



**State of Vermont**  
 Contract Administration  
 219 North Main Street, Suite 105  
 Barre, VT 05641  
<http://vtrans.vermont.gov/>

*Agency of Transportation  
 Finance & Administration*

**September 29, 2022 (Revised 10/31/22 per Addendum #6)**

**Request for Proposals (RFP): Primary Indefinite Delivery / Indefinite Quantity Contracts – IQ005**

Dear Bidders:

The Vermont Agency of Transportation (VTrans) releases the Request for Proposals (RFP) for Primary Indefinite Delivery/Indefinite Quantity (IDIQ) Contracts. VTrans seeks contractors to perform preventive maintenance and repair services, including necessary equipment and materials for the Highway Bureau in the categories of paving, bridge repair, small and large culvert repair, roadway repair, right-of-way clearing, and for the Railway and Aviation Bureau, track work, culvert slopes, slides, landslides, washout ditching, rail crossings and paving, fencing, airport pavement maintenance, and aviation navigational aids. This RFP will result in the award of Primary Contracts to multiple Contractors. **The RFP requires all current IDIQ Primary Contract Holders to submit a proposal.**

Bidders may propose one or more categories of work and one or more regions. VTrans reserves the right to award Primary Contracts that contain some, but not all, of the work types and/or regions requested by a Contractor. Bidders selected for Primary Contracts under this RFP will become part of a “pool” of Contractors who may be solicited to bid on Task Orders for specific projects in the categories of work and regions for which they are selected, which will be listed in the Primary Contract.

IDIQ contracts provide the VTrans with an efficient vehicle to procure services in both planned and unplanned circumstances. Multiple primary scopes of work have been developed that would allow for successful completion of most work activities.

VTrans has developed the Roadway Ancillary Scope of Work for Traffic Signs, Traffic Signals, and Pavement Markings to allow specialized contractors the opportunity to submit a proposal and ultimately be eligible to perform work as a prime contractor on select work assignments. Contractors awarded a contract under the Roadway Repair, Slopes and Small Culverts category will automatically be awarded the Roadway Ancillary Scope of Work. Conversely, Contractors may choose to solely submit a proposal for the individual Roadway Ancillary Scope of Work.

VTrans has also developed two additional Rail and Aviation Scopes of Work: Airport Pavement Maintenance and Aviation Navigational Aids.

#### **VTrans Mission and Vision**

Though excellent customer service, provide for the safe and efficient movement of people and goods.  
 A safe, reliable, and multimodal transportation system that grows the economy, is affordable to use and operate, and serves vulnerable populations.

All work will be accomplished in accordance with the following:

- Scopes of Work (SOW) in **Attachment A**:

HIGHWAY	RAIL & AVIATION
A-H1 Paving	A-R1 Track Work
A-H2 Bridge Repair and Installation	A-R2 Culvert Slopes, Slides, Landslides, Washout Ditching
A-H3 Large Culvert Repair/Installation	A-R3 Bridges
A-H4 Roadway Repair, Slopes, Small Culvert	A-R4 Crossing & Paving
A-H5 Roadway Ancillary	A-R5 Right-of-Way Clearing
A-H6 Right-of-Way Clearing	A-R6 Fencing
	A-R7 Airport Pavement Maintenance
	A-R8 Aviation Navigational Aids

- The provisions set forth in this Request for Proposals (RFP)
- [VTrans latest Standard Specifications for Construction, General and Special Specifications](#)
- Attachment C: Standard State Provisions for Contracts and Grants dated July 1, 2016
- 2020 General Terms and Conditions for Contracts and Services
- Contractors must comply with all applicable Federal, State, local laws, regulations, and requirements.

**Primary Contract.** VTrans will enter into Primary Contracts, with a term of five (5) years with no option of extending. The Contractor(s) will provide these services as the need for the services arise. All Primary IDIQ Contracts will go into effect on February 1, 2023.

The maximum limiting amount (MLA) for each contract will vary in accordance with the Scopes of Work awarded under this Primary Contract. *Award of a contract does not guarantee payment of any or all of the maximum limiting amount as the minimum limited amount is \$0.00.* Individual services will be solicited utilizing a Task Order Process. The following is provided for informational purposes only and may be revised prior to the execution of Primary Contracts.

**Task Orders.** After Primary Contracts are in place, VTrans will issue Task Bid Requests (TBR), also known as a Solicitation, to all Primary Contract holders inviting them to bid on specific projects that are within the scope and region designated in their Primary Contracts.

Specific work sites are not listed in this RFP but will be determined by issuance of Task Orders for project work under the Primary Contract. The individual Task Order/Solicitation will indicate the work to be performed, project dates and location of project. Specific work REGIONS are shown in **Attachment I** of this RFP. Contractors should select any and all regions for which they are open to receiving work. Contractors are not obligated to bid on any project based on the regions indicated in their RFP response.

Task Orders awarding the projects and authorizing the commencement of the work will be awarded to the lowest priced, responsive, and responsible bidder. Best value to the State will be utilized for only the Rail and Aviation Scopes of Work. Task Orders shall not be issued to a contractor on a rotating basis or any other non-competitive methods. Contractors may commence work on a Task Order as soon as the Task Order has been fully signed by both the Contractor and VTrans.

**Task Order Maximum Duration.** No Task Order may have a completion date after the expiration date of the applicable Primary Contract. In exceptional circumstances where it might be mutually desired to have a Task Order extend beyond the term of a Primary Contract, written authorization will be needed, overseen by VTrans' Contract Administration, and authorized by the Secretary of Transportation, the Agency's Chief Financial Officer and if required FHWA.

Each Primary Contract will include a set of federally required provisions that will apply when federal funding is part of a specific task. Individual Task Order Bid Requests will identify the fund source and related requirements for each project.

**Federal-Aid Projects.** The following specifications included in this RFP are effective for all federally funded work in excess of \$10,000.00 except where noted:

- Required Contract Provisions for Federal-Aid Construction
- Standard Federal EEO Specifications
- Wage Rates for Federal-Aid Projects **Note:** These wages will apply to work done or services performed in excess of \$2,000.00.
- Vermont Minimum Labor and Truck Rates
- Disadvantaged Business Enterprises (DBE) Directory
- DBE Policy Contract Requirements
- Certification for Federal-Aid Contracts
- Workers' Compensation; State Contracts Compliance Requirement

If a Contractor performs work under this contract pursuant to a Task Order involving work on a Federal-Aid project in excess of \$2,000.00, the requirements of Wage Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers.

If the value of the work performed under this contract pursuant to a Task Order involves work on a Federal-Aid project is in excess of \$10,000.00, the Contractor must comply with Equal Employment Opportunity (EEO) and other requirements for Federal-Aid Projects.

If the value of the work performed under this contract pursuant to a Task Order is in excess of \$250,000.00, Workers Classification Compliance Requirements (Self and Subcontractor Reporting); State Contracts Compliance Requirements apply.

**ON-RAMP Procedures.** VTrans reserves the right to reopen competition to add Primary Contractors to the IDIQ contractor pool by issuing additional RFPs during the Primary Contract period. The evaluation and selection of awardees for any on-ramp will be same as the evaluation and award criteria used for the initial Primary Contract awards. Any new awardees will compete going forward with any existing or remaining contractors for all Task Orders in the applicable competition pool. Any additions resulting from on-ramps will not impact the contract maximum ceiling for the work type. The period of performance for new awardees will not exceed the overall maximum term of the original Primary Contract. VTrans will not consider unsolicited requests for addition to the Primary Contract.

**OFF-RAMP Procedures.** In addition to any other means or methods of termination provided for in this contract, VTrans reserves the right to suspend or terminate Primary Contracts at any time when it determines that a Contractor has failed to deliver adequate performance or demonstrated inadequate availability. VTrans will assess Contractor performance at the Primary Contract level at least annually via Contractor Performance Assessment in addition to evaluations at the completion of individual Task Orders. No Primary Contract will be terminated via these off-ramp procedures without documented unsatisfactory performance, or a pattern of unavailability to perform work without an opportunity to respond.

**CROSS-RAMP Procedures.** VTrans reserves the right to issue TBR's to Primary Contract holders in different work types and regions from those covered by their Primary Contract. Cross-Ramp procedures will be used on a case-by-case, as needed basis, and should generally be an exception. Longer-term adjustments to regional contractor pools will be accomplished by utilizing the on-ramp procedure.

**NON-MANDATORY PRE-BID MEETING.** VTrans will provide an informational meeting at **2:00 p.m. on Wednesday, October 19, 2022** at the **VTrans DILL Building, Conference Room 135, 2178 Airport Road, Barre, Vermont.** An option is also available to join via Microsoft Teams by downloading Microsoft Teams, [click here to join the meeting](#). Meeting ID: 247 156 976 072. For call-in (audio only), dial +1 802-828-7667, Phone Conference ID: 321 246 241#. Attendance at this meeting is **NOT** mandatory to submit a bid.

**Questions.** All questions related to this RFP shall be forwarded to **Contract Administration, by e-mail at [AOT.IDIQ@vermont.gov](mailto:AOT.IDIQ@vermont.gov)**. All such questions and requests shall be received **no later than 4:00 p.m. on Friday, October 21, 2022**. VTrans will not be bound by any oral communications. All questions or requests for clarification received will be documented and answered after this date.

**Communication.** *Communication with VTrans personnel other than the listed contract specialists regarding this procurement is prohibited and may result in the rejection of your proposal.* It is a condition of bidding under this RFP that by submitting a bid, bidder accepts and agrees unconditionally that if bidder in any way contacts a VTrans evaluator involved in the selection process for this contract, either during or following the RFP process, regarding the selection process or outcome of the selection process, then that bidder will be completely barred from being awarded a contract by VTrans for 365 days from the date of that bidder contacted the VTrans evaluator. The only valid point of contact for questions about the selection process or outcome is the Contract Administration employee named as the **Point of Contact in this RFP, Melissa Davis, Contracts Specialist, [AOT.IDIQ@vermont.gov](mailto:AOT.IDIQ@vermont.gov)**.

**Modifications.** In the event that it becomes necessary to revise, modify, clarify, or otherwise alter this RFP, including VTrans' responses to questions and requests for clarification, such modification shall be posted to the VTrans Contract Administration Advertised Projects website.

**IT IS THE BIDDER'S RESPONSIBILITY TO OBTAIN ANY RFP MODIFICATIONS ISSUED.**

All modifications will be posted on the VTrans Contract Administration website at:

<https://vtrans.vermont.gov/contract-admin/bids-requests/highway#idiq>

**REQUIRED PROPOSAL SUBMISSION INFORMATION.** To be considered responsive to this RFP, each proposal shall conform to the following requirements. The bidder shall:

- Submit the proposal via e-mail at [AOT.IDIQ@vermont.gov](mailto:AOT.IDIQ@vermont.gov) prior to **2:00 P.M., Thursday, November 3, 2022**.
- The proposal shall not exceed twenty (28) double-sided pages (56 pages total). All pages shall be numbered consecutively. The pages shall be formatted as 8½" x 11" sheets. Font shall be size 12.
- The proposal shall not include any quoted or summarized comments or recommendations from any in-state or out-of-state evaluations, records, or reports of any kind.

**The following documents are Required Bidder Informational Forms, these forms must be completed and returned with the bidder's proposal and ARE counted toward the Bidder's page limit.**

1. Bidders will use Attachment I-1 to indicate the combinations of work activities and regions that they would like included in a Primary Contract.
2. Bidders will use Attachment I-2 to provide qualifications of key personnel that will be involved with the associated tasks under the Scopes of Work.
3. Bidders will use Attachment I-3 to provide information regarding the Business Structure factor.

4. Bidders will use Attachment I-4 to provide information regarding past performance and three (3) references that address the vendor's performance on government or commercial projects similar to those referenced in the Scopes of Work (Attachment A) for which the Bidder wishes to be considered. VTrans may consider other information in its possession in addition to references provided.
5. Bidders will use Attachment I-5 to provide additional information regarding the Experience factor.

Bidders are not limited to providing the information requested in the forms and remain responsible for providing all information necessary to demonstrate the ability to perform the work, which may be required under the contract in conformance with all contract requirements.

**The following Attachment documents must be completed and returned with the Bidders proposal and are NOT counted toward the bidder's page limit.**

1. **Contractor Information Form** – (Attachment L): The form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.
2. **Contractor's EEO Certification** - Form CA-109 (Attachment N): The 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 contractors and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause.
3. **Vermont Certificate of Compliance** – (Attachment O): The form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.
4. **Climate Change Considerations in State Procurements Certification** – (Attachment P): The form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.

**Evaluation of Proposals.** VTrans will award Primary IDIQ Contracts in the best interest of the State to Bidders demonstrating the ability to perform the work, which may be required by Task Orders assigned under the contract and in conformance with all contract requirements. In making best interest determinations, the selection panel will evaluate proposals based upon the following primary factors and related subfactors.

1. **Business Structure:** The proposal clearly demonstrates a sound organizational structure and management approach which indicate positive business ethics, clear lines of communication between the proposer's team and VTrans, active and continuing participation of senior executives, a focus on quality assurance and partnering. The proposal clearly demonstrates that the proposer has the resources and managerial capability to provide the required services in a time, cost effective manner. The proposal must demonstrate the Bidder has the financial, managerial, and organizational capability for satisfactory performance.
2. **Experience:** The proposal must describe the Bidder's experience in the work types similar to those included in this RFP for which they are bidding.
3. **Past Performance:** The proposal must demonstrate the Bidder's past performance record for projects in work categories similar to those included in this RFP for which they are bidding.

**Additional Consideration:**

**Availability:** VTrans is charged with ensuring adequate contractor availability, expertise, and geographic coverage to address the needs of the State. VTrans reserves the right to make awards to ensure adequate regional coverage.

*Please reference Bidder Information Forms, Attachments I-1 through I-5*

**Other Requirements:**

**Registration with the Secretary of State.** The Bidder awarded a contract shall, upon notification of award, apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. The registration form may be obtained from the Vermont Secretary of State, 128 State Street, Montpelier VT 05609-1101. The telephone number is 800-439-8683. Registration can be completed online at [www.vtsosonline.com/online](http://www.vtsosonline.com/online). VTrans will not process the contract until the contractor is registered with the Secretary of State's office.

**Bonds.** The Contractor will be required to provide a Labor and Materials Bond for all Task Orders in a sum equal to one-hundred percent (100%) of the total Task Order value in accordance with 19 V.S.A. § 10(9). Should a Task Order be in a sum greater than \$100,000.00, the Contractor will also be required to provide a Compliance Bond in a sum equal to one-hundred percent (100%) of the total Task Order value.

The Contractor shall obtain and sign the contract Surety bond documents and return them to the Agency's Office of Contract Administration via the Salesforce system within fifteen (15) calendar days from the date of the award-pending notification. No Task Order/Solicitation shall be considered effective until it has been fully signed by all of the parties and the Solicitation status has been changed to Awarded.

**Required Insurance.** The Bidder shall submit to VTrans a certificate of insurance showing that minimum coverages are in effect at the time of contract. The certificate must be submitted to the office of Contract Administration prior to execution of the agreement. ***No work may be performed for any VTrans contract and/or Notice to Proceed, including mobilization, without compliant insurance being on file at AOT Contract Administration.*** It is the responsibility of the contractor to maintain current certificates of insurance on file with the State through the term of the contract:

**Worker's Compensation:** With respect to all operations performed, the contractor shall carry worker's compensation insurance in accordance with the laws of the State of Vermont.

*NOTE: In the case of out-of-state Bidders, the Bidder's workers' compensation insurance carrier must be licensed to write workers' compensation for all work that will be conducted within Vermont and so noted on the Certificate of Insurance.*

**General Liability and Property Damage:** With respect to all operations performed under the contract, the contractor shall carry general liability insurance having all major divisions of coverage, including but not limited to: Premises – Operations Independent Contractor's Protective Products and Completed Operations Personal Injury Liability Contractual Liability. The policy shall be on an occurrence form and limits shall be for the required minimum amounts for construction contracts as stated in the [latest Standard Specifications for Construction Book, Section 103.04, Insurance Requirements](#).

**Automobile Liability:** The contractor shall carry automotive liability insurance covering all motor vehicles, no matter the ownership status, used in connection with the contract. Limits of coverage shall not be less than stated in the [latest Standard Specifications for Construction Book, Section 103.04, Insurance Requirements](#).

**Railroad Protective Liability Insurance:** *Where applicable*, when the contract requires work on, over or under the right-of-way of any railroad, the contractor shall provide and file with the Agency, with respect to the operations that it or its subcontractor perform under the State of Vermont Agency of Transportation contract, will also require Railroad Protective Liability Insurance. *See Attachment D and the [latest Standard Specifications for Construction Book](#), Section 103.04 INSURANCE REQUIREMENTS for specific details.*

**Contract Execution.** The Contractor shall sign the contract documents and return them to the Agency's Office of Contract Administration within **fifteen (15) calendar days** from the date of the award notification. No contract shall be considered effective until it has been fully signed by all of the parties. *Failure to sign and return all contract documents, including insurance certificates in accordance with instructions within fifteen (15) days may result in retraction of the award.*

**Civil Rights:** VTrans' current Disadvantaged Business Enterprise (DBE) Directory and the current Davis-Bacon Wage Rates can be found on-line at <http://vtranscivilrights.vermont.gov/>.

