the Ohio Water Pollution Control Act, (OWPCA) (ORC Chapter 6111). The **DBT** will obtain a storm water permit under the OWPCA provisions when the plan work acreage requires a permit. The Contractor's work outside the work limits designated in the plans shall not be covered by this storm water permit. The Contractor shall apply for a permit to cover his operations outside the work limits shown on the plans as required by the OWPCA provisions. When the Department has not applied for a permit on the project and a permit is required under the provisions of the OWPCA because of the total area of the Contractor's work, the Contractor shall apply for and comply with the required permit for both the project work limits and his operations.

105.16 Acceptance. Acceptance shall be as provided in 109.071 and 109.072.

106 CONTROL OF MATERIAL

106.01 Source of Supply and Quality Requirements. The materials used on the work shall meet all requirements of the contract. In order to expedite the inspection and testing of materials, the Contractor shall notify the Engineer of his proposed sources prior to delivery. At the option of the Director, materials may be approved at the source of supply before delivery is started. If it is found after trial that the sources of supply do not produce the specified materials, the Contractor shall furnish from other sources.

106.03 Samples, Tests, Cited Specifications. All materials will be inspected and in compliance with the specified requirements determined by the Director before they are incorporated into the work. Materials may be sampled and tested by the Department or certifications required as designated herein. Certifications or samples are required as directed for materials not covered herein. Unless otherwise designated, tests in accordance with AASHTO, ASTM or the methods on file in the office of the Director will be made by and at the expense of the Department. Samples will be taken in accordance with Departmental procedures by a qualified representative of the Department. References included in these specifications to AASHTO, ASTM, Federal Specifications and to other referenced specifications shall be the test method or specification as amended to its issue date next preceding the pertinent Departmental letting date. Materials being used are subject to inspection, test or rejection at any time prior to incorporation into the work. Copies of tests made by the Department will be furnished to the Contractor's representative upon request. The Contractor, in all cases, shall furnish the required samples and specified materials certifications without charge to the Department.

Transports and distributors hauling bituminous material shall be equipped with an approved submerged bituminous material sampling device.

106.032 Materials for Temporary Applications. The Engineer may accept materials for temporary applications which are not intended for permanent incorporation in the project based on a Field Inspection Report TE-30, in lieu of the normal acceptance procedure. These materials will be acceptable in either of the following cases: (1) where similar materials from the same source have recently been approved; or (2) where the materials, in the judgment of the Engineer, will serve the intended purpose. This section does not apply to major structural items.

106.04 Plant Sampling and Testing Plan. The Director may undertake the inspection of materials at the source.

In the event plant sampling and testing is undertaken, the following conditions shall be met:

- (a) The Director shall have the cooperation and assistance of the Contractor and the producer with whom he has contracted for materials.

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- (b) The Director shall have full entry at all times to such parts of the plant as may concern the manufacture or production of the materials being furnished.
- (c) If required by the Director, the Contractor shall arrange for an approved building for the use of the inspector; such building to be located conveniently near the plant, independent of any building used by the material producer.
- (d) Adequate safety measures shall be provided and maintained.

It is understood that the Department reserves the right to retest all materials prior to incorporation into the work which have been tested and accepted at the source of supply after the same have been delivered and to reject all materials which, when retested, do not meet the requirements of these specifications, or those established for the specific project.

106.06 Storage of Materials. Materials shall be so stored as to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located so as to facilitate their prompt inspection. Approved portions of the right-of-way may be used for storage purposes and for the placing of the Contractor's plant and equipment, but any additional space required therefore must be provided by the Contractor at his expense. Private property shall not be used for storage purposes without written permission of the owner or lessee, and if requested by the Engineer copies of such written permission shall be furnished him. All storage sites shall be restored to their original condition by the Contractor at his expense. This shall not apply to the stripping and storing of topsoil, or to other materials salvaged from the work.

106.07 Handling Materials. All materials shall be handled in such manner as to preserve their quality and fitness for the work. Aggregates shall be transported from the storage site to the work in tight vehicles so constructed as to prevent loss or segregation of materials after loading and measuring in order that there may be no inconsistencies in the quantities of materials intended for incorporation in the work as loaded, and the quantities as actually received at the place of operations.

106.08 Unacceptable Materials. All materials not conforming to the requirements of the specifications at the time they are used shall be considered unacceptable and shall be removed immediately from the site of the work unless otherwise instructed by the Engineer. No materials, the defects of which have been corrected, shall be used until approval has been given. Upon failure on the part of the Contractor to comply immediately with any order of the Director made under the provisions of this section, the Director shall have authority to remove and replace defective materials and to deduct the cost of removal and replacement from any monies due or to become due to the Contractor.

106.09 Department-Furnished Material. The Contractor shall furnish all materials required to complete the work, except when otherwise provided in the proposal.

Material furnished by the Department will be delivered or made available to the Contractor at the points specified in the special provisions.

The cost of handling and placing all materials after they are delivered to the Contractor shall be considered as included in the contract price for the item in connection with which they are used.

The Contractor will be held responsible for all material delivered to him and deductions will be made from any monies due him to make good any shortages and deficiencies, from any cause whatsoever, and for any damage which may occur after such delivery, and for any demurrage charges.

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**107 LEGAL RELATIONS AND RESPONSIBILITY
TO PUBLIC**

107.01 Laws to be Observed. The Contractor shall keep fully informed of all Federal and State laws, all local laws, ordinances, and regulations and all orders and decrees of authorities having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. He shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the State and its representatives against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by himself or his employees.

The Contractor agrees that in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no Contractor or Subcontractor, nor any person acting on behalf of such Contractor or Subcontractor, shall, by reasons of race, sex, creed or color, discriminate against any citizen of the United States in the employment of labor or workers, who is qualified and available to perform the work to which the employment relates.

That no Contractor, Subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, sex, creed or color.

107.02 Permits, Licenses and Taxes. The Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the work.

107.03 Patented Devices, Materials, and Processes. If the Contractor employs any design, device, material, or process covered by letters of patent or copyright, he shall provide for such use by suitable legal agreement with the patentee or owner. The Contractor and the Surety shall indemnify and save harmless the State, any affected third party or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material, process, or any trademark or copyright, and shall indemnify the State for any costs, expenses, and damages which it may be obliged to pay by reason of any infringement, at any time during the prosecution or after the completion of the work.

In the case of patented pavements and wearing courses where royalties, licensing and proprietary service charges, exacted or to be exacted by the patentees, are published and certified agreements are filed with the Department, guaranteeing to prospective bidders free unrestricted use of all such proprietary rights and trade-marked goods upon payment of such published charges, such patented pavements may be specifically designated in the proposal and competition secured upon the item exclusive of the patent or proprietary charges.

107.04 Restoration of Surfaces Opened by Permit. The right to construct or reconstruct any utility service in the highway or street or to grant permits for same, at any time, is hereby expressly reserved by the Director for the proper authorities of the municipality in which the work is done and the Contractor shall not be entitled to any damages either for the digging up of the street or for any delay occasioned thereby.

Any individual, firm, or corporation wishing to make an opening in the highway must secure a permit. The Contract shall allow parties bearing such permits, and only those parties, to make openings in the highway. When ordered by the Engineer, the Contractor shall make in an acceptable manner all necessary repairs due to such openings and such necessary work will be paid for as extra work, or as provided in these specifications, and will be subject to the same conditions as original work performed.

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107.05 Federal Aid Provisions. When the United States Government pays all or any portion of the cost of a project, the Federal laws and the rules and regulations made pursuant to such laws must be observed by the Contractor, and the work shall be subject to the inspection of the appropriate Federal agency.

Such inspection shall in no sense make the Federal Government a party to this contract and will in no way interfere with the rights of either party hereunder.

107.06 Sanitary Provisions. The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of his employees and department representatives as may be necessary to comply with the requirements of the State and local Boards of Health, or of other authorities having jurisdiction.

107.07 Public Convenience and Safety. The Contractor shall at all times so conduct his work as to assure the least possible obstruction to traffic. The safety and convenience of the general public and the residents along the highway and the protection of persons and property shall be provided for by the Contractor as specified under subsection 104.04. The attention of the bidder is directed to the provisions of 5517.03, ORC.

The Contractor shall provide and maintain safeguards, safety devices and protective equipment and take any other needed actions as may be necessary to protect the public and property in connection with the work.

The presence of barricades, lights or other traffic control devices, provided and maintained by any party other than the Contractor, shall not relieve the Contractor of this responsibility.

107.09 Bridges over Navigable Waters. All work on navigable waters shall be so conducted that free navigation of the waterways will not be interfered with and that the existing navigable depths will not be impaired except as allowed by permit issued by the U.S. Coast Guard. Work within the flood plain of a navigable stream may require a permit from the U.S. Army Corps of Engineers.

107.10 Temporary Traffic Control Devices. Temporary traffic control devices and facilities shall be furnished, erected, maintained **and if necessary, removed** in accordance with the provisions of 614 Maintaining Traffic. All traffic control devices shall conform to the Ohio Manual as required under Section 4511.09 ORC. The provisions of this item and this section shall not in any way relieve the Contractor of any of his legal responsibilities or liabilities for the safety of the public.

107.11 Use of Explosives. When the use of explosives is necessary for the prosecution of the work, the Contractor shall exercise the utmost care not to endanger life or property, including new work. The Contractor shall be responsible for all damage resulting from the use of explosives.

The bidder agrees and warrants that he will observe state laws and local ordinances and regulations relative to the use and storing of such explosives as may be kept on the job and all such storage places shall be marked clearly "DANGEROUS)) EXPLOSIVES."

107.12 Protection and Restoration of Property. The Contractor shall be responsible for the preservation of all public and private property.

The Contractor shall be responsible for all damage or injury to property of any character, during the prosecution of the work, resulting from any act, omission, neglect, or misconduct in his manner or method of executing the work, or at any time due to defective work or materials, and said responsibility will not be released until the project shall have been completed and accepted.

Dust nuisance originating from any plant operations either inside or outside the right-of-way shall be controlled by the Contractor in accordance with local ordinances and regulations at the sole expense of the Contractor.

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When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the nonexecution thereof by the Contractor, he shall restore, at his own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding or otherwise restoring as may be directed, or he shall make good such damage or injury in an acceptable manner.

When mail boxes, road or street name signs and supports interfere with construction, the Contractor shall remove and erect them in a temporary location during construction in a manner satisfactory to and as directed by the Engineer. After completion of the construction and before final acceptance of the project, the Contractor shall erect the mail boxes, road or street name signs and supports in a permanent location in accordance with the plans unless otherwise directed by the Engineer. This work shall be considered a subsidiary obligation of the Contractor under the affected items.

The Contractor shall cooperate with the Engineer in protecting and preserving cornerstones and monuments that are within the highway as required by 5519.05, ORC. The Contractor shall not start grading or resurfacing operations until the Engineer has referenced all known cornerstones, monuments and land markers in the area to be improved. Monuments, cornerstones and land markers unexpectedly encountered shall be protected, referenced and preserved in the same manner.

When cornerstones, monuments and land markers are encountered in the performance of the work, and monument covers are not listed in the proposal, the State will furnish them and supervise their precise location and installation in conformity with 5519.05, ORC and the Contractor will furnish all the labor, tools and other materials required incidental to such installations. Any labor, tools and materials so furnished shall be paid for as force account work. Relocation work shall be performed under the supervision of a registered surveyor.

The cost to the State for repair, redetermination of location and replacement of any cornerstone, monument or land marker within the highway, damaged, destroyed, or made inaccessible during the progress of the work, by the Contractor or his employees, in violation of these provisions, is a charge deductible from any estimate payable on account of the work.

107.14 Responsibility for Damage Claims and Liability Insurance. The Contractor shall save harmless the State of Ohio and all of its representatives, municipalities, counties, or any affected railroad or railway company, or any fee owner from whom a temporary right-of-way has been acquired for the project, from all suits, actions, or claims brought on account of any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding the work or through the use of unacceptable materials in the construction of the improvement or on account of any act or omission, by the Contractor.

The Contractor shall procure and maintain at his own expense, insurance for liability for damages imposed by law and assumed under this Contract, of the kinds and in the amounts hereinafter provided from insurance companies authorized to do business in Ohio. Prior to the execution of the contract by the Director, the Contractor shall furnish to the Department a certificate or certificates of insurance in the form satisfactory to the Department demonstrating that he has complied with this specification. The certificate or certificates shall provide that the contractor's liability and auto policies shall not be changed to reduce or restrict coverage or canceled until 30 days written notice has been given to the Department by the insurer. All certificates and notices shall be mailed to: Administrator, Office of Contracts, Ohio Department of Transportation, 1980 W. Broad St., Columbus, Ohio 43223. Upon request, the Contractor shall furnish the Department with a certified copy of each policy, including the provisions establishing premiums.

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The types and minimum limits of insurance are as follows:

- (a) Commercial General Liability Insurance. The minimum limits of liability for this insurance shall be as follows:

| | |
|---|----------------|
| General Aggregate Limit | \$2,000,000.00 |
| Products - Completed Operations Aggregate Limit | \$2,000,000.00 |
| Personal and Advertising Injury Limit | \$1,000,000.00 |
| Each Occurrence Limit | \$1,000,000.00 |

The above minimum coverages may be obtained through primary insurance or any combination of primary and umbrella insurance. In addition, the General Aggregate Limit shall be required on a per project basis.

The Commercial General Liability Insurance policy shall name the State of Ohio, Department of Transportation, its officers, agents and employees as additional insured with all rights to due notices in the manner set out above. The standard Commercial General Liability coverage for damages due to blasting, underground utilities and collapse of foundations shall not be deleted by exclusion endorsements.

- (b) Business Automobile Liability Insurance. The Comprehensive Automobile Liability policy shall cover owned, non-owned and hired vehicles with minimum limits as follows:

| | |
|---|----------------|
| Bodily Injury & Property Damage Liability Limit | |
| Combined Single Limit | \$1,000,000.00 |

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it preclude the Department from taking such other actions as are available to it under any other provisions of this Contract or otherwise in law.

Proof of insurance shall be submitted to the Department on the form prescribed by the Director. The Contractor shall be responsible for the deductible limit of the policy and all exclusions consistent with the risks he assumes under this Contract and as imposed by law.

In the event that the Contractor provides evidence of insurance in the form of certificates of insurance, valid for a period of time less than the period during which the Contractor is required by terms of this Contract to maintain insurance, said certificates shall be acceptable, but the Contractor shall be obligated to renew his insurance policies as necessary and to provide new certificates of insurance from time to time, so that the Department is continuously in possession of evidence that the Contractor's insurance is in accordance with the foregoing provisions.

In the event the Contractor fails or refuses to renew his insurance policies or the policies are canceled or terminated, or if aggregate limits have been impaired by claims so that the amount available is under the minimum aggregate required by \$500,000.00 or more, or modified so that the insurance does not meet the requirements of this item, the Department may refuse to make payment of any further monies due under this Contract or refuse to make payment of monies due or coming due under other contracts between the Contractor and the Department. The Department in its sole discretion may use monies retained pursuant to this specification to renew or increase the Contractor's insurance as necessary for the periods and amounts referred to above. Alternatively, the Department may request that the Contractor's surety remedy any deficiencies with these insurance requirements or the State may default the Contractor for failure to comply with this specification. During any period when the required insurance

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is not in effect, the Engineer may suspend performance of the Contract. If the Contract is so suspended, no additional compensation or extension of time shall be due on account thereof.

Nothing in the Contract including but not limited to the plans, bid proposals, specifications and insurance requirements is intended to create in the public or any member thereof a third party beneficiary hereunder, nor is any term and condition or other provision of the Contract intended to establish a standard of care owed to the public or any member thereof.

Additional insurance shall be maintained as specified below, for the minimum limits as indicated. Professional liability insurance coverage shall be written on a claims made basis. Insurance shall be written by insurance companies authorized to transact business in the State of Ohio under the laws of Ohio and licensed by the Department of Insurance as either admitted or non-admitted insurers.

(i) Worker's Compensation and Employers Liability

1. Worker's Compensation Insurance in compliance with Ohio Worker's Compensation laws and other applicable Worker's Compensation or disability laws.

(ii) Professional Liability Insurance:

The Contractor shall obtain a separate professional liability project insurance policy to insure against negligent performance on this specific project. The policy shall have an endorsement covering the Department for its vicarious liability. The project policy shall cover the design and construction period and a discovery period of not less than two years (see table 1 below). The discovery period shall commence at the time of acceptance of the project work by the Department. The project policy shall carry an amount not less than \$1,000,000 per claim and \$1,000,000 aggregate for all claims for negligent performance (see table 1 below). All design professionals, consultants and subconsultants providing service including environmental and geotechnical services, shall be included in the policy as named insureds.

| <u>Project Construction Cost</u> | <u>Amount of Insurance</u> | <u>Discovery Period</u> |
|------------------------------------|----------------------------|-------------------------|
| <u>Less than \$5,000,000</u> | <u>\$1,000,000</u> | <u>2 Years</u> |
| <u>\$5,000,000 to \$20,000,000</u> | <u>\$1,000,000</u> | <u>3 Years</u> |
| <u>More than \$20,000,000</u> | <u>\$2,000,000</u> | <u>5 Years</u> |

The cost of this policy minus deductible contributions shall be paid as a separate lump sum bit item. In order for payment to be made, the Contractor must submit an invoice from its insurance company prior to preparation of the pay estimate by the Engineer.

The Department, its officers and employees assume no responsibility for the adequacy of limits and coverage in the event of any claim against the Contractor, its employees, subcontractors, design consultant, subconsultants or any agent of any of them and the obligations of the indemnity requirement above shall survive the exhaustion of limits of coverage and discontinuance of coverage beyond the term specified, to the fullest extent of the state's statute of response.

The insurance hereinbefore specified shall be with an acceptable insurance company authorized to do business in the State of Ohio, and shall be taken out before execution of the Contract by the Director and kept in effect until all work required to be performed under the terms of the contract is satisfactorily completed as evidenced by the formal acceptance by the State. Such policy shall include a thirty (30) days cancellation notice.

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'Evidence' as above set forth shall consist of furnishing the Director of Transportation one (1) original and one (1) certified copy of the policy.

Payment will be made at the contract price bid for:

| <u>ITEM</u> | <u>UNIT</u> | <u>DESCRIPTION</u> |
|------------------|-----------------|--|
| 100E99010 | Lump Sum | <u>SPECIAL - PROFESSIONAL LIABILITY INSURANCE</u> |

107.141 Reporting, Investigating and Resolving Motorist Damage Claims. Pursuant to 107.12 and 107.14, the following procedures shall be utilized by the Contractor and the Department for reporting, investigating and resolving motorist damage claims.