**Bidder Assistance.** If bidders need assistance in preparing their proposal, the bidder may contact the Procurement Technical Assistance Center (PTAC). PTAC specializes in helping small businesses navigate the documentation associated with State and Federal procurement. Their website is: <https://accd.vermont.gov/economic-development/programs/ptac>.

If any Bidder is aggrieved by the proposed award of the contract, the Bidder may appeal in writing to the Chief of Contract Administration. The appeal must be postmarked within fourteen (14) calendar days following the date of the written notice to award the contract.

All Bidders are hereby notified that proposals must be received by the due date and time. **Proposals received after the due date and time will not be considered.** All proposals become the property of VTrans upon submission. The cost of preparing, submitting, and presenting a proposal is the sole expense of the Bidder. VTrans reserves the right to reject any and all proposals received as a result of this solicitation, to negotiate with any qualified source, to waive any formality and any technicalities or to cancel in part or in its entirety this RFP if it is in the best interests of VTrans. This solicitation of proposals in no way obligates VTrans to award a contract. A Bidder Checklist has been provided as Attachment R for your convenience, please refer to the full RFP for specific submittal instructions.

Sincerely,

DocuSigned by:  
*Stacy Andre*  
C67F21BC357447D...

Stacy Andre  
Administrative Services Manager III  
Contract Administration/Construction Contracting  
Finance & Administration



Enc. Please see enclosures on the next page

**Enclosures:**

## Attachment A – Scopes of Work

HIGHWAY	RAIL & AVIATION
A-H1 Paving	A-R1 Track Work
A-H2 Bridge Repair and Installation	A-R2 Culvert Slopes, Slides, Landslides, Washout Ditching
A-H3 Large Culvert Repair/Installation	A-R3 Bridges
A-H4 Roadway Repair, Slopes, Small Culvert	A-R4 Crossing & Paving
A-H5 Roadway Ancillary	A-R5 Right-of-Way Clearing
A-H6 Right-of-Way Clearing	A-R6 Fencing
	A-R7 Airport Pavement Maintenance
	A-R8 Aviation Navigational Aids

Attachment B – Payment Provisions

Attachment C – Standard State Provisions for Contracts and Grants (revised December 15, 2017)

Attachment D – Other Provisions

Attachment E – Required Contract Provisions for Federal-Aid Construction (FHWA 1273)

Attachment F – Standard Federal EEO Specifications

Attachment G – General Terms and Conditions – Contracts for Services (revised May 2020)

Attachment H – *LINK ONLY* Wage Rates for Federal-Aid Projects (See <http://vtranscivilrights.vermont.gov/> for the latest wage rates)

Attachment I – Required Bidder Informational Forms

- **I-1** Activities and Regions
- **I-2** Key Personnel Resume Form
- **I-3** Business Structure Questionnaire Form
- **I-4** Past Performance Questionnaire and Reference Form
- **I-5** Experience Questionnaire Form
- **I-6** Contractor Work History Form

Attachment J – *LINK ONLY* - WBE/DBE Registry (See <http://vtranscivilrights.vermont.gov/> for the latest Registry)

Attachment K – Disadvantaged Business Enterprise (DBE) Policy Contract Requirements

Attachment L – Contractor Information Form

Attachment M – *Not Applicable*

Attachment N – Contractor's EEO Certification Form

Attachment O – Vermont Certificate of Compliance – CA-271

Attachment P – Climate Change Certification – Executive Order 05 - 16

Attachment Q – Vermont Minimum Labor and Truck Rates

Attachment R – Bidders Checklist



**Reference Links:**

- Required Federal Poster Package <http://vtrans.vermont.gov/civil-rights/doing-business/contractors-center/poster-packages>
- The following Specifications can be found at:  
<https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active>
- 2011 Standard Specifications for the Construction Book
- 2006 Standard Specifications for the Construction Book
- General Special Provisions for All Projects 2006 Standard Specifications
- General Special Provisions for All Projects 2011 Standard Specifications
- 2018 Supplemental Specifications for the Construction Book
- 2011 Supplemental Specifications for the Construction Book
- 2006 Supplemental Specifications for the Construction Book
- Section 652 – Erosion Prevention & Sediment Control Plan

**-End of Request For Proposal -**

# ATTACHMENT A-H1

## HIGHWAY BUREAU

### SCOPE OF WORK FOR PAVING

June 2022

Work shall consist of, but not limited to, cold planing, single lift paving, shim and overlay paving, spot shim and overlay paving, cold plane and pave, rut filling as well as excavate and pave any maintenance crosscut requesting to be paved to the State's highway system to include Interstate, NHS and State routes.

Cold planing may be accomplished by either a milling attachment on a skid steer or a self-propelled cold planer. It is recommended to only cold plane areas that can be paved that day. Cold planed areas may include, but not limited to, begin and end project tapers, tapers into and out of Railroad Crossings, bridges, wheel path ruts and cracks and other assets that cannot be paved over directly.

Preparing the surface for paving consists of removing any foreign debris or deleterious material from the road surface either by mechanical broom or hand equipment. This may include the removal of shoulder berm (winter sand buildup) which may require a mechanical bucket or small mid mount tractor grader. After the road has been cleaned and is dry, the contractor is to apply emulsion in accordance to **Section 404 – Surface Treatment Materials** within the current Standard Specifications for Construction <https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active>

and all attachments as well as any other State, Federal, and Agency Standards, Policies, and Specifications.

Emulsion is to be applied to all surfaces prior to paving over except gravel. Newly paved surfaces being paved over the same day shall require emulsion to be applied at a reduced rate between pavement layers.

#### **PAVING:**

The contractor shall provide all necessary equipment, labor and materials to haul, place and compact bituminous concrete pavement (hot mix) in accordance with **Section 406 - Bituminous Concrete Pavement** within the current Standard Specifications for Construction and all attachments as well as any other State, Federal, and Agency Standards, Policies, and Specifications. All compacted wearing and intermediate courses paving depths over 1 inch are required to install the VTrans safety edge on the shoulder side of the paver.

#### **RUT FILL:**

Rut fill treatments are to fix otherwise good pavements that contain wheel path ruts or longitudinal cracks. The contractor and VTrans representative are to mark out the locations within the project limits for cold planing and paving. This is a single train process where the contractor cold planes

a 36-inch to 48-inch-wide area to a depth specified by the VTrans representative. The cold planed surface is then swept. Once the surface is dry, emulsion is applied and pavement is placed using a skid box apparatus or sidewalk paver. The material is then compacted.

### **TRAFFIC CONTROL:**

Traffic control shall either be the responsibility of the contractor or VTrans depending on the nature and/or duration of the project. VTrans will inform the contractors during the RFP process who shall be responsible for providing traffic control. Part 6 (Temporary Traffic Control) of the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) ([http://mutcd.fhwa.dot.gov/kno\\_2009r1r2.htm](http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm) ) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic control for Paving and/or Surface Treatments shall comply with Chapter 6H of MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VAOT Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

Temporary line striping targets (LST) and permanent pavement markings (in accordance with **Section 646 – Retroreflective Pavement Markings** within the current Standard Specifications for Construction) shall either be the responsibility of the contractor or of VTrans. VTrans will inform the contractors during the RFP process who shall be responsible.

### **GENERAL:**

Disposal of removed materials shall be the responsibility of the contractor. VTrans will inform the contractor prior to assignment of work regarding salvaged materials that may be required to be delivered to a designated location.

The work shall be done under the direction of the authorized representative of VTrans.

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction <https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active>

and all attachments as well as any other State, Federal, and Agency Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wage Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers.

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## ATTACHMENT A-H2

### HIGHWAY BUREAU

#### SCOPE OF WORK FOR BRIDGE REPAIR/INSTALLATION

June 2022

Work shall consist of, but not limited to, replacement/repair/maintenance work to bridge decks, bridge joints, bridge railing, railing to protect structures, bridge superstructure, bridge substructure, and bridge scour protection. This work involves deck patching, concrete curb repairs, deck overlays, bridge joint replacement, bridge joint rehabilitation, replacement of damaged or deteriorated bridge rail, rail systems to protect structures within the clear zone, structural steel repairs due to impact or deterioration, bridge bearing replacement, bridge trough replacement, bridge downspout replacement, concrete substructure repairs, embankment restoration due to scour, scour protection for pier and abutment footings, scour protection for channel slopes at the end of wingwalls, scour protection for roadway slopes to bridge approaches, removal of bridge pavement, installation of waterproofing membranes, and traffic control and related work.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM) and the American Association of State Highway Transportation Officials (AASHTO) and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the 2009 Manual on Uniform Traffic Control Devices (MUTCD) ([http://mutcd.fhwa.dot.gov/kno\\_2009r1r2.htm](http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm) ) establishes the traffic control standards and guidelines for street and highway maintenance operations. All Traffic control shall be in accordance with the 2009 Manual on Uniform Traffic Control Devices (MUTCD) and the Vermont State Standard Drawings, where conflicts exist the MUTCD shall govern.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VAOT Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**GENERAL:**

Unless otherwise specified, Contractor shall provide materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. VTrans will inform the contractor prior to assignment of work regarding salvaged materials that may be required to be delivered to a designated location.

The work shall be done under the direction of the authorized representative of VTrans.

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction [Active Specifications | Agency of Transportation \(vermont.gov\)](https://www.vermont.gov/agency-of-transportation/active-specifications) and all attachments as well as any other State, Federal, and Agency Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wage Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers.

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## **ATTACHMENT A-H3**

### **HIGHWAY BUREAU**

#### **SCOPE OF WORK FOR LARGE CULVERT REPAIR/INSTALLATION (CULVERTS 6 FOOT AND GREATER)**

June 2022

Work shall consist of, but not limited to, replacement/repair/maintenance work to culverts 6 feet and greater in diameter. Railing to protect structures. This work involves replacement of damaged or deteriorated, rail systems to protect structures within the clear zone, concrete substructure repairs, embankment restoration due to scour, scour protection for abutment footings, scour protection for channel slopes at the end of wingwalls, scour protection for roadway slopes to bridge approaches, culvert linings 6 feet and over in diameter, culvert inverts 6 feet and greater in diameter, replacement culverts 6 feet and greater in diameter, and traffic control and related work.

#### **MATERIALS:**

All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM) and the American Association of State Highway Transportation Officials (AASHTO) and VTrans Approved Products List, as applicable.

#### **TRAFFIC CONTROL:**

Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) ([http://mutcd.fhwa.dot.gov/kno\\_2009r1r2.htm](http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm)) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VAOT Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

#### **GENERAL:**

Unless otherwise specified, Contractor shall provide materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. VTrans will inform the contractor prior to assignment of work regarding salvaged materials that may be required to be delivered to a designated location.

The work shall be done under the direction of the authorized representative of VTrans.

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction <https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active> and all attachments as well as any other State, Federal, and Agency Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wage Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers.

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## **ATTACHMENT A-H4**

### **HIGHWAY BUREAU**

#### **SCOPE OF WORK FOR ROADWAY REPAIR, SLOPES & SMALL CULVERTS**

June 2022

##### **ROADWAY REPAIR:**

Excavation work shall consist of, but not limited to, excavation of gravel, bituminous or concrete road bed, curbing, gutters, and sidewalks.

Reconstruction work shall consist of, but not limited to, resurfacing / reinstallation of gravel sub base and base gravel, concrete or bituminous roadway, reshaping shoulders, sidewalks, curbs, grading, compaction, drainage structures, installation of under drain, reshaping of ditches and culvert/culvert liner inlets and outlets to achieve positive drainage and a uniform ditch width, depth, and grade, guardrail replacement or installation, and rehabilitation of Railroad crossings when necessary.

##### **SLOPES:**

Work shall consist of, but not limited to, slope reinforcement/stabilization, surface protection, surface planting, installation of drainage systems, ditching, dewatering, erosion control (permanent and temporary), placing geotextiles, retaining walls, rock buttress, gabion structures, grading, sloping, transporting, placing, fence removal or replacement, guardrail replacement or installation, stonewall removal or replacement, compaction of soil and finishing earthen and rocky material.

##### **MINOR LEDGE/ROCK WORK:**

Work shall consist of, but not limited to, the removal or reshaping of rock or ledge with the use of hydraulic hammers or similar equipment and guardrail replacement or installation.

##### **CULVERTS/CULVERT LINERS UP TO 6':**

Work shall consist of, but not limited to, excavation, dewatering, bedding and removal & installation of drainage culverts up to and including 6 ft. in diameter or equivalent to include all necessary, bands, collars, inlet section, outlet section, headwalls, wing walls, end sections, catch basins, drop inlets, riprap, backfill, pavement replacement, curb replacement or installation, guardrail replacement or installation, seeding, mulching and all other items appurtenant to a drainage pipe.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM) and the American Association of State Highway Transportation Officials (AASHTO) and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform



Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control shall comply with Chapter 6H of the MUTCD whenever possible. [http://mutcd.fhwa.dot.gov/kno\\_2009r1r2.htm](http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm)

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VAOT Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

#### **GENERAL:**

It will be incumbent upon the contractor to furnish the necessary labor, equipment and materials to perform all work in accordance with the Project Plans, Special Provisions, and the description of the proposed work supplied by VTrans prior the work being done. VTrans shall reserve the right to provide materials thru its normal procurement process. Responsibility for disposal of removed material shall be determined on a per project basis. Specific work assignments will be coordinated with an authorized representative of the State in the District for which the work is to be performed.

The work shall be done under the direction of the authorized representative of VTrans.

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction <https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active> and all attachments as well as any other State, Federal, and Agency Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wage Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers.

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## ATTACHMENT A-H5

### HIGHWAY BUREAU

#### SCOPE OF WORK FOR ROADWAY ANCILLARY

September 2022

**TRAFFIC SIGNS SCOPE:** Work may consist of, but not be limited to, furnishing, constructing, and installing sign post foundations, sign posts, traffic signs, removing existing signs, setting salvaged sign posts, erecting salvaged signs, and miscellaneous related work activities. Additional information regarding the potential work activities included in all categories can also be found in the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction, Section 675 – Traffic Signs and Section 677 – Overhead Traffic Sign Supports.

<https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active>

**TRAFFIC SIGNALS SCOPE:** Work may consist of, but not be limited to, furnishing, and upgrading, installing and/or removing traffic control systems or pedestrian systems, upgrading, installing and/or removing traffic control system or pedestrian system equipment, installing conduit, pull boxes and/or junction boxes, wiring, and miscellaneous related work activities. Additional information regarding the potential work activities included within this category can be found within the most recent version of the Vermont Agency of Transportation Standard Specifications for Construction, Section 678 – Traffic Control Signals.

<https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active>

**PAVEMENT MARKINGS SCOPE:** Work may consist of, but not be limited to, furnishing, and placing retroreflective pavement markings, including temporary pavement markings, the removal of existing pavement markings, and the texturing of bituminous concrete pavement to construct rumble strips, rumble stripes, and/or recessed pavement markings. Additional information regarding the potential work activities included within this category can be found within the Vermont Agency of Transportation 2018 Standard Specifications for Construction, Section 213 – Milled Rumble Strips and Section 646 – Retroreflective Pavement Markings.

<https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active>

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the Contractor or of the Vermont Agency of Transportation (VTrans) depending on the nature and/or duration of the work effort. VTrans will identify the responsible party for providing Traffic Control and will convey that information within the solicitation. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) (<https://mutcd.fhwa.dot.gov/>) establishes the traffic control standards and guidelines for street and

highway maintenance operations. Traffic Control shall comply with Chapter 6H of the MUTCD and will be performed in such a way as to minimize conflicts with normal highway traffic. VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the Contractor from its' obligation to provide a compliant sign package and trained Flaggers. [http://mutcd.fhwa.dot.gov/kno\\_2009r1r2.htm](http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm)

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

<https://vtrans.vermont.gov/highway/construct-material/construct-services/pre-contractspecifications/active>

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wage Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers.

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## ATTACHMENT A-H6

### HIGHWAY BUREAU

#### SCOPE OF WORK FOR RIGHT-OF-WAY CLEARING SERVICES

June 2022

Work shall consist of, but not be limited to, clearing any trees, stumps, down timber, stubs, brush, bushes and debris. Thinning and trimming of selective trees and brush within the right-of-way and branches extending into and over the roadway shall be carefully trimmed as directed by the District personnel to allow passage of overhead wires, improve visibility at intersections and/or signs as indicated in Section 201 – Clearing.

[http://vtranscontracts.vermont.gov/sites/aot\\_contract\\_administration/files/documents/2011specbook/2011Division200.pdf](http://vtranscontracts.vermont.gov/sites/aot_contract_administration/files/documents/2011specbook/2011Division200.pdf)

#### **TRAFFIC CONTROL:**

Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VAOT Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers. [http://mutcd.fhwa.dot.gov/kno\\_2009r1r2.htm](http://mutcd.fhwa.dot.gov/kno_2009r1r2.htm)

The work shall be done under the direction of the authorized representative of VTrans.

#### **MATERIALS:**

Unless otherwise specified, Contractor shall provide materials for the work. Disposal of removed materials shall be the responsibility of the contractor. VTrans will inform the contractor prior to assignment of work regarding salvaged materials that may be required to be delivered to a designated location.

#### **GENERAL:**

All work shall be done to the satisfaction of the State's representative, and, to the extent applicable, in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction and all attachments as well as any other State, Federal, and Agency Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wage Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers.