When a motorist reports damage to his vehicle either verbally or in writing to the Contractor, the Contractor shall within three days make and file a written report to the District's construction office. The report shall be forwarded to the Department's Court of Claims Coordinator who, as a co-insured party, will then contact the Contractor's insurance company and request that the insurance company investigate and resolve the claim. In the event that the Department directly receives the motorist's claim, the claim report shall be sent to the contractor's insurance company and a copy be mailed to the Contractor. If the Contractor's insurance company does not resolve the claim in a timely manner, the Department shall advise the motorist of the option of pursuing the claim in the Ohio Court of Claims.

In the event of a lawsuit filed against the Department in the Ohio Court of Claims by the motorist, the Department, as an additional party, may request the Contractor's insurance company to defend this lawsuit and hold the Department harmless in accordance with 107.14.

107.15 Opening Sections of Project to Traffic. Opening of sections shall be as provided in 109.071 and 109.072.

107.16 Contractor's Responsibility for Work. Until final written acceptance of the project by the Director, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to acts of God, or the public enemy or governmental authorities.

In the event that damage to completed permanent items of work results from traffic utilizing a substantially completed section of roadway, as determined by the Engineer, the Contractor may be compensated for repair of damage as authorized by change order to establish the propriety of reimbursement :

1. The Contractor must formally notify the Engineer of each occurrence of damage within 10 calendar days.
2. The Contractor shall contact the local law enforcement agency to determine if damage (accident) was investigated and a report filed. If an accident report was filed, the Contractor shall obtain the report and notify the motorist, and copy their insurance company, via registered mail that he/she is responsible for the cost of damage repairs. If the motorist does not respond within 30 days, the Contractor shall make a second attempt to contact the motorist and copy the insurance company via registered mail.

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3. If no response is received from the motorist or insurance company within 30 days, the Contractor will send a letter to the Engineer and include documentation of good faith effort to seek recovery from responsible parties.
4. The Department will compensate the Contractor to make necessary repairs to the damaged work and request the Attorney General's office to collect the costs from responsible parties on behalf of the Department.

If there is no accident report on file and no means of identifying the guilty motorist, the Contractor will likewise be compensated to repair the damaged work.

In case of suspension of work by the Contractor or under the provisions of 105.09, the Contractor shall be responsible for the project and shall take such precautions as may be necessary to prevent damage to the project, provide for normal drainage and shall erect any necessary temporary structures, signs, or other facilities at his expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established plantings, seedings, and soddings furnished under his contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against injury.

107.17 Contractor's Responsibility for Utility Property and Services. At points where the Contractor's operations are adjacent to properties of railway, telegraph, telephone, and power companies, or are adjacent to other property, damage to which might result in considerable expense, loss, or inconvenience, work shall not be commenced until all arrangements necessary for the protection thereof have been made.

The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner, that duplication of rearrangement work may be reduced to a minimum, and that services rendered by those parties will not be unnecessarily interrupted.

In the event of interruption to underground or overhead utility services as a result of accidental breakage or as a result of being exposed or unsupported, the Contractor shall immediately alert the occupants of nearby premises as to any emergency that the Contractor may create or discover at or near such premises. The Contractor shall then notify the Engineer and the owner or operator of the utility facility of the disruption and shall cooperate with the said utility owner or operator in the restoration of service. If water service is interrupted, repair work shall be continuous until the service is restored. No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

107.18 Furnishing Right-of-Way. The Department will be responsible for the securing of all necessary rights-of-way in advance of construction. Any exceptions will be indicated in the Scope Of Services. All prospective bidders will be notified in writing prior to the date scheduled for receipt of bids regarding the specific dates certain parcels will be made available to the Contractor.

Where proposed work is beyond existing right-of-way limits, the Contractor shall not commence any work outside of the right-of-way until notified by the Department that the needed additional right-of-way has been acquired and is otherwise available for construction work.

107.19 Personal Liability of Public Officials. In carrying out any of the provisions of these specifications, or in exercising any power or authority granted to them by or within the scope of the contract, there shall be no liability upon the Director or his authorized representatives, either personally or as officials of the State, it being understood that in all such matters they act solely as agents and representatives of the State.

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107.20 No Waiver of Legal Rights. Neither the inspection by the Engineer; nor by any of his duly authorized representatives, nor any order, measurements, or certificate by the Director, or said representatives, nor any order by the Director for the payments of money, nor any payment for, nor acceptance of any work by the Director, nor any extension of time, nor any possession taken by the State or its duly authorized representatives, shall operate as a waiver of any provision of this contract, or of any power herein reserved to the State, or any right to damages herein provided; nor shall any waiver or any breach of this contract be held to be a waiver of any other subsequent breach.

107.21 Environmental Protection. The Contractor shall comply with all Federal, State and local laws and regulations controlling pollution of the environment. Pollution of streams, lakes, ponds and reservoirs with fuels, oils, bitumens, chemicals or other harmful materials and pollution of the atmosphere from particulate and gaseous matter shall be avoided.

Fording of streams is permitted if the drainage area of the stream is less than 7.7 km² (3 sq. mi.) and the Engineer approves the Contractor's plan to minimize siltation to the stream.

When work areas of pits are located in or adjacent to streams, such areas shall be separated from the main stream by a dike or barrier to keep sediment from entering the stream. Care shall be taken during the construction and removal of such barriers to minimize siltation of the stream.

Control of ground water and water in excavations shall be accomplished in a manner that will prevent the degradation of the water quality of any surface water. Wells and well points shall be installed with suitable screens and filters where necessary to prevent the continuous pumping of fines. The discharge of sediment-laden water from pumping shall be performed in a manner to prevent degradation of streams, lakes, ponds, or other areas of water impoundment. Such prevention may involve but is not limited to the use of ditch checks, sediment traps, sediment basins, sediment pits, or other control devices and methods necessary to prevent adverse effects to surface waters as provided in Chapter 3745-1-04 of the Ohio Administrative Code. The cost of constructing and maintaining these measures shall be included in the price bid for the contract item requiring de-watering.

Water from aggregate washing or other operations containing sediment shall be treated by filtration, settling basins, or other means sufficient to reduce the sediment concentration to not more than that of the stream or lake into which it is discharged.

107.22 Civil Rights. The Contractor shall comply with Federal, State, and local laws, rules and regulations which set forth unlawful employment practices including that of discrimination because of race, religion, color, sex or national origin and which define actions required for Affirmative Action and Minority or Disadvantaged Business programs.

108 PROSECUTION AND PROGRESS

108.01 Subletting of Contract. The Contractor shall not sublet, sell, transfer, assign, or otherwise dispose of the contract or contracts or any portion thereof, or of his right, title, or interest therein, without written consent of the Director. A copy of any such subcontracts must be furnished to the Department. In case such consent is given, the Contractor will be permitted to sublet a portion thereof, but shall perform with his own organization, work amounting to not less than 50 percent of the total contract cost, except as set forth in paragraphs (3) and (4) hereof. The term "his own organization" shall be construed to include only workers employed and paid directly by the Contractor and equipment owned or rented by him with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the prime Contractor. An assignment of contract work is considered synonymous with a subcontract to perform work.

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To determine whether the Contractor is in compliance with the requirement that he perform with his own organization contract work amounting to not less than 50 percent of the total contract price, the following criteria shall apply:

- (1) The contract amount upon which the 50 percent requirement is computed shall include the cost of materials and manufactured products which are to be purchased or produced under the contract provisions.
- (2) The percentage of subcontracted work, for purposes of this section, shall always be based on original contract prices rather than actual subcontract prices. Actual subcontract prices will be used for the purpose of calculating compliance with any Minority Business Enterprise (MBE) or Disadvantaged Business Enterprise (DBE) percentage subcontracting obligations. If only a part of a contract item is to be sublet, its proportional value shall be determined administratively on the same basis. This procedure should be followed even when the part not sublet consists only of procuring the materials. However, when a firm both sells materials to a Contractor and performs the work of incorporating the materials in the project, these two phases must be considered in combination and as constituting a single subcontract. If an affiliate of the firm either sells the materials or performs the work, the Department may refuse approval. An affiliate is one who has some common ownership or other close relation to said firm.
- (3) Any items designated in the contract as "specialty items" may be performed by subcontract and the cost of any such specialty items so performed by subcontract may be deducted from the total cost before computing the amount of work required to be performed by the Contractor with his own organization. However, in no event shall the Contractor perform less than 35 percent of the total contract cost. No subcontract, or transfer of contract, shall release the Contractor of his liability under the contract and bonds, unless release is granted by the Director.
- (4) When bidding on a particular project has been restricted to Disadvantaged Business Enterprises or Minority Business Enterprises, the Disadvantaged Business Enterprise or Minority Business Enterprise contractor shall perform with his/her own organization, work amounting to not less than 51 percent of the remainder obtained by subtracting from the total original contract amount the sum of any item designated in the contract as "specialty items" if these items are sublet, as required by Section 5501:5-1-05 of the Ohio Administrative Code.

108.02 Pre-design and Pre-construction Conference:

The DBT shall meet with the Project Engineer and the Project Manager for a pre-design conference prior to commencing design work.

The Contractor shall furnish a Progress Schedule, as required by the SOS, and a list of all sub-consultants and other firms involved in the design process.

The DBT shall meet with the Project Engineer and the Project Manager for a pre-construction conference prior to commencing construction work.

The Contractor shall furnish a list of the Contractor's proposed subcontractors and major material suppliers not included in the list submitted prior to the signing of the contract.

If the Contractor fails to provide the required submissions, at the pre-design or pre-construction conferences, the Engineer may order the conferences suspended until such time as they are furnished and work shall not begin until the conference has been reconvened and concluded or the Engineer has given specific written permission to proceed.

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108.03 Prosecution and Progress. The Contractor shall start the work in accordance with ~~the approved Progress Schedule as required in the Scope Of Services~~. The Contractor shall notify the Engineer at least 24 hours before beginning work.

The work shall be diligently and continuously carried on to completion and the Contractor agrees to provide at all times an adequate force of labor and sufficient materials and equipment to insure the completion of the contract within the time allowed. The progress of the work shall be at a rate sufficient to complete the contract in an acceptable manner within the time allowed.

Should design or construction progress differ significantly from the Progress Schedule presented at the preconstruction conference, the Engineer may request that the Contractor submit a revised progress schedule and anticipated completion dates of the major phases of work remaining and the anticipated completion date of the work. The Contractor shall submit the revised progress schedule within ten (10) calendar days after the request. Failure to provide an accurate, appropriate Progress Schedule may be grounds for the suspension of the work.

At a mutually convenient location and time as determined by the Engineer, the contractor shall meet with the Engineer to discuss construction activities. Minutes of these meetings will be kept by the Engineer and a copy given to the Contractor.

108.031 Monthly Progress Report. Progress meetings will be held every four (4) weeks at the project office, or other location designated by the Project Engineer, and attended by ODOT and the Contractor decision-making personnel. The purpose of these meetings will be to discuss adherence to the Progress Schedule and its periodic updates, critical operations and potential problems. The Contractor will confirm the number and duration of work shifts, number of work crews, and specific portions of the work to be performed during the following weeks. These meetings can only be waived by the Project Engineer.

108.032 Termination of Contract. The Director may terminate the contract for the convenience of the Department at any time. The Contractor will be compensated for design work under the provisions of the "Specifications for Consulting Services" and for construction work under 109.04 for added expense not including anticipated profits for termination of the contract for the convenience of the Department. This section is subject to the provisions of 5525.14, ORC.

108.04 Limitation of Operations. The Contractor shall conduct the work at all times in such a manner and in such sequence as will assure the least interference with traffic. He shall have due regard to the location of detours and to the provisions for handling traffic. He shall not open up work to the prejudice or detriment of work already started. The Engineer may require the Contractor to finish a section on which work is in progress before work is started on any additional sections if the opening of such section is essential to public convenience, or if necessary for the protection of portions of the existing and/or new facility from damages by action of the elements or from any other causes.

The Contractor shall take all necessary precautions and actions to prevent pollution of streams, lakes and reservoirs with fuels, oils, bitumens, calcium chloride or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

Proposed erosion control items provided in the contract, exclusive of seeding, shall be constructed concurrently with or immediately following earthwork or structure work of which they are a part. Seeding, mulching and protecting of major exposed slopes shall not be delayed until such time as they can be performed on a project wide basis. This work shall be performed in stages and shall be accomplished as soon as finished grade for seeding can be established in any significant portion of the project. The Contractor shall finish and seed, consistent with the general requirements of the specifications, significant portions of the project where, the grading has reached a stage that finishing thereof is incidental. Temporary control of water pollution, soil erosion, sedimentation and additional limitations of areas of erodible earth material exposed by clearing, grubbing and earthwork operations shall be in accordance with Supplemental Specification 877 and section 877.05 as modified in this proposal. The

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Contractor shall at all times conduct his operations in accordance with approved schedule. Whenever any excavation, embankment or earth cofferdam work is to be performed in or immediately adjacent to a live stream, the Contractor shall submit details of such operations so that the Director may forward them to the Ohio Department of Natural Resources, Division of Wildlife.

108.05 Character of Workers, Methods and Equipment. The Contractor shall at all times employ sufficient labor and equipment for prosecuting the several classes of work to full completion in the manner and time required by these specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform all work properly and satisfactorily.

Any person employed by the Contractor or by any subcontractor who, in the opinion of the Engineer, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Engineer, be removed forthwith by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the work without the approval of the Engineer.

Should the Contractor fail to remove such person or persons as required above, or fail to furnish suitable and sufficient personnel for the proper prosecution of the work, the Engineer may withhold all estimates, which are or may become due, or may suspend the work by written notice until the Contractor complies with such orders.

All equipment which is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment used on any portion of the project shall be such that no injury to the roadway, adjacent property, or other highways will result from its use.

When the methods and equipment to be used by the Contractor in accomplishing the construction are not prescribed in the contract, the Contractor is free to use any methods or equipment that he demonstrates to the satisfaction of the Engineer will accomplish the contract work in conformity with the requirements of the contract.

When the contract specifies that the construction be performed by the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized by the Engineer. If the Contractor desires to use a method or type of equipment other than those specified in the contract, he may request authority from the Engineer to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed to be used and an explanation of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing construction work in conformity with contract requirements. If, after trial use of the substituted methods or equipment, the Engineer determines that the work produced does not meet contract requirements, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining construction with the specified methods and equipment. The Contractor shall remove the deficient work and replace it with work of specified quality, or take such other corrective action as directed. No change will be made in basis of payment for the construction items involved nor in contract time as a result of authorizing a change in methods or equipment under these provisions.

108.06 Date for Completion. The Contractor shall have completed the work on or before the calendar date specified in the proposal, or on or before a later date determined as specified herein, otherwise the Director shall proceed as provided in 108.07 or 108.08.

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If the contract is revised in any material respect and it is determined that said revision will cause delay in the completion of the work, the Director will postpone the completion date by the number of calendar days he determines.

If the Contractor finds it impossible for reasons beyond his control to complete the work by the date as specified or as extended in accordance with the provisions of this subsection, the Contractor may make a written request to the Engineer for an extension of time setting forth therein the reasons which the Contractor believes will justify the granting of the request.

The Contractor's pleas that insufficient time was specified is not a valid reason for extension of time. If the Director finds that the work was delayed because of conditions beyond the control and without the fault of the Contractor, he may extend the time for completion in such amount as the conditions justify.

Requests for extensions of time, other than for weather or seasonal conditions, shall be submitted in writing to the Engineer within 30 days following the termination of the delay and prior to the expiration of the extended contract completion date existing before the request.

Requests for extensions of time due to weather or seasonal conditions shall be submitted in writing to the Engineer at the end of each month. The contract completion date, or the extended contract completion date, shall be postponed by one work day for each lost work day caused by weather. The time between December 1 and April 30 is considered winter months and no extension will be granted for this time. A work day will be counted as lost if the Contractor's efficiency is reduced more than 50 percent on the critical item under construction at that time. Weekends and holidays will not be counted as lost work days unless the Contractor normally works those days. The extended time for completion shall then be in full force and effect the same as though it were the original time for completion.

If the Director should suspend the work in whole or in part as provided in 108.031, the date for completion shall be postponed by the number of days that the suspension directly or indirectly delays the completion of the work.

108.07 Failure to Complete on Time. If the Contractor fails to complete the work within the time or times allowed by the contract, the Director, if satisfied that the Contractor is carrying the work forward with reasonable progress, and the Director deems it to be in the best interest of the public, may allow the Contractor to continue in control of the work. It shall be necessary for the Contractor to make written application to the Director in order to warrant such continuance. Payments to the Contractor for work performed and materials furnished will be made.

When the work is not completed within the time or times allowed by the contract and the Contractor is permitted to remain in control, the work shall be prosecuted at as many different places, at such times and with such forces as the Director may request. The Contractor may be required to provide a written plan for the completion of the work.

For each calendar day that any work shall remain uncompleted after the contract completion date or dates, the sum specified herein 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 completion date or dates granted under the provisions of 108.06. In the event one or more interim completion dates are specified without specific separate liquidated damages, the amount set forth in the Schedule herein will separately apply to each interim date. In the event a period of liquidated damages for an interim completion date overlaps a subsequent completion date, the higher rate of liquidated damages will apply for the duration of the overlap.

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Permitting the Contractor to continue and finish the work or any part of it after the date or dates fixed for its completion, or after the date or dates to which completion may have been extended, will in no way operate as a waiver on the part of the Department of any of its rights under the contract.

The Director may waive such portions of the liquidated damage as may accrue after the work is in condition for safe and convenient use by the traveling public.

| SCHEDULE OF LIQUIDATED DAMAGES | | |
|---|--------------------------|---|
| Original Contract Amount (Total Amount of the Bid) | | Amount of Liquidated Damages to be Deducted for Each Calendar Day of Overrun in Time |
| From More Than | To and Including | |
| \$0.00 | \$50,000.00 | \$150.00 |
| \$50,000.00 | \$500,000.00 | \$300.00 |
| \$500,000.00 | \$2,000,000.00 | \$500.00 |
| \$2,000,000.00 | \$5,000,000.00 | \$900.00 |
| \$5,000,000.00 | \$10,000,000.00 | \$1,000.00 |
| | Over \$10,000,000 | \$2,000.00 |

108.08 Unsatisfactory Progress and Termination of Contract. If the Contractor has not commenced his work within a reasonable time, or does not carry the same forward with reasonable progress, or is improperly performing his work, or has abandoned, or fails, or refuses, to complete the work, the Director shall make a finding to that effect and so notify the Contractor in writing. Upon receipt of this notification by the Contractor the right of the Contractor to control and supervise the work shall immediately cease. In such a case the Director will proceed in accordance with the provisions of 5525.17, ORC.