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

**ATTACHMENT A-R1**  
**RAIL & AVIATION BUREAU**  
**SCOPE OF WORK FOR TRACK WORK**

June 2022

**SCOPE:** Work shall consist of, but not be limited to, the removal of existing track, the re-installation of track, including all track elements, and the permanent installation of new track on any state-owned rail line.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM), the American Association of State Highway Transportation Officials (AASHTO), American Railway Engineering and Maintenance-of-Way Association (AREMA), Vermont Rail System (VRS) Continuously Welded Rail (CWR) Manual and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VTrans Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**ACTIVE RAILROAD FLAGGING:** Railroad Flagging shall consist of maintaining Operating Railroad traffic and coordinating with VTrans and the Operating Railroad for inspection and review of the Contractor's work in conjunction with construction operations. A Railroad Flagger shall be requested any time construction operations will be within 25 feet of the nearest rail or within the Operating Railroad Right-of-Way.

The Contractor shall obtain verification of the time and schedule of track occupancy from the Operating Railroad before proceeding with any construction or demolition work over, under, within, or adjacent to the Operating Railroad Right-of-Way.

All work to be done under, upon, or over the Operating Railroad Right-of-Way shall be performed by the Contractor in a manner satisfactorily to the Engineer and shall be performed at such times

and in such manner as to not interfere with the movement of trains or traffic upon the tracks. The Contractor shall use all necessary care and precaution to avoid accidents, delay, or interference with the trains or other property.

The Contractor shall conduct the work and handle equipment and materials so that no part of any equipment should foul an operated track or wire line without the written permission of the Operating Railroad.

When it is noted that the work will foul an operating track, the Contractor shall give the Operating Railroad written notice 15 Calendar Days in advance so that, if approved, arrangements can be made for proper protection of the railroad.

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wages Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers. **Note: the Davis-Bacon Act does not apply to the Federal Emergency Management Agency's Public Assistance Program.**

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

**ATTACHMENT A-R2**

**RAIL & AVIATION BUREAU**

**SCOPE OF WORK FOR**

**CULVERTS, SLOPES, DITCHING, AND RAIL TRAIL REPAIR**

June 2022

**SCOPE:** Work shall consist of, but not be limited to the following:

- Culverts: Removal of all debris and unwanted material contained within and around the culvert to allow for proper drainage, ditching including repairing the trench or furrow by restoring the depth and width to original capacity to allow for proper drainage, re-routing existing drainage channels (inlet and/or outlet), construct retaining walls, replacement or repair of culvert and removal of and installation of new culverts. Culvert types include, but are not limited to, stone-laid masonry (dry-laid and wet-laid), wooden, concrete, corrugated metal pipe, cast iron, and polyethylene plastic.
- Slope Slides/Landslides: Geotechnical assessments to determine if the failed slope poses an immediate threat to lives, public health and safety, or improved property; temporary and/or permanent drainage measures to prevent further deterioration; temporary and/or permanent ground protection and erosion prevention; evacuation at the head of a sliding mass; backfilling or buttressing at the toe of a sliding mass; armoring of infrastructure to prevent further erosion; and temporary and/or permanent shoring to stabilize bank.
- Washout/Ditching: Backfilling void with material to stabilize the compromised area, ditching is when repairing the trench or furrow by restoring the depth and width to original capacity to allow for proper drainage, re-establish ditch elevation to allow for proper drainage, armoring of infrastructure to prevent further erosion, and compaction of material in the compromised area. Regrading of runway, taxiway, apron, roadway, railroad, and rail trail shoulders.
- Rail Trail Repair: Excavation work shall consist of, but not limited to, excavation of gravel, bituminous or concrete bed, curbing, gutters, and sidewalks.

Reconstruction work shall consist of, but not limited to, resurfacing / reinstallation of gravel subbase, railroad ballast, and base gravel, concrete or bituminous pathway, trail surface, reshaping shoulders, sidewalks, curbs, grading, compaction, drainage structures, installation of under drain, reshaping and a uniform ditch width, depth, and grade.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM), the American Association of State



Highway Transportation Officials (AASHTO), American Railway Engineering and Maintenance-of-Way Association (AREMA), Federal Aviation Administration (FAA) Advisory Circulars (AC), and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VTrans Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**ACTIVE RAILROAD FLAGGING:** Railroad Flagging shall consist of maintaining Operating Railroad traffic and coordinating with VTrans and the Operating Railroad for inspection and review of the Contractor's work in conjunction with construction operations. A Railroad Flagger shall be requested any time construction operations will be within 25 feet of the nearest rail or within the Operating Railroad Right-of-Way.

The Contractor shall obtain verification of the time and schedule of track occupancy from the Operating Railroad before proceeding with any construction or demolition work over, under, within, or adjacent to the Operating Railroad Right-of-Way.

All work to be done under, upon, or over the Operating Railroad Right-of-Way shall be performed by the Contractor in a manner satisfactorily to the Engineer and shall be performed at such times and in such manner as to not interfere with the movement of trains or traffic upon the tracks. The Contractor shall use all necessary care and precaution to avoid accidents, delay, or interference with the trains or other property.

The Contractor shall conduct the work and handle equipment and materials so that no part of any equipment should foul an operated track or wire line without the written permission of the Operating Railroad.

When it is noted that the work will foul an operating track, the Contractor shall give the Operating Railroad written notice 15 Calendar Days in advance so that, if approved, arrangements can be made for proper protection of the railroad.

**OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION:** When operating on an airport, the Contractor shall apply the guidelines, principles, and practices of FAA AC 150/5370-2 to its work activities. The Contractor is required to adhere to the Construction Safety and Phasing Plan if VTrans provides one for the task order. Before work may commence, the Contractor may be required to submit a Safety Plan Compliance Document for approval.

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wages Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers. **Note: the Davis-Bacon Act does not apply to the Federal Emergency Management Agency's Public Assistance Program.**

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## **ATTACHMENT A-R3**

### **RAIL AND AVIATION BUREAU**

### **SCOPE OF WORK FOR BRIDGES**

June 2022

**SCOPE:** Work shall consist of, but not be limited to replacement of existing railroad or rail trail bridge; maintenance and/or permanent work to bridge railings, superstructure, substructure, abutments, joints, bearings, weep tubes, wing walls, etc. to stabilize the compromised structure; culvert invert repairs and culvert linings; armoring of infrastructure to prevent further erosion; provide channel stabilization and protection measures as needed; timber component preservation; and bridge washing.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM), the American Association of State Highway Transportation Officials (AASHTO), American Railway Engineering and Maintenance-of-Way Association (AREMA), and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VTrans Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**ACTIVE RAILROAD FLAGGING:** Railroad Flagging shall consist of maintaining Operating Railroad traffic and coordinating with VTrans and the Operating Railroad for inspection and review of the Contractor's work in conjunction with construction operations. A Railroad Flagger shall be requested any time construction operations will be within 25 feet of the nearest rail or within the Operating Railroad Right-of-Way.

The Contractor shall obtain verification of the time and schedule of track occupancy from the Operating Railroad before proceeding with any construction or demolition work over, under, within, or adjacent to the Operating Railroad Right-of-Way.

All work to be done under, upon, or over the Operating Railroad Right-of-Way shall be performed by the Contractor in a manner satisfactory to the Engineer and shall be performed at such times and in such manner as to not interfere with the movement of trains or traffic upon the tracks. The Contractor shall use all necessary care and precaution to avoid accidents, delay, or interference with the trains or other property.

The Contractor shall conduct the work and handle equipment and materials so that no part of any equipment should foul an operated track or wire line without the written permission of the Operating Railroad.

When it is noted that the work will foul an operating track, the Contractor shall give the Operating Railroad written notice 15 Calendar Days in advance so that, if approved, arrangements can be made for proper protection of the railroad.

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wages Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers. **Note: the Davis-Bacon Act does not apply to the Federal Emergency Management Agency's Public Assistance Program.**

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## ATTACHMENT A-R4

### RAIL & AVIATION BUREAU

#### SCOPE OF WORK FOR CROSSING IMPROVEMENTS AND ROADWAY REPAIR

June 2022

**SCOPE:** Work shall consist of, but not be limited to the following:

- Crossing Improvements: Installation of rail/highway warning systems, improvement of rail/highway warning systems; and installation, demolition, and repair of traffic control devices (pavement markings, signs, etc.); repair, replacement, and installation of rail, ties, ballast, and other track material necessary for the crossing improvement.
- Roadway Repair at Rail/Highway Crossings: Remove and/or replace all rail seal, rubber pads, pavement between rails; reconstruction of bituminous pavement; saw cut joints, mill out approach; block patching; precast concrete panels; crack seal; pavement markings; and resurfacing.
- Roadway Repair at Airports: Excavation work shall consist of, but not limited to, excavation of gravel, bituminous or concrete bed, curbing, gutters, and sidewalks. Reconstruction work shall consist of, but not limited to, resurfacing / reinstallation of gravel subbase and base gravel, concrete or bituminous roadway, reshaping shoulders, sidewalks, curbs, guard rail, grading, compaction, drainage structures, installation of under drain, reshaping and a uniform ditch width, depth, and grade. This scope of work does not include airfield surfaces such as aprons, taxiways, and runways.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM), the American Association of State Highway Transportation Officials (AASHTO), American Railway Engineering and Maintenance-of-Way Association (AREMA), Vermont Rail System (VRS) Continuous Welded Rail (CWR) Manual, Federal Aviation Administration (FAA) Advisory Circulars (AC), and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic.

When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VTrans Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**ACTIVE RAILROAD FLAGGING:** Railroad Flagging shall consist of maintaining Operating Railroad traffic and coordinating with VTrans and the Operating Railroad for inspection and review of the Contractor's work in conjunction with construction operations. A Railroad Flagger shall be requested any time construction operations will be within 25 feet of the nearest rail or within the Operating Railroad Right-of-Way.

The Contractor shall obtain verification of the time and schedule of track occupancy from the Operating Railroad before proceeding with any construction or demolition work over, under, within, or adjacent to the Operating Railroad Right-of-Way.

All work to be done under, upon, or over the Operating Railroad Right-of-Way shall be performed by the Contractor in a manner satisfactorily to the Engineer and shall be performed at such times and in such manner as to not interfere with the movement of trains or traffic upon the tracks. The Contractor shall use all necessary care and precaution to avoid accidents, delay, or interference with the trains or other property.

The Contractor shall conduct the work and handle equipment and materials so that no part of any equipment should foul an operated track or wire line without the written permission of the Operating Railroad.

When it is noted that the work will foul an operating track, the Contractor shall give the Operating Railroad written notice 15 Calendar Days in advance so that, if approved, arrangements can be made for proper protection of the railroad.

**OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION:** When operating on an airport, the Contractor shall apply the guidelines, principles, and practices of FAA AC 150/5370-2 to its work activities. The Contractor is required to adhere to the Construction Safety and Phasing Plan if VTrans provides one for the task order. Before work may commence, the Contractor may be required to submit a Safety Plan Compliance Document for approval.

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wages Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers. **Note: the Davis-Bacon Act does not apply to the Federal Emergency Management Agency's Public Assistance Program.**

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## ATTACHMENT A-R5

### RAIL & AVIATION BUREAU

#### SCOPE OF WORK VEGETATION CLEARING AND OBSTRUCTION REMOVAL

June 2022

**SCOPE:** Work shall consist of, but not be limited to, clearing trees, tree topping, clear cutting, wood chipping, stump removal, down timber removal, brush removal, debris & slash removal, and herbicide application. Thinning and trimming of selective trees and brush within the right-of-way and branches extending into and/or over rights-of-way, close proximity to buildings, and around aviation navigational aids shall be carefully trimmed as directed by the AOT Representative overseeing a state-owned rail, rail trail, or airport project. Vegetative removal and herbicide application on private property, including private buildings, where AOT has obtained easements.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VTrans Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**ACTIVE RAILROAD FLAGGING:** Railroad Flagging shall consist of maintaining Operating Railroad traffic and coordinating with VTrans and the Operating Railroad for inspection and review of the Contractor's work in conjunction with construction operations. A Railroad Flagger shall be requested any time construction operations will be within 25 feet of the nearest rail or within the Operating Railroad Right-of-Way.

The Contractor shall obtain verification of the time and schedule of track occupancy from the Operating Railroad before proceeding with any construction or demolition work over, under, within, or adjacent to the Operating Railroad Right-of-Way.

All work to be done under, upon, or over the Operating Railroad Right-of-Way shall be performed by the Contractor in a manner satisfactorily to the Engineer and shall be performed at such times and in such manner as to not interfere with the movement of trains or traffic upon the tracks. The Contractor shall use all necessary care and precaution to avoid accidents, delay, or interference with the trains or other property.

The Contractor shall conduct the work and handle equipment and materials so that no part of any equipment should foul an operated track or wire line without the written permission of the Operating Railroad.



When it is noted that the work will foul an operating track, the Contractor shall give the Operating Railroad written notice 15 Calendar Days in advance so that, if approved, arrangements can be made for proper protection of the railroad.

**OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION:** When operating on an airport, the Contractor shall apply the guidelines, principles, and practices of FAA AC 150/5370-2 to its work activities. The Contractor is required to adhere to the Construction Safety and Phasing Plan if VTrans provides one for the task order. Before work may commence, the Contractor may be required to submit a Safety Plan Compliance Document for approval.

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wages Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers. **Note: the Davis-Bacon Act does not apply to the Federal Emergency Management Agency's Public Assistance Program.**

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## ATTACHMENT A-R6

### RAIL AND AVIATION BUREAU

### SCOPE OF WORK FOR FENCING

June 2022

**SCOPE:** Work shall consist of, but not be limited to remove, demolish, replace, repair, and install fencing, gates, and mechanical gate components. Minor grading necessary to complete the installation and/or repair is also included in the scope.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM) and the American Association of State Highway Transportation Officials (AASHTO) and American Railway Engineering and Maintenance-of-Way Association and Federal Aviation Administration Advisory Circular(s) and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VTrans Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**ACTIVE RAILROAD FLAGGING:** Railroad Flagging shall consist of maintaining Operating Railroad traffic and coordinating with VTrans and the Operating Railroad for inspection and review of the Contractor's work in conjunction with construction operations. A Railroad Flagger shall be requested any time construction operations will be within 25 feet of the nearest rail or within the Operating Railroad Right-of-Way.

The Contractor shall obtain verification of the time and schedule of track occupancy from the Operating Railroad before proceeding with any construction or demolition work over, under, within, or adjacent to the Operating Railroad Right-of-Way.

All work to be done under, upon, or over the Operating Railroad Right-of-Way shall be performed by the Contractor in a manner satisfactorily to the Engineer and shall be performed at such times and in such manner as to not interfere with the movement of trains or traffic upon the tracks. The

Contractor shall use all necessary care and precaution to avoid accidents, delay, or interference with the trains or other property.

The Contractor shall conduct the work and handle equipment and materials so that no part of any equipment should foul an operated track or wire line without the written permission of the Operating Railroad.

When it is noted that the work will foul an operating track, the Contractor shall give the Operating Railroad written notice 15 Calendar Days in advance so that, if approved, arrangements can be made for proper protection of the railroad.

**OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION:** When operating on an airport, the Contractor shall apply the guidelines, principles, and practices of FAA AC 150/5370-2 to its work activities. The Contractor is required to adhere to the Construction Safety and Phasing Plan if VTrans provides one for the task order. Before work may commence, the Contractor may be required to submit a Safety Plan Compliance Document for approval.

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wages Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers.

**Note: the Davis-Bacon Act does not apply to the Federal Emergency Management Agency's Public Assistance Program.**

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## ATTACHMENT A-R7

### RAIL & AVIATION BUREAU

#### SCOPE OF WORK FOR AIRPORT PAVEMENT MAINTENANCE

June 2022

**SCOPE:** Work shall consist of, but not be limited to, crack sealing, block patching, minor pavement repairs, pavement markings, pavement marking removal, and foreign object debris (FOD) removal at state-owned airports.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM), the American Association of State Highway Transportation Officials (AASHTO), Federal Aviation Administration (FAA) Advisory Circulars (AC), and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VTrans Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION:** When operating on an airport, the Contractor shall apply the guidelines, principles, and practices of FAA AC 150/5370-2 to its work activities. The Contractor is required to adhere to the Construction Safety and Phasing Plan if VTrans provides one for the task order. Before work may commence, the Contractor may be required to submit a Safety Plan Compliance Document for approval.

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to

the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wages Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers. **Note: the Davis-Bacon Act does not apply to the Federal Emergency Management Agency's Public Assistance Program.**

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

## ATTACHMENT A-R8

### RAIL & AVIATION BUREAU

#### SCOPE OF WORK FOR AVIATION NAVIGATIONAL AIDS

June 2022

**SCOPE:** Work shall consist of, but not be limited to, repair, removal, and installation of aviation navigational aids at state-owned airports and geographical separated beacon sites. Types of navigational aids include, but are not limited to, obstruction beacons (and supporting towers), airport rotating beacons, wind cone assemblies, segmented circles, airfield guidance signs, runway & taxiway edge lights, automated weather observation stations, localizer antenna & equipment, precision approach path indicators (PAPIs), runway end indicator lights (REILs), and turf runway cone markers.

**MATERIAL:** All material used shall be in accordance with applicable standards of the American National Standards Institute (ANSI), the American Standards Association (ASA), the American Society of Testing and Materials (ASTM), the American Association of State Highway Transportation Officials (AASHTO), Federal Aviation Administration (FAA) Advisory Circulars (AC), and VTrans Approved Products List, as applicable.