108.09 Payroll Records. Payroll records kept in accordance with 4115.07, ORC, shall be open to inspection of authorized representatives of the Director. Upon completion of the work and prior to the payment of the final estimate the Contractor shall submit an affidavit stating that wages have been paid in conformance with the minimum rates set forth in the contract for construction of the project.

108.10 Post Construction Meeting. Approximately 10 days after the final inspection either party to the contract may request a post construction meeting. If one party makes such a request, a post construction meeting is then mandatory. The Engineer shall conduct the meeting to critique the contract documents (i.e., plans, proposal). The meeting will be at a time and place as determined by the Engineer.

The performance of both parties shall also be discussed including portions of the project sublet. The Engineer shall contact the Design agency or consultant and the local Government agency to request a representative attend this meeting.

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Minutes shall be taken by the Engineer at this meeting. Copies of these minutes shall be distributed to the following: Contractor; Agency that prepared the plans; Offices of Roadway Engineering, Structural Engineering, and/or Traffic Engineering, as appropriate; Office of Highway Management; District Highway Management Administrator; District Production Administrator; Local Government Agency, if applicable.

For projects which will take two or more full construction seasons to complete, an additional construction meeting may be held at the request of either party at approximately the mid-point of the Contract.

The cost of attending this meeting shall be incidental to the Contract.

109 ACCEPTANCE, MEASUREMENT AND PAYMENT

109.01 Measurement of Quantities. The pricing and payment format of this contract is intended to be Lump Sum. The Lump Sum item of payment shall mean complete payment for the work described in that item . To the greatest extent possible, the Contractor will be compensated for the percentage of the applicable fixed Lump Sum price. The percentage shall be that portion of work completed as compared to the total amount of work contracted.

The term metric ton will mean 1000 kilograms. The term "ton" will mean the short ton consisting of 2000 pounds avoirdupois. All materials which are measured or proportioned by weight shall be weighed on accurate, approved scales by competent, qualified personnel at locations approved by the Engineer. If material is shipped by rail, the car weight may be accepted provided that only the actual weight of material is paid for. However, car weights will not be acceptable for materials to be passed through mixing plants. Trucks used to haul material being paid for by weight shall be weighed empty at least once daily at such times as the Engineer directs only if the weight of the truck is used in determining the ticket weight. Each truck shall bear a plainly legible identification mark.

All materials which are specified for measurement by the cubic yard (cubic meter) "loose measurement" or "measured in the vehicle" shall be hauled in approved vehicles and measured therein at the point of delivery on the road. Approved vehicles for this purpose may be of any type or size satisfactory to the Engineer, provided that the body is of such type that the actual contents may be readily and accurately determined. Unless all approved vehicles on a job are of uniform capacity, each approved vehicle must bear a plainly legible identification mark indicating the specific approved capacity. The Inspector may reject all loads not hauled in such approved vehicles.

For work on a tonnage basis, the Contractor shall file with the Engineer receipted freight bills where railroad shipments are made, and certified weigh-bills when materials are received by any other method, showing the actual tonnage used. For work on a volume basis, the Contractor shall furnish itemized evidence of the volume used. Freight bills, weigh-bills, and volume certificates shall be furnished to the Inspector as requested.

The following materials will be paid for by the gallon (liter) at the following temperatures:

At 60°F (16°C) Creosote for Priming Coat, Creosote Oil and Creosote Solutions for Timber Preservatives, Asphalt Primer for Water- proofing, and Liquefier.

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At 100°F (38°C) RC, MC, Asphalt Emulsions, RT-1, 2, 3, 4, 5, 6 and CBAE, Primer 20 and 100.

At 200°F (93°C) RT-7, 8, 9, 11 and 12.

At 300°F (149°C) Asphalt Cement and Oil Asphalt Filler, Grade A.

Tank car outage of bituminous material shall be measured at destination before any material has been removed from the tank car, in accordance with standard operating procedure PH-C-304.

For shipments of bituminous materials, the net weight shall be converted to gallons (liters) at the specified pay temperature in accordance with standard operating procedure PH-C-304.

Companies or contractors furnishing bituminous material in calibrated distributors or tank trucks shall file with the Director a certified list of the capacities of this equipment. The gallons (liters) at the measured temperature shall be converted to gallons (liters) at the specified pay temperature in accordance with standard operating procedure PH-C-304.

Timber will be measured by the thousand feet board measure, MFBM (cubic meter) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.

The term "lump sum" when used as an item of payment will mean complete payment for the work described in the item.

When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by size, unit weight, section dimensions etc., such identification will be considered to be nominal weights or dimensions.

109.011 Metric Conversion : Any metric standard drawings used for this project shall be converted to English units using the SI (Metric) to English Conversion Factors provided in this section. The appendix of ASTM E 380 shall be utilized for any additional conversion factors required. Conversions shall be appropriately precise and shall reflect standard industry English values where suitable. The DBT is responsible for the accuracy of the conversions.

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SI (Metric) to English Conversion Factors

| Symbol | When You | Multiply By | To Find | Symbol |
|------------------------------|---------------------|-------------|-----------------------------------|----------------------------------|
| Length | | | | |
| μm | micrometer | 0.03937 | mils | mil |
| mm | millimeters | 0.03937 | inches | in |
| m | meters | 3.28084 | feet | ft |
| m | meters | 1.093613 | yards | yd |
| km | kilometers | 0.62137 | miles | mi |
| Area | | | | |
| mm ² | square | 0.00155 | square inches | in ² |
| m ² | square meters | 10.76391 | square feet | ft ² |
| m ² | square meters | 1.19599 | square yards | yd ² |
| ha | hectares | 2.4710437 | acres | ac |
| m ² | square meters | 0.000247 | acres | ac |
| km ² | square | 0.3861 | square miles | mi ² |
| Volume | | | | |
| mL | milliliters | 0.033814 | fluid ounces | fl oz |
| L | liters | 0.264172 | gallons | gal |
| m ³ | cubic meters | 35.31466 | cubic feet | ft ³ |
| m ³ | cubic meters | 1.30795 | cubic yards | yd ³ |
| Mass | | | | |
| g | grams | 0.035274 | ounces | oz |
| kg | kilograms | 2.204622 | pounds | lb |
| t | metric ton | 1.1023114 | 2000 pounds | T |
| Temperature | | | | |
| °C | Celsius | 1.8C + 32 | Fahrenheit | °F |
| Illumination | | | | |
| lx | lux | 0.09290304 | foot-candles | fc |
| cd/m ² | candela/sq meter | 0.29186352 | foot-lamberts | fl |
| Force and Pressure or Stress | | | | |
| N m | newton-meter | 0.7375621 | foot-pound | ft.lbf |
| N | newtons | 0.22480892 | pound force | lbf |
| Pa | pascals | 0.02088543 | pound force per square foot | lbf/ft ² (psf) |
| MPa | megapascals | 145.03774 | pound force per square inch | lbf/in ² (psi) |

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109.02 Scope of Payment. The Contractor shall receive and accept compensation provided for in the contract as full payment for furnishing all materials and for performing all work under the contract in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the prosecution thereof, except as otherwise provided in 104.02, 105.17 and 107.16.

If the "Basis of Payment" clause in the specifications relating to any Lump Sum or unit price in the bid schedule requires that the said Lump Sum or unit price cover and be considered compensation for certain work or material essential to the item, this same work or material will not also be measured or paid for under any other pay item which may appear elsewhere in the specifications.

109.04 Extra and Force Account Work. Extra work performed in accordance with the requirements and provisions of 104.03 will be paid for at the unit prices or lump sum stipulated in the order authorizing the work, or the Department may require the Contractor to do such work on a force account basis to be compensated in the following manner:

- (a) **Labor.** For all labor and for all foremen in direct charge of the specific operations, the Contractor shall receive the rate of wage and fringe benefits currently in effect at the time the work is performed for each and every hour that said labor and foremen are actually engaged in such work, to which may be added an amount equal to 38 percent of the sum thereof. The term fringe benefits shall be defined as the actual costs paid to, or in behalf of, workers by reason of health and welfare benefits, pension fund benefits or other benefits, when such amounts are required by collective bargaining agreement or other employment contract generally applicable to the classes of labor employed on the work. In addition to the above, the Contractor shall receive the actual cost of Social Security Tax, Workmen's Compensation and State and Federal Unemployment Insurance. In lieu of itemizing these four items, 15 percent of the base wages may be added.

The wages of any foreman or timekeeper, who is employed partly on force account work and partly in other work, shall be prorated between the two classes of work according to the number of people employed on each class of work as shown by the payrolls.

The estimated rate of wage and labor cost is to be agreed upon in writing before beginning work.

The Contractor shall receive the actual costs paid for subsistence and travel allowances when such payments are required by collective bargaining agreement or other employment contract generally applicable to the classes of labor employed on the work. No percentage may be added to these costs.

- (b) **Materials.** For materials accepted by the Engineer and used, the Contractor shall receive the actual cost of such materials delivered on the work, including transportation charges paid (exclusive of machinery rentals as hereinafter set forth), to which cost 15 percent may be added.
- (c) **Equipment.** Equipment which the Engineer considers necessary for the performance of work will be eligible for payment at the established rates only during the hours that it is operated except as otherwise allowed elsewhere in these specifications. Equipment hours will be recorded to the nearest one-half hour. The equipment rental rates established herein include allowance for overhead and profit except where otherwise specified. For the use of equipment approved by the Engineer, the Contractor will be paid the rental

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rates, as modified herein, set forth in the Rental Rate Blue Book for Construction Equipment which is published by the Equipment Guide-Book Company.

- (1) **Rental Rates (Without Operators).** The rental rate for each item of equipment will be the sum of the base machine rate, attachment rate and operating rates(s).

The base rate for the machine and attachments represent the major cost of equipment ownership, such as depreciation, interest, taxes, insurance, storage and major repairs. The hourly operating rate represents the major costs of equipment operation, such as fuel and oil lubrication, field repairs, tires, expendable parts and supplies.

For all equipment utilized on force account work, the hourly rate for each piece of equipment and attachments will be paid at the Blue Book monthly rate for the make and model multiplied by the appropriate rate adjustment factor, divided by 176, plus the hourly operating costs. However, compensation for equipment normally used on a 24-hour day basis will not exceed the monthly rate plus adjustments and operating costs.

The rate adjustment factor assigned to any attachment will be the yearly factor as determined for the base equipment.

When multiple attachments are included with the rental equipment, only the attachment having the higher rental rate will be eligible for payment, provided the attachment has been approved by the Engineer as being necessary to the force account work.

Rental charges will not be allowed for small tools that show a daily rate less than 5 dollars or for unlisted equipment that has a value of less than 400 dollars.

The above provisions apply to approved equipment of modern design and in good working condition. The equipment shall be handled and used to provide normal output or production. Equipment that is not in good working condition or is not of proper size for efficient performance of the work may be rejected by the Engineer. Equipment ordered for force account work will be paid for until such time as the Engineer directs that the use of such equipment be discontinued or until completion of the work.

For any equipment not listed in the Blue Book, rental rates shall be agreed to in writing prior to the use of such equipment on force account work or paid for by invoices in the case of outside rented equipment.

- (2) **Stand-By or Idle Equipment Time.** Equipment that is in operational condition and is standing by with the Engineer's approval for participation in force account work will be paid for at 50 percent of the appropriate hourly rate as determined by the provisions set forth herein less operating costs. Payment for such "stand-by" will be limited to not more than 8 hours in a 24 hour day or 40 hours in a normal work week.

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No compensation will be allowed for equipment that is inoperable due to breakdown.

No payment will be allowed for equipment that is not operating because the work has been suspended in accordance with the specifications unless the suspension is for the convenience of the State. No payment will be allowed for equipment that is not operating because the work has been suspended by the Contractor for the Contractor's own reasons.

The hourly rate of compensation for idle equipment will be the monthly rate times a factor of 0.50 divided by 176 hours per month, regardless of the duration of the delay or stand-by

The time for which such compensation will be paid will be the actual normal working time during which such delay condition exists, but will in no case exceed 8 hours in any one day.

The days for which compensation will be paid will be the number of working days charged during the existence of such delay. No compensation will be made for days that are considered lost due to weather as determined by the Engineer.

Compensation will only be made for equipment physically located at the work site that would be used to prosecute the delayed work during the existence of such delay

- (3) **Outside Rented Equipment.** In cases where a piece of equipment to be used is rented or leased by the Contractor from a third party exclusively for force account work, the actual invoiced amount will be paid subject to the limits stated in the following paragraph and when such rates are reasonably in line with established rental rates for the equipment in question and approved by the Engineer. A 15 percent markup will be allowed for overhead and profit for all rented equipment paid for by invoices. To this amount, the hourly operating cost will be added.

In no case will equipment be considered for rental which exceeds the hourly rate for the first 8 hours and the daily rate divided by 8 for all additional hours as compared with similar equipment listed in the Blue Book unless approved in advance by the Engineer.

- (4) **Moving of Equipment.** Rental time will also be allowed for the time required to move needed equipment to location of the force account work and to return it to its original location. Loading and transportation costs will be allowed in lieu of moving times when equipment is moved by means other than its own power. Moving time back to the original location or loading and transportation costs will not be allowed if the equipment is used at the site of the force account work on contract items or related work.

For use of equipment moved on the work exclusively for force account work, the actual cost of transferring the equipment to the site of the work and returning it to the original location will be allowed as specified herein as an additional item of expense.

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The original location of the equipment to be hauled to the site of the work shall be agreed to by the Engineer in advance.

When moving equipment by common carrier, the allowance will be the invoiced amount paid for the freight plus 15 percent. If the Contractor's forces haul the equipment, rental will be allowed for the hauling unit plus the driver's wages and the cost of loading and unloading the equipment.

The maximum rental period for the day that the equipment is moved on the work and the day that use of the equipment is discontinued shall be the actual time that the equipment is in operation on force account work.

- (d) **Foreman's Transportation**, A flat hourly rate, which includes fuel and lubricants, profit and overhead, and any other costs will be allowed.
- (e) **Subcontract Work**. For work performed by an approved Subcontractor, the prime Contractor will be allowed an amount to cover administrative costs equal to 5 percent of the compensation provided in (a), (b), (c) and (d), but not to exceed \$10,000. No additional mark-up is allowed for work of a sub-subcontractor employed by a sub-contractor.
- (f) **Compensation. On this project the requirements of 109.04 (f) of the Construction and Material Specifications are modified as follows to include general liability insurance premiums in mark ups on extra work: The compensation to the Contractor as provided in (a), (b), (c), (d), and (e) of 109.04 shall constitute payment in full for extra work on a force account basis. The mark ups specified in (a), (b), (c), and (e) of 109.04 shall compensate for the following:**
 - 1. **Administration**
 - 2. **Superintendence**
 - 3. **Project overhead**
 - 4. **Home Office Overhead**
 - 5. **Use of tools and equipment for which no rental is allowed**
 - 6. **Profit**
 - 7. **Taxes other than sales tax**
 - 8. **Premiums on insurance including additional premiums for Commercial General Liability Insurance required under 107.14 and any additional coverage carried by the Contractor or subcontractor, excluding pollution and railroad liability insurance**
 - 9. **Any other expense incidental to perform the work.**

Sales tax will not be allowed on any item for which tax exemption may be obtained.

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Premiums for pollution and railroad liability insurance shall be compensated by a separate agreement for the full cost of the premium without any mark up.

Compensation for the foreman's transportation provided in (d) shall include any mobile communication units used by the Contractor or subcontractor.

The above described force account provisions will also apply to work performed at agreed unit prices and agreed lump sums when the agreed prices are based on analyses of cost of labor, material, and equipment.

- (g) **Statements,** Final payment will not be made for work performed on a force account basis until the Contractor has furnished the Engineer with itemized statements of the cost of such force account work detailed as follows:
- (1) Name, classification, date, daily hours, total hours, rate and extension for each laborer and foreman.
 - (2) Designation, dates, daily hours, total hours, rental rate and extension for each unit of machinery and equipment
 - (3) Quantities of materials, prices and extensions
 - (4) Transportation of materials

The Contractor's representative and the Engineer shall compare records daily of the cost of work done as ordered on a force account basis. The Contractor shall certify that these records are correct and both the Engineer and the Contractor shall sign off.

Statements shall be accompanied and supported by proper invoices for all materials used, transportation charges and rented equipment performing work on force account operations. If materials used on the force account work are not specifically purchased for such work but are produced by the Contractor or taken from the Contractor's stock then, in lieu of the invoices, the Contractor shall furnish an affidavit certifying that such materials were produced by him or taken from his stock, that the quantity claimed was actually used and that the price and transportation claimed represent the actual costs to the Contractor. Statements shall be filed not later than the 20th day of the month following that in which the work was actually performed

The above described force account provisions will also apply to work performed at agreed unit prices and agreed lump sums when the agreed prices are based on analyses of cost of labor, material and equipment.

109.06 Partial Payments. If satisfactory progress is being made, the Contractor will receive monthly payments of the amount of value of work and materials in place. The monthly payment is approximate only, and all partial estimates and payments shall be subject to correction in the final estimate and payment.

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The Contractor may submit monthly invoices for payment based upon lump sums bid. For each item, the Contractor shall estimate the current percentage completion of that item of work. The Project Engineer shall review each proposed current percentage completion and revise the percentage when appropriate. The agreed current percentage of completion multiplied by the lump sum price bid shall define the gross amount due the contractor for that item of work.

No estimate will be paid until the Contractor has presented to the Director of Transportation certificates from the Industrial Commission of Ohio that the Contractor has complied with each and every condition of 5525.18, ORC.

Estimates may be allowed twice each month if in the judgment of the Engineer the amount of work performed is sufficient to so warrant.

Should any defective work or material or acceptable work that has been damaged by the Contractor's operations be discovered previous to the final acceptance or should a reasonable doubt arise previous to the final acceptance as to the integrity of any part of the completed work, the estimate and payment for such defective or questioned work shall not be allowed until the defect has been remedied and cause for doubt removed.

109.07 Payment for Material on Hand. Partial payments may be made to the extent of the delivered cost of approved materials to be incorporated in the work, when delivered on the project or stored in acceptable storage places in the vicinity of the project.

Partial payments may be made to the extent of the cost of approved materials to be incorporated in the work when assigned to the Contractor, if the Engineer determines that it is not practical to deliver the material to the project site. This provision shall be applicable only to bulky materials that are durable in nature and represent a significant portion of the project cost, such as aggregates, steel and precast concrete. Small warehouse items may not be included.