**TRAFFIC CONTROL:** Traffic Control shall either be the responsibility of the contractor or of VTrans depending on the nature and/or duration of the work effort. VTrans will advise the contractor prior to the assignment of work regarding the responsibility for providing Traffic Control. Part 6 (Temporary Traffic Control) of the most current version of the Manual on Uniform Traffic Control Devices (MUTCD) establishes the traffic control standards and guidelines for street and highway maintenance operations. Traffic Control, shall comply with Chapter 6H of the MUTCD whenever possible.

Construction will be performed in such a way as to minimize conflicts with normal highway traffic. When two-way traffic cannot be maintained, a sign package that conforms to the MUTCD or VTrans Standards, and trained Flaggers shall be provided. In addition, VTrans may require the presence of Uniform Traffic Officers (UTOs). The presence of UTOs shall not excuse the contractor from its obligation to provide the sign package and Flaggers.

**OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION:** When operating on an airport, the Contractor shall apply the guidelines, principles, and practices of FAA AC 150/5370-2 to its work activities. The Contractor is required to adhere to the Construction Safety and Phasing Plan if VTrans provides one for the task order. Before work may commence, the Contractor may be required to submit a Safety Plan Compliance Document for approval.

**GENERAL:** Solicitations under this category will contain a scope of work specific to that project and will identify applicable standards, specifications, and requirements. Unless otherwise specified, the Contractor shall provide all necessary materials for the work. Disposal of removed

materials shall be the responsibility of the Contractor. Any salvaged materials that are required to be delivered to a designated location will be identified in applicable solicitations.

All work assigned under this category shall be completed under the direction, supervision, and to the satisfaction, of an authorized representative of VTrans. To the extent possible, and as identified in the solicitation, all work will be completed in accordance with the most recent version of the Vermont Agency of Transportation's Standard Specifications for Construction including General Special Provisions as well as any other applicable State, Federal, and/or VTrans Standards, Policies, and Specifications.

If a Contractor performs work or services under this contract pursuant to a specific work assignment that involves work on a federal-aid project in excess of \$2,000.00, the requirements of Wages Rates for Federal-Aid Projects shall apply to the wages paid to the private sector workers. **Note: the Davis-Bacon Act does not apply to the Federal Emergency Management Agency's Public Assistance Program.**

Further, if the value of the work done or services performed under this contract pursuant to a specific work assignment is in excess of \$250,000, Workers' Compensation; State Contracts Compliance Requirements apply.

**ATTACHMENT B**  
**PAYMENT PROVISIONS**

The Contractor shall furnish the required equipment, operators, and other employees to the State at the rates or for a lump sum amount agreed upon by the contractor and the State's authorized representative for each Task Order.

Should mobilization apply, a one-time charge for transporting equipment to and from the work site may be invoiced and listed as a separate line item. Equipment subsequently moved to and from the work site for the convenience of the Contractor will not be considered for reimbursement.

The State will not be responsible for additional expenses. All overhead costs, including expenses, lodging, meals, etc., must be incorporated into the Contractor's hourly rate.

Contractor will submit a bill or invoice to the District Office in which the work was performed every two weeks unless otherwise directed by the representative of the State. Invoices submitted by the Contractor shall identify:

- the contract number under which the work is being performed,
- the District or HQ Unit that work as being performed in
- any project number(s) assigned by the representative of the State.

Submit the invoices to the district or HQ Unit that coordinated the project:

District 1 Bennington 359 Bowen Road Bennington, VT 05201	District 2 Brattleboro 870 US Route 5 Dummerston, VT 05301	District 3 Rutland 61 Valley View Suite #2 Mendon, VT 05701
District 4 White River Jct. 223 Beswick Dive White River Jct. VT 05001	District 5 Colchester 189 Troy Avenue Colchester, VT 05446	District 6 Barre 2178 Airport Road, Unit A Barre VT 05641
District 7 St. Johnsbury 1098 US Route 5 St. Johnsbury, VT 05819	District 8 St. Albans 680 Lower Newton Road St. Albans VT 05478	District 9 Derby 4611 US Rout 5 Newport, VT 05885



**ATTACHMENT C**  
**STANDARD STATE PROVISIONS FOR**  
**CONTRACTS AND GRANTS**  
**REVISED DECEMBER 15, 2017**

Attachment C - Page 1 of 5

**1. Definitions:** For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

**2. Entire Agreement:** This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

**3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial:** This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

**4. Sovereign Immunity:** The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

**5. No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

**6. Independence:** The Party will act in an independent capacity and not as officers or employees of the State.

**7. Defense and Indemnity:** The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys’ fees, collection costs or other costs of the Party or any third party.

**8. Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed

herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

*Workers Compensation:* With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

*General Liability and Property Damage:* With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal & Advertising Injury

*Automotive Liability:* The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

*Additional Insured.* The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

*Notice of Cancellation or Change.* There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

**9. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

**10. False Claims Act:** The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

**11. Whistleblower Protections:** The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

**12. Location of State Data:** No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

**13. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or

acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**14. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

**15. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

**16. Taxes Due to the State:**

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

**17. Taxation of Purchases:** All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

**18. Child Support:** (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

- A. is not under any obligation to pay child support; or
- B. is under such an obligation and is in good standing with respect to that obligation; or
- C. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

**19. Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and

Americans with Disabilities Act”); Section 16 (“Taxes Due the State”); Section 18 (“Child Support”); Section 20 (“No Gifts or Gratuities”); Section 22 (“Certification Regarding Debarment”); Section 30 (“State Facilities”); and Section 32.A (“Certification Regarding Use of State Funds”).

**20. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

**21. Copies:** Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

**22. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party’s principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State’s debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

**23. Conflict of Interest:** Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

**24. Confidentiality:** Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

**25. Force Majeure:** Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) (“Force Majeure”). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

**26. Marketing:** Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

**27. Termination:**

**A. Non-Appropriation:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

**B. Termination for Cause:** Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.

**C. Termination Assistance:** Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

**28. Continuity of Performance:** In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

**29. No Implied Waiver of Remedies:** Either party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

**30. State Facilities:** If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

**31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements:** If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required. For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.
- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

**32. Requirements Pertaining Only to State-Funded Grants:**

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)

## ATTACHMENT D

### OTHER PROVISIONS

Page 1

#### **Task Order Award.**

VTrans will issue Task Bid Requests (TBR) under this Primary Contract to Primary Contract holders inviting them to submit Task Proposals on specific projects that are within the scope of their Primary Contracts. Task Orders awarding the projects and authorizing the commencement of the work will be awarded to the lowest priced responsive and responsible bidder or best value to the State. Work orders shall not be issued to contractor on a rotating basis or other non-competitive method. Contractors may commence work on a Task Order as soon as the Task Order has been fully signed by both the Contractor and VTrans.

TBRs will include, among other specifics regarding the project, the location, type of work, type of pricing sought, Task Order-specific terms, and the deadline by which the Contractor must submit a Task Proposal. VTrans reserves the right to withdraw the Task Order and re-compete it or have work performed and completed by other means.

VTrans reserves the right to award contracts for services described in Attachment A to entities outside the pool of Primary Contract holders when deemed necessary to meet the needs of the State. Additionally, at the Task Order level, VTrans also reserves the right to award work among Primary Contract holders by means other than those detailed in this contract when deemed necessary to meet the needs of the State, including, but not limited to, emergency situations. For example, in an emergency, VTrans may limit competition or make a sole source award against Primary Contracts.

Federally-required provisions set forth in Attachment E, F and G will apply when federal funding is part of a Task Order. Each Task Bid Request will indicate whether those federal provisions do or do not apply to the project.

#### **Modifying the Contractor Pool.**

To maintain healthy competition, to be inclusive of new contractors who may enter the field of work during the span of the Primary Contracts, and to replace contractors if needed over the duration of the Primary Contracts, VTrans reserves rights as follows:

ON-RAMP PROCEDURES: VTrans reserves the right to reopen competition to add Primary Contractors to the IDIQ contractor pool by issuing additional RFPs during the original and optional Primary Contract periods. The evaluation and selection of awardees for any on-ramp will be same as the evaluation and award criteria used for the initial Primary Contract awards. Any new awardees will compete going forward with any existing or remaining contractors for all Task Orders in the applicable competition pool. Any additions resulting from on-ramps will not impact the contract maximum ceiling for the work type. The period of performance for new awardees will not exceed the overall maximum term of the original Primary contract, including extension options. State will not consider unsolicited requests for addition to the Primary Contract.

OFF-RAMP PROCEDURES: In addition to any other means of methods of termination provided for in this contract, VTrans reserves the right to terminate Primary Contracts at any time when it determines that a Contractor has failed to deliver adequate performance, or demonstrated inadequate availability. VTrans will assess Contractor performance at the Primary Contract level at least annually via

Contractor Performance Assessment in addition to evaluations at the completion of individual Task Orders. No Primary Contract will be terminated via these off-ramp procedures without documented unsatisfactory performance, or a pattern of unavailability to perform work without an opportunity to respond.

CROSS-RAMP PROCEDURES: VTrans reserves the right to issue TBRs to Primary Contract holders in different work types and regions from those covered by their Primary Contract. Cross-Ramp procedures will be used on a case-by-case, as needed basis, and should generally be an exception. Longer-term adjustments to regional contractor pools will be accomplished by utilizing the on-ramp procedure

TASK ORDER DURATION: It is intended that no Task Order will have a completion date after the expiration of the applicable Primary Contract. In rare and exceptional circumstances where it might be mutually desired to have a Task Order extend beyond the term of a Primary Contract, special documentation will be needed, overseen by VTrans' Contract Administration and authorized by the Secretary of Transportation and VTrans' CFO.

PERFORMANCE EVALUATIONS: At the conclusion of each Task Order or when the Contractor's performance is considered less than satisfactory, VTrans will complete a Contractor's performance evaluation. The evaluation will take into account all aspects of the Contractor's performance. The Contractor will be provided a copy of the performance evaluation and an opportunity to discuss the evaluation. VTrans will maintain copies of evaluations for use in future procurement selections.

### **Pricing.**

Depending upon the requirements set forth in each TBR, the Contractor will provide one of the following in the Contractor's Task Proposal response to a TBR:

- a) a lump-sum price;
- b) a price for each line item in the schedule (when optional items are used in the TBR); or
- c) a technical proposal and a separate price proposal.

### **Insurance.**

Contractors will be required to furnish proof of insurance meeting VTrans' requirements at the time that Contractors receive a Primary Contract, and maintain active coverage throughout the terms of the contract. VTrans may also require that a contractor provide confirmation that all required insurance coverages are still in effect prior to receipt of a Task Order award. The Contractor is hereby notified that in the event of a discrepancy between the stated insurance requirements of Bulletin 3.5 Attachment C: Standard State Provisions for Contracts and Grants and those of Subsection 103.04 of the Standard Specifications for Construction, the requirements of Subsection 103.04 of the Standard Specifications for Construction shall govern.

**Railroad Protective Liability (where applicable).**

When the contract requires work on, over, or under the right-of-way of any railroad, the Contractor shall provide and file with the Agency, with respect to the operation that it or its subcontractor perform under the State of Vermont Agency of Transportation contract, Railroad Protective Liability Insurance for and on behalf of the railroad as named insured, with the State, the Railroad, and Municipalities, when applicable, named as additional insured, providing coverage limits of:

- (1) Not less than \$2,000,000.00 for all damages arising out of any one accident or occurrence, in connection with bodily injury or death and/or injury to or destruction of property; and
- (2) Subject to that limit per accident, a total (or aggregate) limit of \$6,000,000.00 for all injuries to persons or property during the policy period.

**Workers Compensation Coverage.**

Projects assigned under this contract that are \$250,000.00 or more, shall be required to submit the Workers' Compensation; State Contracts Compliance Requirement Self Reporting form for both the Contractor and any and all subcontractor(s) working on the project.

VTrans, in accordance with Section 32 of Act No. 54 of 2009, and for projects costs exceeding \$250,000.00 required bidders comply with the following provisions and requirements of Workers' Compensation; State Contracts Compliance Requirement:

- (a)(3) For construction and transportation projects over \$250,000.00, a payroll process by which during every pay period the Contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite, and a daily census of the jobsite. This information, including confirmation that Contractors, subcontractors, and independent contractors have the appropriate workers' compensation coverage for all workers at the jobsite, and similar information for the subcontractors regarding their subcontractors shall also be provided to the Department of Labor and to the Department of Banking, Insurance, Securities, and Health Care Administration, upon request, and shall be available to the public.

**Davis-Bacon Wage Rates.**

For each specific work assignment exceeding \$2,000.00 that involves work on federal-aid projects, the Contractor shall pay Davis-Bacon Act wage rates in accordance with the Attachment F and shall submit necessary payroll sheets to the representative of the State.

**Federal Contract Provisions.**

For each work assignment that involves work on a federal aid project with a project cost of \$10,000.00 or more, the Contractor shall adhere to all federal regulations of Attachments E and F.



**Bonds.**

If the awarded work or services to be performed is a sum greater than \$100,000, then the Contractor selected to perform the Task Order will be required to furnish bonds, in accordance with 19 V.S.A. § 10. The Bonds given by the Contractor shall be a Compliance Bond in a sum equal to one-hundred per centum (100%), and a Labor and Materials Bond in the sum equal to one-hundred per centum (100%) of the total task order price of the work unless waived by the Secretary of Transportation. Bonds will be addressed at the Task Order level.

**SAM.Gov.**

The Contractor and subcontractors must be actively registered on the System for Award Management (SAM), [SAM.Gov](https://sam.gov), a SAM registration is required for any entity to bid on and get paid for federal contracts or to receive federal funds.

**Buy America.**

When a Contractor is asked to supply materials as part of their lump sum bid proposal for a federal-aid project, the Contractor shall adhere to the requirement of Buy America Provisions of the 2011 Standard Specifications, Section 107.22.

**Cargo Preference Act Compliance (if applicable).**

The Contractor/recipient/subrecipient is hereby notified that the Contractor/subcontractor(s)/recipient(s) are required to follow the requirements of 46 CFR 381.7(a)-(b), if applicable. For guidance on requirements of Part 381 – Cargo Preference Requirements – U.S.-flag vessels, please go to the following web link:  
<https://www.fhwa.dot.gov/construction/cqit/cargo.cfm>.

1. NOTICE TO BIDDERS – GENDER-FREE SINGLE OCCUPANCY RESTROOMS. The Contractor shall comply with all of the requirements of Vermont Act 127 (H.333) relating to the designation and signage of single-user toilet facilities in public buildings or places of public accommodation. Any such facilities may be identified by a sign, provided that the sign marks the facility as a restroom and does not indicate any specific gender.

2. NOTICE TO BIDDERS – CONTAMINATED SHARPS (HYPODERMIC NEEDLES). The Contractor is hereby notified that there are an increasing number of hypodermic needles (also known as contaminated sharps) being found throughout Vermont, and there is the potential to find them along any project. In accordance with Section 107.05, Sanitary Provisions, the Contractor is required to provide a neat and sanitary working environment for each of its employees and workers at no additional cost to the Agency. The Contractor may reach out to local Police, the Town Health Officer or the Vermont Department of Health at <https://dec.vermont.gov/content/safe-disposal-sharps> for guidance.

If the sharps are located in an area where work is required, the Contractor shall dispose of the sharps in accordance with OSHA Standard 1910.1030 for blood borne pathogens. OSHA has an e-tool for disposal of sharps on their website as well. The standard can be found at the following link:  
[https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=10051](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=10051). If the sharps are not in an area where the Contractor or workers will come into contact with them, it is best practice to avoid them altogether. The area can be marked and workers should be notified to stay out of the area.

3. NOTICE TO BIDDERS – MEASURES TO MITIGATE POTENTIAL IMPACTS DUE TO THE COVID-19 PANDEMIC. The Contractor is hereby notified that they should anticipate the possibility of future temporary Contract shutdowns, delays, or suspensions as a result of the COVID-19 pandemic. The Contractor shall consider risks associated with the COVID–19 pandemic as the Contractor develops project schedules and advances the work. The Contractor shall schedule work in a manner that in the event of a temporary shutdown, delay, or suspension, the impacts to mobility will be minimized. The sequence and progression of the work will be solely the Contractor’s responsibility. The Contractor is expected to communicate with the Agency regularly to discuss the risks to the project and proposed mitigation measures. VTrans will collaborate with the contractor to mitigate the risks to the project and adjust the sequence of work as necessary to ensure that mobility is not impaired unnecessarily.

If a shutdown, suspension or delay occurs due to the COVID-19 pandemic, the Contractor shall ensure the site is in a stable, safe, and maintainable condition by implementing mitigation measures. Such mitigation measures may include, but are not limited to, limiting the area of milled surfaces exposed at once, or limiting the number of work operations in progress at any one time. The Contractor is solely responsible for any additional maintenance activities or delays related to the sequence and progression of operations. The Agency has established a contract duration which may be longer than expected for the specified work to account for inefficiencies related to the COVID-19 pandemic. The Contractor should anticipate mobility, labor, employee protection measures and material supply issues related to the COVID-19 pandemic. The Contractor is also expected to comply with any Executive Orders.