No partial payment will be made on living or perishable plant materials until planted.

109.071 Acceptance)) Traffic Detoured.

(A) Acceptance and Opening to Traffic)) Part of Project. When a portion of a highway or structure covered by contract is substantially completed, a partial acceptance may be made by the Director and that portion opened to traffic when such opening will benefit the public interest. When all items on a portion of the highway are completed, upon written authorization by the Director, the Contractor may cease to maintain barriers, lights and traffic control devices covering the accepted portion.

The Contractor shall not be required to maintain portions of the highway or structures which have been completed and accepted, but he is required to repair any damage caused by his operations, defective work, or non-compliance with the plans, specifications and contract until the final estimate has been approved by the Director.

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- (B) **Acceptance and Opening to Traffic when Progress is Unsatisfactory or Work is Suspended.** When a portion of a highway or a structure is completed and the progress schedule of work has not been met or the Contractor suspends work for over 14 days during the normal construction season the Director on written notice to the Contractor may order the road or structure to be opened for travel and the Contractor shall place the highway, bridge or culvert or portions thereof in such condition for travel as the Director may order and shall remove all barriers and obstructions at no cost to the State of Ohio.
- (C) **Acceptance and Opening to Traffic when Ordered by the Director.** Upon written notice from the Director directing that the highway, bridge, or culvert, or any part thereof be opened for travel, the Contractor shall put the highway, bridge or culvert or such portions thereof as the Director may direct in such condition for travel as the Director may direct, and shall remove all barriers and obstructions. (5517.03 ORC.) Acceptance of the work in whole or in part is not involved in this case, but the Contractor will not be held responsible for damage by such traffic to completed or partially completed portions of the work. Additional costs to the Contractor by such action shall be reimbursed in an agreed manner.

109.072 Acceptance Traffic Maintained. When traffic is maintained the Director, at the request of the Contractor, may accept a portion of a project when such acceptance will serve the public interest.

A portion of the project shall be defined as a section of highway or structure on which all items of work have been completed, or, a substantial part or feature of the work that is completed and that is not dependent for its stability and integrity upon other uncompleted items of work and that can be received for public usage prior to completion of all work in the contract. Acceptance of a portion of the project will relieve the Contractor of responsibility for maintenance and damage due to traffic and all retained percentages shall be released and paid to the Contractor for those portions of the project named in the acceptance notice. The Contractor shall not be required to maintain portions of the highway or structures which have been completed and accepted, but he is required to repair any damage caused by his operations, defective work, or noncompliance with the plans specifications and contract until the final estimate has been approved by the Director.

109.073 Final Inspection. When the work has been completed to the satisfaction of the Engineer he shall so notify the Director who will, in general within 10 days unless otherwise provided, make the final inspection.

109.08 Acceptance and Final Payment. Before the final estimate is allowed the Director may require the Contractor to submit an affidavit from each and every subcontractor showing that all claims and obligations arising in connection with the performance of his portion of the contract have been satisfactorily settled. The improvement shall be inspected by the Director, and if he finds the work is completed according to the contract, there shall be issued certificates of the amount of work done and the Contractor shall receive the balance due on the contract. It is expressly stipulated that the State of Ohio shall make final acceptance and payment promptly after the contract has been fully completed and final inspection made. No payment shall be made for any unauthorized work.

109.09 Termination of Contractor's Responsibility. This contract will be considered complete when all work has been completed, and the final inspection made, the work accepted and the final estimate approved, in writing, by the Director. The Contractor will then be released from further obligations except as set forth in his bond. The date the final estimate is approved, in writing, by the Director shall constitute the acceptance contemplated by Section 5525.16 ORC.

Project No. 3013**BIDDER'S CHECKLIST****G ADDENDA****BID GUARANTY**

- G** a) Cashier's Check
- G** b) Certified Check
- G** c) Bid Bond
- G** d) Annual Bid Bond

IF BID BOND

- G** Signed By Bidder & Surety Agent
- G** Power of Attorney-Proper Agent Name and Date
- G** Current Financial Statement of Surety
- G** Current Certificate of Insurance for Surety from Department of Insurance
- G** Annual Bid Bond Certificate

G SUPPLEMENTAL QUESTIONNAIRE**ADDITIONAL REMINDERS**

- G** Circled and Checked Appropriate EEO Requirement
- G** Reviewed Proposal for Mathematical Errors
- G** Bid Proposal Signed by Officer of Company

DISCLAIMER

This checklist is not intended to relieve the bidder of the responsibility to provide other required documents. Rather, this checklist is offered merely to serve as an aid in assisting in the preparation of the bid. Notice is hereby given that the failure to submit all required documents duly and properly constituted including but not limited to all required signatures may result in the rejection of your bid on the basis that the bid is non-responsive.

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NOTICE OF PREQUALIFICATION CHANGES

Due to recent changes in Ohio law many of the Department's prequalification requirements have been revised. For example, the list of work types has been revised to 53 from 118. As a result of this revision the Department will indicate the work type required for each pay item. If the line item does not have a corresponding work type, NR will be shown in the work type column. This proposal note will govern the assignment of work types to pay items.

However, the prime contractor may perform incidental work items for which he does not hold the required work type provided the cost of the work does not exceed 5% of the total bid. The 5% will not change with an addition or deletion during the pendency of the contract.

Listed below are the work types for this proposal. In accordance with Ohio law, a bidder must possess work types equal to at least fifty percent of the total amount of the submitted bid price. The Director may, by insertion of a contract provision, reduce the fifty percent amount.

UNIT PRICE CONTRACT

Estimate begins on next page.

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WORK TYPE CODES & DESCRIPTIONS

| | |
|--|--------------------------------|
| 1 Clearing & Grubbing | 28 Caissons / Drilled Shafts |
| 2 Building Removal | 29 Structure Repairs |
| 3 Gas, Oil, Water Well Abandonments | 30 Hydrodemolition |
| 4 Roadway Excavation & Embankment Construction | 31 Structural Steel Repairs |
| 5 Major Roadway Excavation | 32 Heat Straightening |
| 6 Incidental Grading | 33 Tieback Installation |
| 7 Soil Stabilization | 34 Earth Retaining Structures |
| 8 Temporary Soil Erosion & Sediment Control | 35 Drainage (Culverts, Misc.) |
| 9 Aggregate Bases | 36 Guardrail / Attenuators |
| 10 Flexible Paving | 37 Fence |
| 11 Apply Bituminous Treatments | 38 Misc. Concrete |
| 12 Rigid Paving | 39 Maintenance of Traffic |
| 13 Pavement Planing, Milling, Scarification | 40 Waterproofing |
| 14 Concrete Texturing | 41 Raised Pavement Markers |
| 15 Sawing | 42 Signing |
| 16 Flexible Replacement | 43 Highway Lighting |
| 17 Rigid Pavement Replacement | 44 Traffic Signals - Standard |
| 18 Pavement Rubbilizing, Breaking, Pulverizing | 45 Pavement Markings |
| 19 Structure Removal | 46 Landscaping |
| 20 Level 1 Bridge | 47 Mowing |
| 21 Level 2 Bridge | 48 Trucking |
| 22 Level 3 Bridge | 49 Herbicidal Spraying |
| 23 Reinforcing Steel | 50 Railroad Track Construction |
| 24 Structural Steel Erection | 51 Micro Tunneling |
| 25 Stud Welding | 52 Tunneling |
| 26 Structural Steel Painting | 53 Piling |
| 27 Expansion & Contraction Joints, Joint Sealers, Bearing Devices | |

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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 for 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 Determination
Wage and Hour Division
U. S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D. C. 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, D. C. 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 requester 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, D. C. 20210

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

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WAGE SCALE ON ALL FEDERAL-AID PROJECTS

The wage rates for this project were determined by the Secretary of Labor in accordance with Federal-aid requirements.

State of Ohio

Decision No. OH000002

Decision Date - 9/07/01

Contractors shall use only the classifications set forth herein on payrolls submitted to the District Office.

This contract requires the payment of the total of the "basic hourly rates" plus the "fringe benefits payments" for each classification in accordance with the following regulations which by reference are made part of this contract:

- 1) The U.S. Department of Labor Regulations, Title 29, Subtitle A, Part 5, Sections 5.5, 5.31, and 5.32, most recent revision at contract execution.

- 2) Form FHWA-1273(most recent revision at contract execution) Part IV. Payment of Predetermined Minimum Wage and Part V. Statements and Payrolls.

The Contractor and all subcontractors shall pay all wages and fringe benefits by company check. All payroll records and canceled pay checks shall be maintained for at least three years after the Termination of Contractor's Responsibility as defined in section 109.09. Contractor and all subcontractors payroll records and canceled pay checks shall be made available for inspection by the Department and the U.S. Department of Labor, upon request, anytime during the life of the contract, and for three years thereafter by the U.S. Department of Labor.

The wage and fringe rates determined for this project shall be posted by the Contractor in a prominent and accessible place on the project, field office, or equipment yard where they can be easily read by the workers.

The Contractor and all subcontractors shall submit to the District Construction Office, certified payrolls each week beginning three weeks after the start of work. These payrolls shall be on a Form WH-347 or equivalent and shall show the following:

1. Employee name, address, social security number, classification, and hours worked.
2. The "basic hourly and overtime rate paid, total pay, and the manner in which fringe benefit payments have been irrevocably made.
3. The project number and pay week dates.
4. Original signature of a company officer on the certification statement.