4. NOTICE TO BIDDERS – SITE CONDITION. Prior to any shutdown or suspension, the site condition shall be in a stable, safe, and maintainable condition for the travelling public. Stable, safe, and maintainable condition means that the Contractor shall establish necessary erosion and environmental controls; ensure that the full width of the roadway is fully paved with no milled sections; install all safety features including guardrail, traffic signs, and pavement markings as designed or restored to the existing condition to meet the existing geometry; and undertake any additional measures as needed based on site conditions. No lane reductions will be allowed through the winter months. Subsection 109.06 will not apply for work that is required to bring a project to a satisfactory shutdown condition. In the event of a project Suspension of Work Ordered by the Engineer, the Contractor will be reimbursed per Subsection 108.16.

5. NOTICE TO BIDDERS – SUBSECTION 108.16(b). Subsection 108.16(b) is hereby modified by adding the following language.

The ownership costs for equipment with a current Blue Book value in excess of \$200,000.00 on site of an active project at the time of a suspension caused by the COVID-19 pandemic will be paid per Subsection 109.06(c).

6. NOTICE TO BIDDERS – FEDERAL RAILROAD ADMINISTRATION REGULATIONS. The Contractor is hereby notified that the Contractor and Subcontractor(s) are required to follow the requirements of the Code of Federal Regulations, specifically Title 49, Subtitle B, Chapter II related to the Federal Railroad Administration, Department of Transportation Regulations. Particular attention is called to the following Parts:

- (a) Part 213 – Track Safety Standards. The Contractor and Subcontractor(s) conducting track work activities shall be required to be familiar with 49 CFR 213. For further guidance on the requirements of Part 213 – Track Safety Standards, please go to the following web link: <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-II/part-213?toc=1>.
- (b) Part 214 – Railroad Workplace Safety. The Contractor and Subcontractor(s) shall be required to be in compliance with 49 CFR Part 214. Any relevant training certifications shall be provided to the Operating Railroad in advance of construction operations. Workers without training certification

will be required to take part in a job specific safety briefing with the Operating Railroad prior to the start of construction operations. For guidance on requirements of Part 214 – Railroad Workplace Safety, please go to the following web link: <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-II/part-214>.

- (c) Part 219 – Control of Alcohol and Drug Use. The Contractor and Subcontractor(s) shall be required to be in compliance with 49 CFR Part 219. For guidance on requirements of Part 219 – Control of Alcohol and Drug Use, please go to the following web link: <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-II/part-219>.
- (d) Part 243 – Training, Qualification, and Oversight for Safety Related Railroad Employees. The Contractor and Subcontractor(s) shall be required to be in compliance with 49 CFR Part 243. Any relevant training certifications shall be provided to the Operating Railroad in advance of construction operations. For guidance on requirements of Part 243 – Training, Qualification, and Oversight for Safety-Related Railroad Employees, please go to the following web link: <https://www.ecfr.gov/current/title-49/subtitle-B/chapter-II/part-243>.

7. NOTICE TO BIDDERS – RAILROAD FIRE PREVENTION PLAN. The Contractor is hereby notified about the Operating Railroad’s requirement for a Fire Prevention Plan. Prior to performing any construction activities that include an open flame or that may produce sparks in the vicinity of bridge timbers or timber bridge elements, the Contractor shall provide a fire prevention plan to the Operating Railroad. This plan shall, at a minimum, include the following components:

- (a) General Statement of Fire Safety.
- (b) Job Safety Briefings.
- (c) Fire Risk Assessment.
- (d) Fire Prevention. Fire Prevention shall, at a minimum, include measures to soak the area of work with water and monitor the area for flames for 2 hours after sparks are generated.
- (e) Fire Suppression.

8. NOTICE TO BIDDERS – PROHIBITION OF RUSSIAN GOODS. The contractor is hereby notified that, pursuant to Vermont Executive Order No. 02-22, dated March 3rd, 2022, the purchase of Russian-sourced goods and goods produced by Russian entities (defined as institutions or companies that are headquartered in Russian or have their principal place of business in Russia) is prohibited. The awarded contractor may potentially need to fill out and sign the Executive order 02-22 Vendor Certification as part of the Task Order awarding process.

## REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

### ATTACHMENTS

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

### I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

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

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

### II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

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

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

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

**1. Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

#### **6. Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

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

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

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

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

**8. Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

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

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

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

#### **10. Assurances Required:**

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

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

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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

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

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

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

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

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

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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

#### 1. Minimum wages (29 CFR 5.5)

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

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

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

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

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

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

## **2. Withholding (29 CFR 5.5)**

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **3. Payrolls and basic records (29 CFR 5.5)**

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or



subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

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

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

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

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

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

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

#### 4. Apprentices and trainees (29 CFR 5.5)

##### a. Apprentices (programs of the USDOL).

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

Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

##### b. Trainees (programs of the USDOL).

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

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

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the

corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

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

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

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

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

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

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

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor

set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### **10. Certification of eligibility (29 CFR 5.5)**

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

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

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

#### **V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

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

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

\* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

### **3. Withholding for unpaid wages and liquidated damages.**

The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

**4. Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

## **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

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

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or

equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on longstanding interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

## **VII. SAFETY: ACCIDENT PREVENTION**

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

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance

with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

### **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

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

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

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

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

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

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

### **IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)**

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders

or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

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

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

#### **1. Instructions for Certification – First Tier Participants:**

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

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant

who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

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

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

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;.

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

## **3. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

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

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

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is

submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

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**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

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

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

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

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier

subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

## **XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS  
PREFERENCE FOR APPALACHIAN DEVELOPMENT  
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS  
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**

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

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

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

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

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

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

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

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

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

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



**Attachment F**  
**STANDARD FEDERAL EQUAL EMPLOYMENT**  
**OPPORTUNITY CONSTRUCTION CONTRACT**  
**SPECIFICATIONS**  
**(EXECUTIVE ORDER 11246)**

1. As used in these specifications:
  - a. "Covered Area" means the geographical area described in the solicitation from which this contract resulted.
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.
  - c. "Employer Identification Number" means the Federal Social Security Number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

A Minority Group Member is:

...American Indian or Alaskan Native

consisting of all persons having origins in any of the original people of North American and who maintain cultural identification through tribal affiliations or community recognition.

...Black

consisting of all persons having origins in any of the Black racial groups of Africa.

...Asian or Pacific Islander

consisting of all persons having origins in any of the original people of the Far East, Southeast Asia, the Indian Sub-Continent or the Pacific Islands. This area includes China, India, Japan, Korea, the Philippines and Samoa.

...Hispanic

consisting of all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin.

...Cape Verde an

consisting of all persons having origins in the Cape Verde Islands.

...Portuguese

consisting of all persons of Portuguese, Brazilian or other Portuguese culture or origin.

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000.00 the provisions of these specifications and the notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in the Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontract participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. the overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to make good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in Paragraphs 7a through p of these specifications. The goals set for the Contractor in the solicitation from which this contract resulted are expressed as percentages in the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minority or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity . The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available and maintain a record of the organizations' responses.

- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notifications to the Regional Director when the union or unions, with which the Contractor has a collective bargaining agreement, have not referred to the Contractor a minority person or woman sent by the Contractor or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under Paragraph 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, Supervisors etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, and providing written notification to, and discussing the Contractor's EEO policy with, other Contractors and subcontractors with whom the Contractor anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notifications to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the EEO policy and Contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (Paragraph 7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under Paragraph 7a through p of these Specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, reflected in the Contractor's minority and female workforce participation , makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's non-compliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is under-utilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.
11. The Contractor shall not enter into any subcontract with any person for firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, terminations and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in Paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment-related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application or requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

**NOTICE OF REQUIREMENTS FOR 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 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:

Economic Areas	Timetables	Goals for Minority participation for each trade (%)	Goals for Female Participation in each trade (%)
Entire State of Vermont:			
<u>Vermont</u> 003 Burlington, VT Non-SMSA Counties NH Coos; NH Grafton; NH Sullivan; VT Addison; VT Caledonia; VT Chittenden; VT Essex; VT Franklin; VT Grand Isle; VT Lamoille; VT Orange; VT Orleans; VT Rutland; VT Washington; VT Windsor	Indefinite	0.8	6.9
<u>Connecticut (Mass)</u> 006 Hartford - New Haven Springfield, CT-MA Non-SMSA Counties CT Litchfield; CT Windham; MA Franklin; NH Cheshire; VT Windham	Indefinite	5.9	
<u>New York</u> 007 Albany - Schenectady - Troy, NY Non-SMSA Counties NY Clinton; NY Columbia; NY Essex; NY Fulton; NY Greene; NY Hamilton; NY Schoharie; NY Warren; NY Washington; VT Bennington	Indefinite	2.6	

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 non-federally involved construction.

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

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within ten working days of award of any construction subcontract in excess of \$10,000.00 at any tier for construction work under the contract resulting from this solicitation. The notifications shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any)



# General Terms and Conditions for Contracts for Services

VERMONT AGENCY OF TRANSPORTATION



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The following terms and conditions are incorporated into the contract in addition to those contained in Attachment C, the Vermont Standard Provisions for Contracts and Grants, except where noted that the terms herein are substitutions for those contained in the Vermont Standard Provisions for Contracts and Grants.

## A. INSURANCE

### 1. Basic Insurance Requirements for All Contracts for Services:

#### a. Prime Contractor:

For any work, a prime contractor must at minimum have and maintain throughout the life of the contract insurance coverage in types and amounts meeting or exceeding the State's standard insurance requirements specified in the State's Attachment C in effect at inception of the contract.

When a contract is amended, if a new Attachment C was adopted since the execution of the original contract, then the new Attachment C insurance requirements will apply as of and after amendment.

Certain types and settings of work require additional types and amounts of insurance coverage, beyond Attachment C requirements, as specified at Sections 2.e. and 3 below, which the Contractor must obtain and maintain throughout the life of the contract.

#### b. Subcontractors:

Subcontractors are required to have insurance coverage in types and amounts meeting or exceeding the prime contractor's insurance obligations to the State, including any additional types and amounts of insurance coverage for certain types and settings of work as specified at Sections 2.e and 3 below.

As to subcontractors, a prime contractor is obligated, for each of its subcontractors, to verify and maintain evidence of verification that each subcontractor carries all VTrans-required insurances. Subcontractors must do the same for their sub-subcontractors.

### 2. Workers Compensation Verification Compliance (*applies to both prime and subcontractors*):

#### a. In accordance with Act 54 of 2009,<sup>1</sup> and as subsequently amended, for total project costs over \$250,000, all contractors and subcontractors must have, when applicable:

A payroll process by which during every pay period the contractor collects from the subcontractors or independent contractors a list of all workers who were on the jobsite during the pay period, the work performed by those workers on the jobsite,

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<sup>1</sup> See: Act 54 of 2009, § 32; Act 142 of 2010, § 17; Act 50 of 2011, § 6, as available at: <https://legislature.vermont.gov/>

and a daily census of the jobsite. This information, including confirmation that contractors, subcontractors, and independent contractors have the appropriate workers' compensation coverage for all workers at the job site, and the same information for the subcontractors regarding their subcontractors shall also be provided to the Department of Labor and to the [Department of Financial Regulation], upon request, and shall be available to the public.

- b. Contractors and subcontractors must preserve and retain the above discussed documentation seven (7) years, per section JJ of this document.
- c. VTrans has the right to audit contractors' and subcontractors' compliance with the above; however, contractors and subcontractors should be in good standing at all times with this monitoring obligation, regardless of whether or how often VTrans conducts such audits.
- d. VTrans reserves the right to require contractors and subcontractors to submit periodic attestations of compliance with these workers compensation verification requirements.
- e. Contract-specific risk and insurance:
  - i. Where the subject matter of the contract gives rise to specific insurance obligations under the Federal Motor Carrier Safety Act ("FMCSA") <https://www.fmcsa.dot.gov>, which applies to both certain transport of passengers and certain materials of environmental concern, contractors and subcontractors must comply with the FMCSA insurance requirements.
  - ii. Environmental and pollution insurance coverage may also be required when the State, in its sole discretion, determines it to be required under the scope and subject matter of a contract.
  - iii. VTrans reserves the right to require other additional types or amounts of insurance for specific contracts when, in VTrans' sole discretion, it is prudent to do so in relation to the details of a particular contract.

3. Additional Types and Amounts of Insurance for Certain Subjects and Settings of Contracts for Services:

One or more types and amounts of the insurance coverages specified below will apply when the subject or setting of work falls within the scope(s) specified and described below:

a. For Design/Engineering Professional Services for a Specific Contracts:

- i. Where Contractor's work under the contract provides in whole or part design/engineering professional services for one or more specific projects, then before commencing work and throughout the term of this contract, contractor must provide Professional Liability insurance for all relevant services performed

under this Agreement, with minimum coverage of no less than two million dollars (\$2,000,000) per claim and two million dollars (\$2,000,000) policy aggregate.

- ii. The required Professional Liability insurance coverage must be maintained continuously for five (5) years after the final acceptance of any construction that may be developed as a result of such design work, even if the construction is performed under a separate contract or project.
- iii. Separate from task or project-specific requirements to maintain coverage, if contractor for any reason ceases operations, the contractor shall be responsible to obtain and maintain professional liability coverage that extends for not less than five (5) years after such cessation of operations.

4. Valuable Papers and Records Insurance:

Where contractor's work under the contract will in whole or part consist of providing the State with designs, plans, drawings, analyses, studies, reports, data, or other professional work product, contractor shall carry Valuable Papers and Records Insurance in a form and amount sufficient to ensure the restoration or replacement of any plans, drawings, field notes, or other information or data relating to the work, whether supplied by the State or developed by the contractor, subcontractor, worker, or agent, in the event of loss, impairment, or destruction. Such coverage shall remain in force until the final work product as well as all related materials have been delivered by the contractor to, and accepted by, the State. Valuable Papers and Records Insurance shall provide coverage on an "individual occurrence" basis with limits in the amount of at least one hundred thousand dollars (\$100,000).

5. Railroad Protective Liability:

- a. When any portion of contractor's or a subcontractor's work under the contract involves work on, over, or under the right-of-way of any railroad, the contractor shall provide and file with the Agency, with respect to the operations that it or its subcontractor perform under the contract, Railroad Protective Liability Insurance for and on behalf of the railroad as named insured, with the State and its officers and employees specified as additional insured.
- b. If Railroad Protective Liability insurance is required, the contractor shall obtain and submit the minimum coverage indicated above to the State prior to the commencement of rail-related work and activities, and shall maintain coverage until contractor notifies the State and the railroad that contractor has completed and ceased work on, over, or under the railroad right-of-way, and both State and railroad have concurred that contractor may terminate the railroad protective liability. Railroad coverage limits must meet or exceed:

- i. Not less than two million dollars (\$2,000,000) for all damages arising out of any one accident or occurrence, in connection with bodily injury or death and injury to or destruction of property; and
- ii. Subject to that limit per accident, a total (or aggregate) limit of six million dollars (\$6,000,000) for all injuries to persons or property during the policy period.

The Contractor shall file the original and one (1) copy of the Railroad Protective Liability policy with the State, who will provide the original to the appropriate railroad.

6. Information Technology Contracts:

- a. For contracts determined by the State to fall within the category of “information technology activity” as defined in statute at 3 V.S.A. §3301(b)(2), additional types and amounts of insurance will typically be required, and may change over time, either as to general standards or with regard to the subject matter or potential risk exposure in a specific IT transaction.
- b. As of the issuance of these General Terms and Conditions, the required IT insurance types include: Technology Professional Liability insurance with third-party coverage, and, if contractor has access to, processes, handles, collects, transmits, stores, or otherwise deals with State Data, Contractor shall maintain first party Breach Notification Coverage, which shall include the State of Vermont and its officers and employees as additional insureds.
- c. Information technology contracts will also generally require their own set of additional specific terms and conditions, derived from the then-applicable templates issued by the Agency of Digital Services and the Office of Purchasing and Contracting within the Department of Buildings and General Services.

## **B. INDEMNIFICATION**

1. Basic Indemnification Requirements (any contract for services):

a. Prime Contractor:

Except as specifically provided below, a prime contractor must act in an independent capacity and defend and indemnify the State in accordance with the State’s then-current Attachment C

b. Subcontractors:

Except as specifically provided below, the prime contractor must include requirements as to independence, defense, and indemnity, matching Attachment C and identical to those in the prime contractor’s contract with State, in the prime contractor’s contracts with subcontractors. Subcontractors must do the same for their sub-subcontractors.

2. For Design/Engineering Professional Services for a Specific Projects:

a. Prime Contractor:

Where a contract is for design/engineering professional services for a specific project, or, when a contract contains a mixed scope of work that in part consists of tasks of such professional design services for a specific project or projects, then as to, and only as to, those specific professional design services, the provisions of Standard Attachment C on the subjects of “Defense and Indemnity” (numbered item 7 in the December 2017 version of Attachment C, and any equivalent provisions, however numbered, in any subsequently-issued Attachment C) are stricken in their entirety and replaced in full by the following:

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in providing “non-professional services” under this Agreement. As used herein, “non-professional services” means services provided under this Agreement other than professional services relating to the design and/or engineering of all or part of the project. The State shall notify the Party in the event of any such claim or suit covered by this Subsection, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit arising out of “non-professional services” provided under this Agreement.

Notwithstanding anything to the contrary set forth in Subsection C above, the Party shall not be obligated to defend the State and its officers and employees against claims or suits arising from the Party’s provision of engineering design services or architectural design services. However, the Party’s obligation to defend the State and its officers and employees against all claims or suits arising out of “non-professional services” provided under this Agreement as provided in Subsection C above and the Party’s other obligations under Attachment C shall remain in effect.

The Party agrees to indemnify and hold the State, its officers and employees, harmless from and against monetary damages to third parties, together with reasonable costs, expenses and attorney’s fees incurred and paid by the State in defending claims by third parties (collectively “Damages”) but only in the event and to the extent such Damages are incurred and paid by the State as the proximate cause of negligent acts, errors or omissions (“Professional Negligence”) by the Party, its employees, agents, consultants and subcontractors, in providing the professional services required under this Agreement.

As used herein, “Professional Negligence” or “negligent acts, errors or omissions” means a failure by the Party to exercise that degree of skill and care ordinarily possessed by a reasonably prudent design professional practicing in the same or similar locality providing such services under like or similar conditions and circumstances.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses

arising from any act or omission of the Party arising from the provision of “non-professional services” (as defined herein) under this Agreement.

The Party shall not be obligated to indemnify the State for any Damages incurred by the State attributable to the State’s own negligent acts, errors or omissions or the negligent acts, errors or omissions of its officers, agents or employees, or the acts, errors, omissions or breach of Agreement by persons or entities other than the Party, its employees, agents, consultants and subcontractors.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

b. Subcontractors:

As to subcontractors working under a prime contractor and where the subcontractors are providing such professional design services for a specific project, the prime contractor will include the same design-specific provisions as defined in Section B(2)(a) above in the prime contractor’s own contracts with subcontractors. Subcontractors must do the same for their sub-subcontractors.

## **C. GENERAL COMPLIANCE WITH LAWS; RESPONSIBILITY FOR VIOLATION**

1. The contractor shall observe and comply with all applicable federal, state, and municipal laws, bylaws, ordinances, and regulations in any manner affecting the conduct of the work and the action or operation of those engaged in the work, including all such orders or decrees as exist at present and those which may be enacted, adopted, or issued later, during the course of the work, by bodies or tribunals having any jurisdiction or authority over the work; and the contractor shall defend, indemnify and save harmless the State, any affected railroad(s), and any affected municipality(ies), and all their officers, agents, and employees against any claim or liability arising from or based on the violation of any such law, bylaws ordinances, regulations, order, or decree, whether by the contractor in person, its employee(s), or by the contractor’s subcontractor(s) or agent(s), or employee(s) or agents thereof.
2. If the contractor discovers any provision(s) in the contract contrary to or inconsistent with any law, ordinance, regulation, order, or decree, the contractor shall immediately report it to the Project Manager in writing.

## **D. COMPLIANCE WITH DESIGN SPECIFICATIONS, STANDARDS, MANUALS, GUIDELINES, DIRECTIVES, AND POLICIES**

The contractor shall comply with all applicable statutes, regulations, ordinances, specifications, manuals, standards, guidelines, policies, directives, and any other requirements related to the



contract. In case of any conflict with the items referenced above, the contractor is responsible to ascertain and follow the direction provided by the State.

## **E. SEVERABILITY**

Provisions of the contract shall be interpreted and implemented in a manner consistent with each other and using procedures that will achieve the intent of both parties. If for any reason a provision in the contract is unenforceable or invalid, VTrans, in its sole discretion may sever that provision from the contract, and the remaining provisions shall have the same force and effect as if the severed provisions had never been a part of the contract.

## **F. PROMPT PAYMENT**

1. The contractor, by accepting and signing the contract, agrees to fully comply with the provisions of 9 V.S.A. §§ 4001-4009, also referred to as Act No. 74 of 1991 or the Prompt Payment Act, as amended. Compliance with this clause also satisfied the requirements of 46 CFR § 26.29. applicable to Federally funded contracts.
2. In accordance with 9 V.S.A. Section 4003, notwithstanding any contrary contract provision, payments shall be made within seven days from receipt of a corresponding final or progress payment by the State to the contractor, or seven days after receipt of a subcontractor's invoice, whichever is later. Failure to comply constitutes violation of this contract.
3. On all federal-aid and state funded contracts, the contractor, during the life of the contract and on a monthly basis, shall submit electronically a listing of payments to subcontractors on the form specified by the State and made available at: <http://apps.vtrans.vermont.gov/consultants/>. Electronic reports shall be filed with VTrans Office of Civil Rights by an authorized representative and received in the VTrans Office of Civil Rights on or before the tenth working day after month end. Contractors without access to the internet shall obtain and submit manual reports to the VTrans Office of Civil Rights. Manual reports shall be signed by an authorized representative, sent to the VTrans Office of Civil Rights, and postmarked on or before the tenth working day after month end. There shall be no direct compensation allowed the contractor for this work, but the cost thereof shall be included in the general cost of the work.
4. Violations shall be reported to the VTrans Office of Civil Rights for review. Failure to resolve disputes in a timely manner will result in a complaint made to the VTrans Chief of Contract Administration. In the Agency's judgment, appropriate penalties may be invoked for failure to comply with this specification. Penalties may include debarment or suspension of the ability to submit proposals.
5. This section shall be included in the prime contractor's contract made with all of its subcontractors.

## G. TERMINATION

In addition to the Termination provisions contained in Attachment C, the following terms are included in this contract:

### Termination for Convenience

#### 1. General

- a. The Agency may, with thirty (30) days written notice to the Contractor, terminate the Contract or any portion thereof when such termination would be in the best interest of the Agency. Upon notification, the contractor may be directed to immediately stop all work and incur no further costs under the contract.
- b. Any such termination shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.
- c. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.
- d. No compensation will be allowed for incomplete or eliminated contract items.
- e. Termination of the Contract, or portions thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

#### 2. Contractor Obligations

After receipt of the Notice of Termination and except as otherwise directed by VTrans, the Contractor shall immediately proceed to:

- a. The extent specified in the Notice of Termination, cease work under the Contract on the date specified.
- b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portions of the work under the Contract that are not terminated.
- c. Terminate and cancel any orders or subcontracts related to the services, except as may be necessary for completion of such portions of the work under the Contract that are not terminated.

- d. Transfer to VTrans all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to VTrans.
- e. Take other actions as may be necessary or as directed by VTrans for the protection and preservation of the property related to the contract which is in the possession of the contractor and that VTrans has or may acquire any interest.
- f. Make available to VTrans all cost and other records relevant to a determination of an equitable settlement.

### 3. Claim by Contractor

After receipt of the Notice of Termination from VTrans, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within sixty (60) days of the effective termination date. Should the Contractor fail to submit a claim within the sixty (60) day period, VTrans may, at its sole discretion, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

### 4. Negotiation

Negotiations to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and VTrans. Settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.

## H. PROPRIETARY RIGHTS

1. If a patentable discovery or invention results from work performed under the contract, all rights to such discovery or invention shall be the sole property of the Contractor, but the State and the United States Government shall have an irrevocable, nonexclusive, non-transferable, and royalty free license to each invention in the manufacture, use, and disposition, according to law, of any article or material or use of method that may be developed, as a part of the work under the contract.
2. Publications: All data, valuable papers, photographs, and any other documents produced under the terms of the contract shall become the property of the State of Vermont. The Contractor agrees to allow access to all data, valuable papers, photographs, and other documents at all times. The contractor shall not copyright any material originating under the contract without prior written approval of the State.
3. Ownership of the Work: All studies, data sheets, survey notes, subsoil information, drawings, tracings, estimates, specifications, proposals, diagrams, calculations, photographs, and other material prepared or collected by the contractors ("instruments of professional

service") shall become the property of the State as they are prepared or developed during performance of the work under the contract. If a contractor uses a proprietary system or method to perform the work, only the product will become the property of the State. The Contractor shall not be liable for any reuse, misuse, or alteration of these "instruments of professional service" by the State.

4. The Contractor shall surrender to the State upon demand or submit for inspection at any time any instruments of professional service that have been collected, undertaken, or completed by the Contractor pursuant to the contract. Upon completion of the work, these instruments of professional service will be appropriately endorsed by the Contractor and turned over to the State.
5. Data and publication rights to any instruments of professional services produced under the contract are reserved to the State and shall not be copyrighted by the contractor at any time without written approval of the State. No publication or publicity of the work, in part or in total, shall be made without the consent of the State, except that contractors may in general terms use previously developed instruments of professional service to describe its abilities for a project in promotional materials.
6. Rights and Remedies Additional: The rights and remedies of the State under this section are in addition to any other rights and remedies that the State may possess by law or under this contract.
7. Decisions Final and Binding: Decisions of the State on matters discussed in this section shall be final and binding.

## I. PERSONAL CONFLICTS OF INTEREST

Contractor employees performing services for the VTrans shall not have, directly or indirectly, a personal conflict of interest with respect to any contract with VTrans and must immediately disclose to VTrans any personal conflicts of interest arising at any time from the bidding process to final contract close-out.

### Definitions

As used in this clause:

1. Contractor Employees means employees and subcontractors of a VTrans contractor.
2. Personal Conflict of Interest means a situation in which a contractor employee has a financial interest, personal activity, or relationship that could impair the individual's ability to act impartially and in the best interest of the Government when performing under the contract.
  - a. Sources of personal conflicts of interest include but are not limited to:

- i. Financial interests of the contractor employee, of close family members, or of other members of the contractor employee's household;
  - ii. Other employment or financial relationships (including seeking or negotiating for prospective employment or business); and
  - iii. Gifts, including travel.
- b. Examples. Financial interests referred to above may arise from:
  - i. Compensation, including wages, salaries, commissions, professional fees, or fees for business referrals;
  - ii. Consulting relationships (including commercial and professional consulting and service arrangements, scientific and technical advisory board memberships, or serving as an expert witness in litigation);
  - iii. Services provided in exchange for honorariums or travel expense reimbursements;
  - iv. Research funding or other forms of research support;
  - v. Investment in the form of stock or bond ownership or partnership interest (excluding diversified mutual fund investments);
  - vi. Real estate investments;
  - vii. Patents, copyrights, and other intellectual property interests; or
  - viii. Business ownership and investment interests.
3. Acquisition Function means supporting or providing advice or recommendations to the following activities of a State agency:
  - a. Planning acquisitions;
  - b. Determining what supplies or services are to be acquired by the Government, including developing statements of work;
  - c. Developing or approving any contractual documents, including documents defining requirements, incentive plans, and evaluation criteria;
  - d. Evaluating contract proposals;
  - e. Awarding Government contracts;

- f. Administering contracts (including ordering changes or giving technical direction in contract performance or contract quantities, evaluating contractor performance, and accepting or rejecting contractor products or services);
  - g. Terminating contracts; and
  - h. Determining whether contract costs are reasonable, allocable, and allowable.
4. Non-public information means any State or third-party information that:
- a. Is deemed by VTrans to be proprietary or confidential, or is exempt from disclosure under the Vermont Public Records Act, 1 V.S.A. § 315, et al, or otherwise protected from disclosure by statute, Executive order, or regulation; or
  - b. Has not been disseminated to the general public and the State has not yet determined whether the information can or will be made available to the public.

## **Requirements**

The Contractor shall:

1. Have procedures in place to screen employees for potential personal conflicts of interest;
2. Prevent personal conflicts of interest, including not assigning or allowing an employee to perform any task under the contract for which the Contractor has identified a personal conflict of interest for the employee that the Contractor or employee cannot satisfactorily prevent or mitigate in consultation with the contracting agency; and
3. Prohibit use of non-public information accessed through performance of a Government contract for personal gain.
4. Inform employees of their obligation:
  - a. To disclose and prevent personal conflicts of interest;
  - b. Not to use non-public information accessed through performance of a Government contract for personal gain;
  - c. To avoid even the appearance of personal conflicts of interest;
5. Maintain effective oversight to verify compliance with personal conflict-of-interest safeguards;
6. Take appropriate disciplinary action in the case of covered employees who fail to comply with policies established pursuant to this clause;

7. Report to VTrans any personal conflict-of-interest violation by an employee as soon as it is identified. This report shall include a description of the violation and the proposed actions to be taken by the Contractor in response to the violation.
8. Provide follow-up reports of corrective actions taken, as necessary. Personal conflict-of-interest violations include:
  - a. Failure by an employee to disclose a personal conflict of interest;
  - b. Use by an employee of non-public information accessed through performance of a Government contract for personal gain; and
  - c. Failure of an employee to comply with the terms of a non-disclosure agreement.
9. In the case of contractors' employees *who perform acquisition functions* for VTrans, screening procedures must include:
  - a. Maintaining and obtaining from each employee, when the employee is initially assigned to the task under the contract, a disclosure of interests that might be affected by the task to which the employee has been assigned, as follows:
    - i. Financial interests of the employee, of close family members, or of other members of the covered employee's household;
    - ii. Other employment or financial relationships of the employee (including seeking or negotiating for prospective employment or business); and
    - iii. Gifts, including travel.
  - b. Requiring each employee to update the disclosure statement whenever the employee's personal or financial circumstances change in such a way that a new personal conflict of interest might occur because of the task the employee is performing.

### **Mitigation or Waiver**

1. In exceptional circumstances, if the Contractor cannot satisfactorily prevent a personal conflict of interest as required above, the Contractor may submit a request through the applicable Division Director for:
  - a. An agreement to a plan to mitigate the personal conflict of interest; or
  - b. A waiver of the requirement.
2. The Contractor shall include in the request any proposed mitigation of the personal conflict of interest.

3. The Contractor shall:

- a. Comply, and require compliance by the employee, with any conditions imposed by the Government as necessary to mitigate the personal conflict of interest; or
- b. Remove the Contractor employee or subcontractor employee from performance of the contract or terminate the applicable subcontract.

### **Disclosure**

A mandatory duty is established for the Contractor to disclose procurement fraud, and overpayments, or risk debarment or suspension. The contractor must report fraud, conflicts of interest, bribery, and illegal gratuities in connection with the award or performance of a state contract.

### **Code of Business Ethics**

Contractors are encouraged to have a written code of business ethics and conduct. In addition, the contractor should have an ongoing ethics and compliance training program for principals and employees, as well as a system of internal controls to detect fraud and improper conduct.

## **J. ORGANIZATIONAL CONFLICTS OF INTEREST (OCOI)**

### **Definition**

Organizational conflict of interest (“OCOI”) means that because of other activities or relationships with other persons or entities, a contractor *as a business entity*:

1. Is unable or potentially unable to render impartial assistance or advice to VTrans;
2. Is or may be impaired in its objectivity in performing the contract work (Example: A firm has a contract to inspect work by firms that are its business affiliates); or
3. Has an unfair competitive advantage. (Example: a firm participates in systems engineering and technical direction; preparing specifications or work statements; participates in development and design work; or gains access to the information of other companies in performing advisory and assistance services for the government drafting a scope of work for a project, then bids on the project itself.)

### **Disclosure**

The Contractor shall make an immediate and full disclosure, in writing, to the VTrans Project Manager of any potential or actual OCOI or the existence of any facts that may cause a reasonably prudent person to question the contractor's impartiality because of the appearance or existence of bias or an unfair competitive advantage. Such disclosure shall include a description of the actions



the contractor has taken or proposes to take in order to avoid, neutralize, or mitigate any resulting conflict of interest.

### **Contractors in Management Support Roles**

OCOIs often arise when contractors or subcontractors are employed in management support roles, such as oversight and inspection of the work of other contractors, and the development of designs, requirements, or statements of work or procurement documents such as requests for proposal. Such contracts bear particularly close monitoring to avoid OCOIs. A contractor serving in a management support role may be precluded from providing additional services on projects, activities, or contracts under its oversight due to potential conflicts of interest.

### **OCOI Screening**

Prior to submitting a proposal, each submitter or proposer will conduct an internal review of its current affiliations and will require its team members to identify potential, real, or perceived OCOIs relative to the anticipated procurement. Potential submitters or proposers will be notified that existing or future contractual obligations relative to the proposed procurement may present an OCOI that may require avoidance, neutralization, or mitigation.

### **Disqualification**

Prior to the award of a contract, VTrans may determine that an OCOI exists which would warrant disqualifying the bidder for award of the contract. Vtrans will discuss the matter with the contractor to determine whether the OCOI can be mitigated to VTrans satisfaction by negotiating terms and conditions of the contract to that effect.

### **Subcontracts**

1. The Contractor shall require from its subcontractors full disclosure of any actual, apparent, or potential OCOI, and report such OCOIs to the VTrans Project Manager.
2. The Contractor shall identify and avoid, neutralize, or mitigate any subcontractor OCOI prior to award of the contract to the satisfaction of the VTrans Project Manager. If the subcontractor's OCOI cannot be avoided, neutralized, or mitigated, the Contractor must obtain the written approval from the appropriate VTrans Division Director prior to entering into the subcontract.
3. If the Contractor becomes aware of a subcontractor's potential or actual OCOI after the contract award, the Contractor agrees that VTrans may require the Contractor to eliminate the subcontractor from its team.

## **K. CONFLICT OF INTEREST REMEDIES**

VTrans may terminate this contract, in whole or in part, or decline to make an award to a contractor if, in VTrans sole discretion, it is deemed necessary to avoid, neutralize, or mitigate an actual or

apparent personal or OCOI. No contract for the construction of a project shall be awarded to the firm that designed the project or its subsidiaries or affiliates, except with the approval of the Secretary of Transportation or authorized representative.