The applicable wage and fringe rates for this project begin on the next page.

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CERTIFICATION AGAINST DEBARMENT AND SUSPENSION

The bidder hereby certifies, except as noted below, under penalty of perjury and under other such penalties as the laws of this state and the United States of America provide, that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds is **not** currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency; that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds has **not** been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three (3) years; that the company or any person associated therewith in the capacity of owner, partner, director, manager, auditor, or any position involving the administration of federal funds does **not** have a proposed debarment pending; that the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator has **not** been indicted, convicted, or had a civil judgment rendered against the company, or themselves by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

If there are exceptions to any of the above clauses please set out the exceptions on the lines below. Exceptions will not necessarily result in denial of award, but will be considered in determining bidder responsibility. For any exception noted, indicate below to whom it applies, initiating agency and dates of action. Providing false information may result in criminal prosecution or administrative sanctions.

Execution of this proposal on the signature portion thereof shall constitute also signature of this certification as permitted by Title 28 United States Code, Section 1746.

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LIMITATION ON USE OF CONTRACT FUNDS FOR LOBBYING

1. The prospective bidder certifies, by signing and submitting this bid 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. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. The prospective bidder also agrees by submitting his or her bid proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

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Project No. 3013

NON - COLLUSION AFFIDAVIT

In accordance with Title 23 United States Code, Section 112 and Ohio Revised Code, Chapter 1331 et. seq; and Sections 2921.11 and 2921.13, the bidder hereby states, under penalty of perjury and under other such penalties as the law provides, that he or his agents or employees have not entered either directly or indirectly into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal. Execution of this proposal on the signature portion thereof shall constitute also signature of this Non-Collusion Affidavit as permitted by title 28 United States Code, Section 1746.

REPORTING BID RIGGING

To report bid rigging activities call:

1-800-424-9071

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

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

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Project No. 3013

Please Staple certified check, cashiers check or bid bond here

(This Page Must Be Executed And Dated Prior To Submission Of This Bid)

EXECUTION OF PROPOSAL AND CONTRACT

On acceptance of the proposal for said work I do hereby bind the below referenced company to enter into a written contract with the Director of the Ohio Department of Transportation within ten (10) days from the date of notice of award.

Further, I acknowledge that I am fully aware of the site, plans and specifications for the above improvement and the conditions of this proposal, and I hereby agree to furnish all services, labor, materials, and equipment necessary to complete the entire project, according to the plans, specifications and completion dates, and to accept the unit prices specified above for each item as full compensation for the work in this proposal.

Further, by my signature on this proposal I certify, under penalty of perjury and under other such penalties as the laws of the State of Ohio and the United States of America provide, that neither I nor anyone in my company or agent thereof has violated Title 23 United States Code, Section 112 Non-Collusion Affidavit, and further I certify, except as previously noted under penalty of perjury and under other such penalties as the laws of the State of Ohio and the United States of America provide, that I, the company or any person associated therewith in the capacity of owner, partner, director, officer, principal investigator, project director, manager, auditor, or any position involving the administration of federal funds are in compliance with the aforementioned Certification Against Debarment And Suspension Clause.

Date: _____

By: _____

Title of Officer Signing

Name of Company

Federal Tax ID No.

Project Number: 013013

To the Director of the Ohio Department of Transportation: The undersigned, having full knowledge of the site, plans and specifications for the following improvement and the conditions of this proposal, hereby agrees to furnish all services, labor, materials, and equipment necessary to complete the entire project, according to the plans, specifications and completion dates, and to accept the unit prices specified below for each item as full compensation for the work in this proposal.

Date Set for Completion: **5/31/2002**

The "TOTAL AMOUNT OF THE BID", based in the "Approximate Unit Quantities" given below times the unit prices specified by the bidder amounts to the sum of

and _____ /100 Dollars \$ _____ (In Ink)

Unit Price Contract

FOR IMPROVING SECTION MOT-4-4.83, STATE ROUTE 4 IN MONTGOMERY COUNTY, OHIO, IN ACCORDANCE WITH PLANS AND SPECIFICATIONS BY GRADING, DRAINING, PAVING WITH ASPHALT CONCRETE ON A BITUMINOUS AGGREGATE BASE AND BY CONSTRUCTING STRUCTURE OVER DRY RUN.

Project Length: 0.00 Miles

Work Length: 0.00 Miles

Pavement Width: 00 Feet

Project Number: 013013

Section 0001 ROADWAY

| Line | Alt | Item Cod | Item Description | WT | Unit | Quantity |
|------|-----|-----------|---------------------------------|----|------|----------|
| 0001 | | 201E99000 | SPECIAL - CLEARING AND GRUBBING | 01 | LS | 1.000 |
| 0002 | | 202E99000 | SPECIAL - STRUCTURE REMOVED | 35 | LS | 1.000 |
| 0003 | | 202E99020 | SPECIAL - PAVEMENT REMOVED | NR | LS | 1.000 |
| 0004 | | 203E99000 | SPECIAL - EARTHWORK | 06 | LS | 1.000 |
| 0005 | | 606E99000 | SPECIAL - GUARDRAIL | 36 | LS | 1.000 |

Section 0002 EROSION CONTROL

| Line | Alt | Item Cod | Item Description | WT | Unit | Quantity |
|------|-----|-----------|-------------------------------------|----|------|----------|
| 0006 | | 659E99000 | SPECIAL - PERMANENT EROSION CONTROL | 46 | LS | 1.000 |
| 0007 | | 877E99000 | SPECIAL - TEMPORARY EROSION CONTROL | 08 | LS | 1.000 |

Section 0003 DRAINAGE

| Line | Alt | Item Cod | Item Description | WT | Unit | Quantity |
|------|-----|-----------|--------------------|----|------|----------|
| 0008 | | 603E99000 | SPECIAL - DRAINAGE | 35 | LS | 1.000 |

Section 0004 PAVEMENT

| Line | Alt | Item Cod | Item Description | WT | Unit | Quantity |
|------|-----|-----------|---|----|------|----------|
| 0009 | | 310E99000 | SPECIAL - SUBBASE AND BASE | 10 | LS | 1.000 |
| 0010 | | 448E99000 | SPECIAL - FLEXIBLE PAVEMENT | 10 | LS | 1.000 |
| 0100 | | 614E11100 | LAW ENFORCEMENT OFFICER WITH PATROL CAR | NR | HOUR | 400.000 |

Section 0005 TRAFFIC CONTROL

| Line | Alt | Item Cod | Item Description | WT | Unit | Quantity |
|------|-----|-----------|------------------------------|----|------|----------|
| 0011 | | 626E99000 | SPECIAL - BARRIER REFLECTORS | NR | LS | 1.000 |
| 0012 | | 642E99000 | SPECIAL - PAVEMENT MARKING | 45 | LS | 1.000 |

Section 0006 BRIDGE CONSTRUCTION

| Line | Alt | Item Cod | Item Description | WT | Unit | Quantity |
|------|-----|-----------|--------------------------------|----|------|----------|
| 0013 | | 512E99000 | SPECIAL - SEALING OF CONCRETE | NR | LS | 1.000 |
| 0014 | | 530E99000 | SPECIAL - STRUCTURE FOUNDATION | 35 | LS | 1.000 |

Project Number: 013013

| | | | | | | |
|------|--|-----------|-----------------------------|----|----|-------|
| 0015 | | 530E99100 | SPECIAL - MISC.: STRUCTURES | 35 | LS | 1.000 |
|------|--|-----------|-----------------------------|----|----|-------|

Section 0007 ENGINEERING AND SURVEYING SERVICES

| Line | Alt | Item Cod | Item Description | WT | Unit | Quantity |
|------|-----|-----------|---|----|------|----------|
| 0016 | | 107E99000 | SPECIAL - UTILITY COORDINATION | NR | LS | 1.000 |
| 0017 | | 690E20010 | SPECIAL - AS-BUILT CONSTRUCTION PLANS | NR | LS | 1.000 |
| 0018 | | 690E20020 | SPECIAL - FIELD SURVEYS | NR | LS | 1.000 |
| 0019 | | 690E20200 | SPECIAL - PRELIMINARY PLANS FOR DESIGN-BUILD | NR | LS | 1.000 |
| 0020 | | 690E20210 | SPECIAL - FINAL PLANS FOR DESIGN-BUILD | NR | LS | 1.000 |
| 0021 | | 690E20220 | SPECIAL - CONSTRUCTION PLANS FOR DESIGN-BUILD | NR | LS | 1.000 |

Section 0008 INCIDENTALS

| Line | Alt | Item Cod | Item Description | WT | Unit | Quantity |
|------|-----|-----------|--|----|------|----------|
| 0022 | | 100E99010 | SPECIAL - PROFESSIONAL LIABILITY INSURANCE | NR | LS | 1.000 |
| 0023 | | 103E99010 | SPECIAL - PREMIUM FOR CONTRACT PERFORMANCE BOND AND FOR PAYMENT BOND | NR | LS | 1.000 |
| 0024 | | 614E99000 | SPECIAL - MAINTAINING TRAFFIC | 39 | LS | 1.000 |
| 0025 | | 623E99000 | SPECIAL - CONSTRUCTION LAYOUT STAKES | NR | LS | 1.000 |
| 0026 | | 624E99000 | SPECIAL - MOBILIZATION | NR | LS | 1.000 |