1. If a Contractor fails to disclose facts pertaining to the existence of a potential or actual personal or OCOI or misrepresents relevant information to VTrans, VTrans may terminate the contract for default or pursue such other remedies as may be permitted by law or this contract.
2. The Contractor will have the right to appeal a finding of an actual or potential OCOI to the appropriate Division Director, whose decision will be final, subject to further review only as provided for by state law, regulation or procedure.

## L. CONTRACTOR PERSONNEL

1. The Contractor shall employ only qualified personnel to supervise and perform the work. VTrans shall have the right to approve or disapprove personnel hired to perform or supervise work related to the contract.
2. Upon VTrans' request, the Contractor shall supply resumes for staff proposed to work on assignment or under primary contracts for VTrans' review and acceptance or rejection. VTrans retains the right to interview the proposed staff.
3. If contractor has submitted a list of key personnel to VTrans as part of a proposal, the Contractor must notify and seek approval if any changes to the proposed personnel occur during the performance period of the contract.
4. VTrans reserves the right to require removal of any person employed by a contractor from work related to the contract as deemed necessary to protect the interests of the State. The decision of VTrans shall be final and not subject to challenge or appeal beyond the appropriate Division Director.

## M. APPROVAL REQUIREMENT FOR HIRING CERTAIN VTRANS EMPLOYEES

1. Contractors are required to obtain VTrans approval prior to making offers of employment to VTrans employees who are engaged in acquisition functions as defined in paragraph I.3 a-h above, or an individual who was engaged in acquisition functions for VTrans within one year of the end of employment with VTrans. Request for approval must be submitted to the appropriate Division Director.
2. Discussions with current VTrans employees engaged in acquisition functions regarding *potential* employment with a contractor creates a conflict of interest for the employee and is prohibited absent a State approved mitigation plan or waiver.

3. Contractors are encouraged to maintain an open dialogue with VTrans regarding such matters and work toward mutually acceptable avoidance and resolution of any issues.

## **N. ASSIGNMENTS, TRANSFERS, AND SUBLETTING**

1. The Contractor shall not assign, sublet, or transfer any interest in the work covered by the contract without the prior written consent of the State and appropriate federal agencies, if applicable. Further, if any subcontractor participates in any work involving additional services, the estimated extent and cost of the contemplated work must receive the prior written consent of the State.
2. The approval or consent to assign, sublet, or assign any portion of the work shall in no way relieve the Contractor of its responsibility to perform that portion of the work so affected. Except as otherwise provided in these specifications, the form of the subcontractor's contract shall be as developed by the contractor.
3. Any authorized subcontracts shall contain all the same provisions specified for and attached to the original contract with the State.

## **O. PERFORMANCE AND COMPLETION OF WORK**

1. The Contractor shall perform the services specified in accordance with the terms of the contract and shall complete the contracted services by the completion dates specified in the contract.
2. Apart from ongoing obligations (*e.g.*, insurance, ownership of the work, and appearances), upon completion of all services covered under the contract and payment of the agreed upon fee, the contract with its mutual obligations shall be terminated.
3. If, at any time during or after performance of the contract, the Contractor discovers any design errors or other issues that warrant changes, the contractor shall notify the Project Manager immediately. This paragraph also applies to those projects that are under construction or have been constructed.

## **P. CONTINUING OBLIGATIONS**

The Contractor agrees that if, because of a death or other occurrences, it becomes impossible to effectively perform its services in compliance with the contract, neither the contractor nor its surviving principals shall be relieved of their obligations to complete the services under the contract. However, the State may terminate the contract if it considers a death, incapacity, or other removal of any principal(s) or key project personnel to be a loss of such magnitude that it would affect the contractor's ability to satisfactorily comply with the contract.

## **Q. APPEARANCES**

1. Hearings and Conferences. The Contractor shall provide professional services required by

the State that are necessary for furtherance of any work covered under the contract. Professional services shall include appropriate representation at design conferences, public gatherings and hearings, and appearances before any legislative body, commission, board, or court, to justify, explain, or defend its services provided under the contract.

2. The Contractor shall serve as a liaison if the State deems it necessary for the furtherance of the work and participate with the State, at any reasonable time, in conferences, concerning interpretation and evaluation of all services provided under the contract.
3. The Contractor further agrees to participate in meetings with the State, applicable Federal Agencies, or any other interested or affected participants for the purpose of review or resolution of any conflicts pertaining to the contract. The Contractor shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the contract.
4. Appearance as Witness. When required by the State, the Contractor, or an appropriate representative, shall prepare for and appear in, on behalf of the State, any litigation or other legal proceeding concerning any relevant project or related contract. The contractor shall be equitably paid for such services and for any reasonable expenses incurred in relation thereto in accordance with the contract.

## **R. CHANGES AND AMENDMENTS**

1. VTrans may, upon written notice, require changes, additions, or deletions to the work or contract. Whenever possible, any such adjustments shall be administered under the appropriate fee schedule or payment provisions established in the contract based on the adjusted quantity of work.
2. The State may, upon written notice, and without invalidating the contract, require changes resulting from the revision or abandonment of work already satisfactorily performed by the Contractor or changes in the statement of work section of the contract.
3. If the value of such changes, additions, or deletions is not otherwise reflected in payments to the contractor pursuant to the contract, or if such changes require additional time or expense to perform the work, the contract may be amended accordingly.
4. Changes to the scope, duration or value of the contract will require amendment of the contract, approved by the State's Secretary of Transportation or other official delegated such authority.
5. The Contractor agrees to maintain complete and accurate records, in a form satisfactory to VTrans, for any extra work or additional services in accordance with the contract and the Contractor shall perform such work or services only after an amendment has been fully executed or a written notice to proceed is issued by VTrans.

## **S. EXTENSION OF TIME**

1. The contractor may request in writing an extension of the allotted time for completion of the work. A request for extension will be evaluated, and if VTrans determines that the justification is valid, an extension of time for completion of the work may be granted. A request for extension of time must be made before the contractor is in default.
2. The decision of VTrans relative to granting an extension of time shall be final and binding, and may result in damages owed to the State by the contractor.
3. Neither party hereto shall be held responsible for delay in performing the work encompassed herein when such delay is due to unforeseeable causes such as, but not limited to, acts of God or a public enemy, fire, strikes, floods, or legal acts of public authorities.

## **T. CONTRACTOR ERRORS AND OMISSIONS**

1. “Professional negligence” resulting in errors and omissions in the work product of the contractor or subcontractors must be corrected by the contractor at no cost to the State, when it is determined that the error or omission was a direct cause of the contractor’s work. The contractor may be liable for the State’s costs and other damages resulting from errors or deficiencies in designs furnished under its contract.
2. When VTrans becomes aware of an error or omission on the part of the contractor or subcontractors, VTrans will inform the contractor and provide an opportunity for discussion and correction, if applicable. Discussions will not relieve the contractor from complying with any VTrans-ordered corrections.
3. VTrans’ review, approval, or acceptance of or payment for the services required under this contract shall not be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.
4. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

## **U. DISPUTE RESOLUTION.**

1. Design Professionals: In cases where VTrans believes damages are owed by a contractor, VTrans will attempt to negotiate a resolution with the contractor. If requested in writing by either party, negotiations may take the form of structured non-binding mediation with the assistance of a mediator on a “without prejudice” basis. The mediator shall be appointed by agreement of the parties, and the fees split equally between the parties. Negotiations or mediation will not bar either party from pursuing any other available remedies except as mutually agreed to in a written mediation agreement.

2. Construction Services Professionals: The parties shall attempt to resolve any disputes that may arise under the contract by informal negotiation, with the approval of the appropriate Division Director. If the dispute is not resolved, the Director shall issue a decision, which the Contractor may appeal in writing to the Transportation Board, through the Director, within 30 calendar days of the Director's decision. The notice of appeal shall completely outline the nature and extent of the issue(s) appealed and shall include copies of any and all supporting documentation. The decision of the Transportation Board may be appealed to Vermont Superior Court by either party as provided in 19 V.S.A. § 5.

## **V. RETAINAGE AND LIQUIDATED DAMAGES**

1. Pursuant to the provisions of Agency of Administration Bulletin 3.5 – Contracting Procedures, VTrans has considered whether services contracts should contain provisions that provide for liquidated damages and/or retainage. As a general principle, based on experience and policy, VTrans has generally chosen not to include liquidated damages and retainage in its services contracts.
2. Should VTrans believe that liquidated damages or retainage provision are advisable in a particular contract, VTrans will include such provisions in the contract.

## **W. NO ADVANTAGE FROM ERRORS OR OMISSIONS IN CONTRACT DOCUMENTS.**

Neither the contractor nor the State shall take advantage or be afforded any benefit as the result of apparent error(s) or omission(s) in the contract documents. If either party discovers error(s) or omission(s), it shall immediately notify the other.

## **X. HOSTILE ACTS**

Except as provided below, or otherwise agreed to in writing by a duly authorized representative of the State, the Contractor agrees that during the term of this contract, and also after termination of this contract, it will not represent or render assistance to anyone in any matter, proceeding, or lawsuit against or otherwise adverse to the interests of the State or any of its agencies or instrumentalities in a matter, proceeding, or lawsuit related to any aspects of any work or projects to which this contract relates. Contractor also agrees to include written provision in any of contractor's subcontracts with others relating to this contract, providing that such subcontractors also recognize and agree to be bound by this duty of loyalty to the State regarding any aspects of any work or projects to which this contract relates.

## **Y. RESPONSIBILITY FOR SUPERVISION**

The contractor shall be responsible for supervision of contractor employees and subcontractors for all work performed under the contract and shall be solely responsible for all procedures, methods of analysis, interpretation, conclusions, and contents of work performed under the contract.

## **Z. WORK SCHEDULE AND PROGRESS REPORTS**

As required by VTrans, prior to initiating any work, the Contractor shall work with VTrans' Project Manager to develop a work schedule showing how the contractor will complete the various phases of work to meet the completion date and any interim submission dates in the contract. VTrans will use this work schedule to monitor the contractor.

The Contractor during the life of the contract shall make monthly progress reports, or as otherwise determined by the Project Manager, or set forth in the statement of work, indicating the work achieved through the date of the report. The Contractor shall link the monthly progress reports to the schedule. The report shall indicate any matters that have, or are anticipated to, adversely affected progress of the work. VTrans may require the Contractor to prepare a revised work schedule in the event that a specific progress achievement falls behind the scheduled progress by more than thirty (30) days. The revised work schedule shall be due as of the date specified by VTrans.

## **AA. WORK ASSIGNED UNDER PRIMARY-TYPE CONTRACTS**

Specific tasks or projects under primary (ie. retainer or Indefinite Delivery/Indefinite Quantity ["IDIQ"]) type contracts will be awarded and managed as provided in the scope of work section of the contract. Contractors should not begin work on any task or project under a primary contract until they have received authorization as described in the scope of work.

## **BB. UTILITIES**

Whenever a facility or component of a private, public, or cooperatively-owned utility will be affected by proposed construction, the Contractor shall consult with the State's Utility Section and initiate contacts or discussions with the affected owners regarding requirements necessary for revision of facilities, both above and below ground. All revisions must be completely and accurately exhibited on detail sheets or plans. The Contractor shall inform the State, in writing, of all contacts with utility facility owners, and the results thereof. Further details should be provided in the scope of work section of the contract.

## **CC. PUBLIC RELATIONS**

Whenever it is necessary to perform work in the field (e.g., with respect to reconnaissance, testing, construction inspection, and surveying) the contractor shall endeavor to maintain good relations with the public and any affected property owners. Personnel employed by or representing the contractor shall conduct themselves with propriety. If there is a need to enter upon private property to accomplish the work under the contract, the Contractor shall inform property owners and tenants in a timely manner and in accordance with relevant statutes. All work will be done with minimum damage to the land and disturbance to the owners thereof. Upon request of the Contractor, the State shall furnish a letter of introduction to property owners soliciting their cooperation and explaining that the contractor is acting on behalf of the State.

## **DD. INSPECTION OF WORK**

1. The State and applicable federal agencies shall, at all times, have access to the contractor's work for the purposes of inspection, accounting, and auditing, and the Contractor shall provide appropriate and necessary access to accomplish inspections, accounting, and auditing.
2. The contractor shall permit the State and its representatives the opportunity at any time to inspect any plans, drawings, estimates, specifications, or other materials prepared or undertaken by the Contractor pursuant to the contract.
3. A conference, visit to a site, or inspection of the work may be held at the request of the Contractor, State, and appropriate federal agencies.

## **EE. WRITTEN DELIVERABLES/REPORTS**

All communications and deliverables presented under terms of the contract shall be in a form and format identified in the statement of work section of the contract, including, but not limited to CADD Requirements, Data Specifications, and Geographic Information System Requirements.

## **FF. ELECTRONIC DATA MEDIA.**

VTrans Web Page and File Transfer Protocol (FTP) Site Disclaimer. The files located on the VTrans web page and FTP site are subject to change. The contractor is responsible for maintaining contact with VTrans to determine if any changes affect the work produced by the contractor. Although VTrans makes every effort to ensure the accuracy of its work, it cannot guarantee that transferred files are error free.

## **GG. REVIEWS AND APPROVALS.**

All work prepared by the Contractor, subcontractors, and representatives thereof pursuant to the contract shall be subject to review and approval by VTrans. Approval for any work shall be documented in writing. Approvals shall not relieve a contractor of its professional obligation to correct any defects or errors in the work at the contractor's expense.

The pertinent federal agencies may independently review and comment on the contract deliverables. The Contractor, through VTrans, shall respond to all official comments regardless of their source. The Contractor shall supply VTrans with written copies of all correspondence relating to reviews. All comments must be satisfactorily resolved before the affected work is advanced.

## **HH. PAYMENT PROCEDURES**

Payment procedures will be set forth in Attachment B.

## **II. AUDIT REQUIREMENTS**



1. Design and Engineering Contracts of Five Hundred Thousand Dollars (\$500,000.00) and over:
  - a. Annually, the Contractor shall furnish the State with independently-prepared, properly supported indirect cost rates for all the time periods covered under the contract. These rates must be developed in accordance with the cost principles in 48 CFR Part 31. Unless otherwise specified in the contract, the Contractor's overhead rate shall be based on actual, audited overhead costs.
  
2. **Design and Engineering Contracts** Under Five Hundred Thousand Dollars (\$500,000.00):
  - a. The contractor may submit internally generated indirect cost computations and the related schedules.
  
  - b. Additional information may be requested from a new contractor executing a contract under \$500,000.00 or in some cases from contractors with existing or previous contracts with the State if any of the following conditions or areas of concern exist:
    - i. There is insufficient knowledge of the consultant's accounting system.
  
    - ii. There is previous unfavorable experience regarding the reliability of the consultant's accounting system
  
    - iii. The contract involves procurement of new equipment or supplies for which cost experience is lacking.
  
    - iv. There have been issues with adherence to Federal and State regulations and policies.
  
    - v. Capacity – ensuring ongoing delivery

## **JJ. RECORDS RETENTION:**

The Contractor shall maintain all records related to the contract for a period of seven (7) years unless required to keep them longer as indicated Federal provisions or in the scope of work section of the contract.

## **KK. REGISTRATION WITH SECRETARY OF STATE**

1. The Contractor shall be registered with the Vermont Secretary of State to do business in the State of Vermont if the Contractor:
  - a. Is a domestic or foreign corporation,

- b. Is a resident co-partner or resident member of a co-partnership or association,
  - c. Is a non-resident individual doing business in Vermont in his or her individual capacity,
  - d. Is doing business in Vermont under any name other than the Contractor's own personal name.
2. This registration must be complete prior to contract execution and maintained throughout the life of the contract.

## LL. SITE VISIT

Where relevant to the work to be performed under the contract, contractors must inspect physical locations of construction when required in the statement of work and will not be compensated for any differing site conditions that could have been discovered during the inspection.

## MM. MARKETING

The Contractor is prohibited from representing in marketing or promotional materials that VTrans is a co-sponsor in any project, or otherwise representing any sort of collaboration or partnership with VTrans; making claims of general endorsement by VTrans; and from using the VTrans logo, seal, or letterhead. In accordance with Attachment C, Standard State Provisions for Contracts and Grants, the Contractor has VTrans permission to refer to the fact that the Contractor has, or previously had, contracts with VTrans in marketing or promotional materials, as long as purely factual statements are made, and no general endorsement is asserted. Additionally, the Contractor may provide factual information regarding work under VTrans projects to other potential employers or identify designated VTrans employees or officials who could be consulted by as a reference about such prior work for VTrans. Designated VTrans employees may provide factual information regarding a Contractor's work under VTrans contracts to third parties requesting references. Contractor's providing false information regarding work under VTrans contract will be subject to administrative, civil, and criminal penalties.

Approved By: \_\_\_\_\_

E-SIGNED by Joe Flynn  
on 2020-05-29 18:21:30 GMT

**Secretary of Transportation**

**Attachment I-1(a) - Highway Scopes of Work**

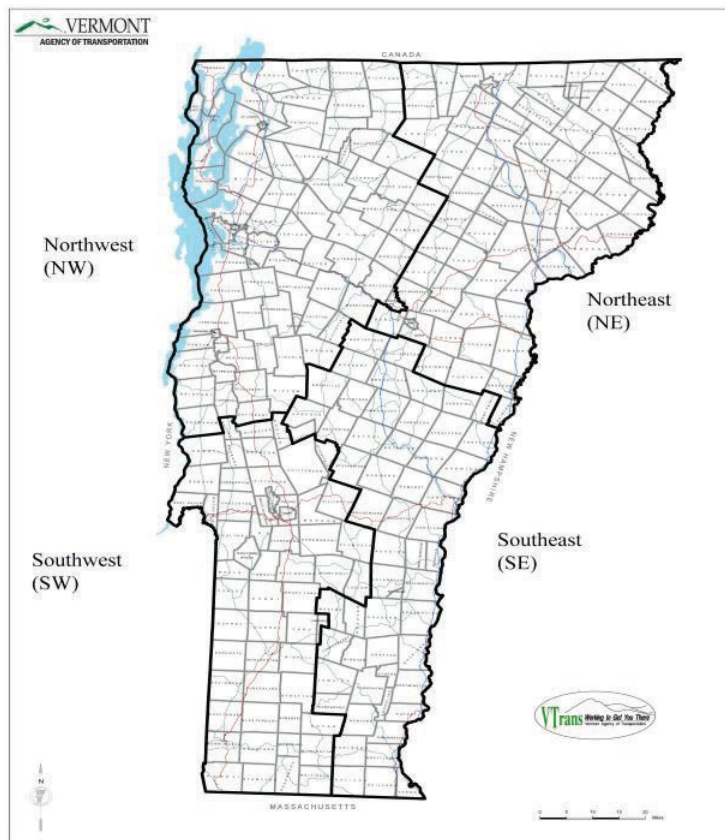
**CONTRACTOR’S REQUEST FOR WORK TYPES AND REGIONS TO BE INCLUDED IN THE PRIMARY CONTRACT**

Bidder:

Indicate in the box below the work types and regions you are requesting, if awarded a Primary Contract. VTrans reserves sole discretion to award less than all requested regions and/or work types.

Work types listed below are detailed in Attachment A. See Regional Map located below.

Work Types	Northwest Region (NW)	Northeast Region (NE)	Southwest Region (SW)	Southeast Region (SE)
A-H1 Paving				
A-H2 Bridge Repair and Installation				
A-H3 Large Culvert Repair				
A-H4 Roadway Repair, Slopes, Small Culverts				
A-H5 Roadway Ancillary				
A-H6 Right-of-Way Clearing				



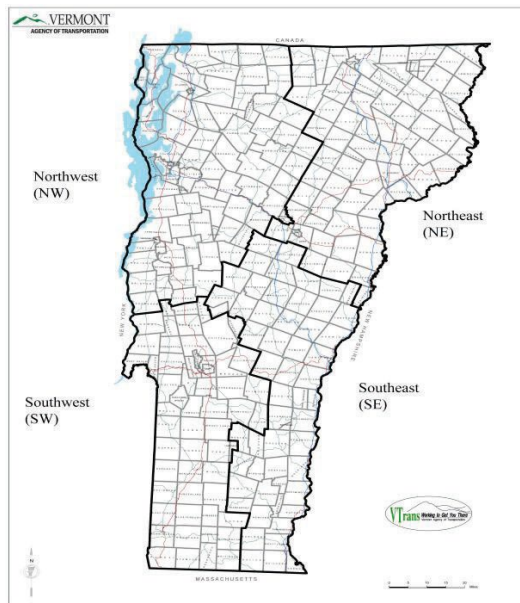
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Work types listed below are detailed in Attachment A. See Regional Map located below.

Work Type	Northwest Region (NW)	Northeast Region (NE)	Southwest Region (SW)	Southeast Region (SE)
A-R1 Track Work				
A-R2 Culvert, Slope Slides, Landslides and/or Washout, Ditching				
A-R3 Bridges				
A-R4 Crossing & Paving				
A-R5 Right-of-Way Clearing (Includes Debris Removal)				
A-R6 Fencing				
A-R7 Airport Pavement Maintenance				
A-R8 Aviation Navigational Aids				



**KEY PERSONNEL RESUME FORM**

Bidder:

Provide a resume, or at least the information requested below, for each person in a role as owner, manager, or superintendent whose skills and experience you would like considered by VTrans
<b>Name &amp; Title:</b>
<b>Years experience:</b> With this Firm ____ Years                      With Other Firms ____ Years
Education: Educational Institution/Degree(s)/Year/Specialization:
<b>Experience and Qualifications:</b> List only that which is relevant to the requested work types. Indicate whether experience is with current firm or with other/prior company. Note your specific responsibilities and authorities, not those of the company. Note dates and contact information for client/owner who can verify your role and performance. <b>You may attach up to two additional pages, per individual</b>

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Bidder:

Provide a resume, or at least the information requested below, for each person in a role as owner, manager, or superintendent whose skills and experience you would like considered by VTrans	
<b>Name &amp; Title:</b>	
<b>Years experience:</b>	With this Firm ____ Years                      With Other Firms ____ Years
Education: Educational Institution/Degree(s)/Year/Specialization:	
<b>Experience and Qualifications:</b> List only that which is relevant to the requested work types. Indicate whether experience is with current firm or with other/prior company. Note your specific responsibilities and authorities, not those of the company. Note dates and contact information for client/owner who can verify your role and performance. <b>You may attach up to two additional pages, per individual</b>	

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Provide a resume, or at least the information requested below, for each person in a role as owner, manager, or superintendent whose skills and experience you would like considered by VTrans
<b>Name &amp; Title:</b>
<b>Years experience:</b> With this Firm ____ Years                      With Other Firms ____ Years
Education: Educational Institution/Degree(s)/Year/Specialization:
<b>Experience and Qualifications:</b> List only that which is relevant to the requested work types. Indicate whether experience is with current firm or with other/prior company. Note your specific responsibilities and authorities, not those of the company. Note dates and contact information for client/owner who can verify your role and performance. <b>You may attach up to two additional pages, per individual</b>

**Attachment I-3**

**BUSINESS STRUCTURE QUESTIONNAIRE FORM**

Bidder:

1. Provide a description of the organizational structure of your business, including an organizational chart. Attach organizational chart separately.
2. Provide a narrative summary of the financial capacity of your business to carry out projects of the type and size for which your business is seeking a Primary Contract, and business capacity to carry multiple simultaneous projects. Include a list of current active projects including the contract value.
3. How many years has your organization been in business as a general contractor under your current business name? Under other names?
4. List all parent, subsidiaries, affiliates or divisions of your business, and any related parties that are included in disclosures in your most recent financial statements or the notes thereto.



**Attachment I-3 Continued**

**BUSINESS STRUCTURE QUESTIONNAIRE FORM**

Bidder:

5. List any of your officers, shareholders or directors that are affiliated with any other contractor(s) and/or supplier.
  
6. Identify all persons having final bidding and contract signing authority for your business.
  
7. Provide names, complete addresses, and contact information for all major material suppliers and/or subcontractors with whom you have done business with in the past three (3) years.
  
8. Please list your current Bonding Company, Agent, and Limit (Please specify per project and aggregate limit.)

**BUSINESS STRUCTURE QUESTIONNAIRE FORM**

Bidder:

**Provide a brief summary of your financial capacity to carry out projects of the type and size for which your business is seeking a Primary Contract:**

**Provide a brief summary of your business's ability to manage concurrent multiple projects.**

**Provide a brief summary of any additional information that may assist in the review of your business structure, for example QA/QC Programs, Safety Programs etc.**

**PAST PERFORMANCE QUESTIONNAIRE AND REFERENCE FORM**

Bidder:

**Provide a summary of three (3) recent projects for each work type you are requesting. Include safety, Osha Violations, deadlines, cost savings etc. Each project should include a reference with contact information.**

**Project 1:**

**Project 2:**

**PAST PERFORMANCE QUESTIONNAIRE AND REFERENCE FORM**

Bidder:

**Provide a summary of three (3) recent projects for each work type you are requesting. Include safety, Osha Violations, deadlines, cost savings etc. Each project should include a reference with contact information.**

**Project 3:**

**Attachment I-5**

Bidder:

**EXPERIENCE QUESTIONNAIRE FORM**

Identify projects which your business has completed that best illustrates your current qualifications relevant to PROJECTS WITHIN WORK TYPE							
a. Project Name & Location	b. Client/ Owner/ Project Manager who can verify Firm's responsibilities. Include addresses, current phone numbers, and email addresses.	c. Narrative Describing Nature of Contractor's Work on Project	d. Contract Completion Date (Original)	e. Contract Completion Date (Actual or Estimated)	f. Estimated Value (in Thousands)		
					Original Contract Value	Final or Estimated Contract Value	Dollar Value of Work for Which Firm Was/Is Responsible
(1)							
(2)							
(3)							
(4)							
(5)							

(6)								
(7)								
(8)								
(9)								
(10)								

**CONTRACTOR WORK HISTORY FORM**

Bidder:

**SUBMIT THIS ATTACHMENT COLLECTIVELY FOR ALL WORK TYPES FOR WHICH YOU SEEK A PRIMARY CONTRACT.**

1. How many years of experience does your organization have in each of the types of work for which you are seeking a primary contract? Specify whether the work was as a General Contractor or as a subcontractor.

2. Provide a narrative summary describing your organization's ability to rapidly respond to an urgent transportation need. Include a description of: how you will accomplish and quickly plan, schedule, and deliver the work within a compressed schedule with minimal disruption to the travelling public and VTrans' own state-owned operations (such as airports, railroads etc.).

3. How will you organize and schedule local suppliers, subcontractors, and address railroad flagging and/or highway traffic control operations?

4. How will you address unexpected setbacks or schedule changes, as well as communication procedures used for such changes?

5. How will you rapidly mobilize necessary equipment and a competent construction crew, including when high-rail equipment is necessary to access the project location?



6. How will you provide adequate superintendent capacity for more than one project at the same time?

7. How will you deliver projects within a specific amount of time and budget when unexpected setbacks or schedule changes are encountered?

8. How will you handle communications for interaction and coordination between the prime contractor, subcontractor, suppliers, VTrans, municipalities, and other affected transportation infrastructure (such as municipalities, airports and railroads)?

9. How will you use innovative scheduling procedures that contractor has used on past projects?

10. How will you conduct traffic control: (a) in general; and (separately) (b) in the particular settings of high-speed, high-volume traffic on the interstate system?

11. How will you (if your company has experience and capability) deal with interactions of highway transportation projects with other modes, such as rail, and aviation?

12. How will you conduct railroad flagging: (a) in general; and (separately) (b) in the particular settings of an operating and active rail line?

A large, empty rectangular box with a thin black border, intended for the respondent to provide their answer to question 12. The box occupies most of the lower half of the page.

## DISADVANTAGED BUSINESS ENTERPRISE (DBE) POLICY CONTRACT REQUIREMENTS

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

1. **Policy.** It is the policy of USDOT that DBEs as defined in 49 Code of Federal Regulation (CFR) Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 and 23 CFR, Chapter 1, Part 230, Subpart b apply to this contract.
2. **DBE Obligation.** The State and its Contractors agree to ensure that DBEs as defined in 49 CFR Part 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. **Each subcontract the prime contractor signs with a subcontractor must include this assurance:** *The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as VTrans deems appropriate.*
3. **Sanctions for Noncompliance.** The Contractor is hereby advised that failure of the Contractor, or any Subcontractor performing work under this contract, to carry out the requirements set forth in paragraphs 1 and 2 above shall constitute a breach of contract and after the notification of the Vermont Agency of Transportation, Secretary of Transportation, may result in termination of this contract by the State or such remedy as the State deems necessary.
4. **Inclusion in Subcontracts.** The Contractor shall insert in each of its subcontracts this Disadvantaged Business Enterprise (DBE) Policy and also a clause requiring its subcontractors to include this same Policy in any lower tier subcontracts which they may enter into, together with a clause requiring the inclusion of the Policy in any further subcontract that may in turn be made. This Policy shall not be incorporated by reference.

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

<http://vtrans.vermont.gov/civil-rights/doing-business/dbe-center/program-goals>

VTrans currently utilizes a race/gender neutral policy to fulfill its overall DBE goals, and relies on the voluntary participation of contractors to utilize certified DBEs on every project sufficient to obtain the Agency's overall DBE goal. In order for this practice to continue, contractors must be proactive and solicit bids and quotes from certified DBEs for use when submitting their own bids, and employ certified DBEs when participating on transportation related projects. Otherwise, VTrans may have to implement specified contract goals on projects to ensure the overall DBE goals are met. VTrans may include specific DBE contract goals in certain cases to ensure DBE participation, if failure to obtain the project DBE goal would negatively impact the Agency's overall DBE goal because of the size of the contract.

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

- (1) "Socially and economically disadvantaged person" means an individual who is a citizen or lawful permanent resident of the United States and who is a Woman, Black, Hispanic, Portuguese, Native American, Asian American, or a member of another group, or an individual found to be disadvantaged by the Small Business Administration pursuant to Section 3 of the Small Business Act.
- (2) "Owned and controlled" means a business which is:
  - a. A sole proprietorship legitimately owned and controlled by an individual who is a disadvantaged person.
  - b. A partnership, joint venture or limited liability company in which at least 51% of the beneficial ownership interests legitimately is held by a disadvantaged person(s).
  - c. A corporation or other entity in which at least 51% of the voting interest and 51% of the beneficial ownership interests legitimately are held by a disadvantaged person(s).

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

**Certified DBE Directory.** The current Vermont Unified Disadvantaged Business Enterprise (DBE) Directory is available online at: <http://vtrans.vermont.gov/civil-rights/doing-business/dbe-center/directory>. This directory contains all currently certified DBEs available for work in Vermont, and is updated continuously. Only firms listed in this directory are eligible for DBE credit on Vermont Federal-aid projects. If you have questions about DBE certification, or do not have access to the Internet, please call the DBE Program Manager at (802) 828-5858 for assistance.

**Counting DBE Participation Towards Project Goals.** In order for payments made to DBE contractors to be counted toward DBE goals, the DBE contractors must perform a commercially

useful function (CUF). The DBE must be responsible for execution of the work of the contract and must carry out its responsibilities by actually performing, managing, and supervising the work involved, consistent with standard industry practices.

This means that:

- The DBE must also be responsible for ordering its own materials and supplies, determining quantity and quality, negotiating price, installing (where applicable) and paying for the material itself;
- The DBE must perform work commensurate with the amount of its contract;
- The DBE's contribution cannot be that of an extra participant or a conduit through which funds are passed in order to obtain the appearance of DBE participation;
- The DBE must exercise responsibility for at least fifty percent of the total cost of its contract with its own workforce;
- None of the DBE's work can be subcontracted back to the prime contractor, nor can the DBE employ the prime's or other subcontractor's supervisors currently working on the project;
- The DBE's labor force must be separate and apart from that of the prime contractor or other subcontractors on the project. Transferring crews between primes, subcontractors, and DBE contractors is not acceptable;
- The DBE owner must hold necessary professional or craft license(s) or certification(s) for the type of work he/she performs on the project;
- The DBE may rent or lease, at competitive rates, equipment needed on the project from customary leasing sources or from other subcontractors on the project.

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

- A DBE Prime Contractor: Count 100% of the value of the work performed by own forces, equipment and materials towards the DBE goals.
- An approved DBE subcontractor: Count 100% of the value of work performed by the DBE's own forces, equipment and materials, excluding the following:
  - The cost of materials/supplies purchased from a non-DBE Prime Contractor.
  - The value of work provided by non-DBE lower tier subcontractors, including non-DBE trucking to deliver asphalt to a DBE contractor.
- A DBE owner-operator of construction equipment: Count 100% of expenditures committed.

- A DBE manufacturer: Count 100% of expenditures committed. The manufacturer must be a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the Contractor.
- A regular DBE dealer/supplier: Count 60% of expenditures committed. A regular dealer/supplier is defined as a firm that owns, operates, or maintains a store, warehouse or other establishment, in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. A person may be a dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business, if the person both owns and operates distribution equipment for the products, by the means of a long term agreement, and not by a contract by contract basis.
- A DBE broker: Count for DBE credit only the fees or commissions charged for assistance in the procurement, and, fees and transportation charges for the delivery of materials or supplies required at the job site, but not the cost of materials procured. A broker is defined as any person(s) or firm who arranges or expedites transactions for materials or supplies, and does not take physical possession of the materials or supplies at their place of business for resale.
- A DBE renter of construction equipment to a contractor: Count 20% of expenditures committed, with or without operator.
- A bona fide DBE service provider: Count 100% of reasonable fees or commissions. Eligible services include professional, technical, consultant, or managerial, services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of the contract. Eligible services also include agencies providing bonding and insurance specifically required for the performance of the contract.
- A trucking, hauling or delivery operation: Count 100% of expenditures committed when trucks are owned, operated, licensed and insured by the DBE and used on the contract and, if applicable, includes the cost of the materials and supplies. 100% of expenditures committed when the DBE leases trucks from another DBE firm including an owner-operator. 100% of reasonable fees, or commissions, the DBE receives as a result of a lease arrangement for trucks from a non-DBE, including an owner-operator.
- Any combination of the above.

**Removal of Approved DBE From Transportation Related Project.** Contractors may not terminate for convenience, any approved DBE subcontractor and perform the work with their own forces, without prior written consent from the VTrans DBE Program Manager or VTrans Chief of Civil Rights.

**Federal-aid projects which specify a DBE contract goal.** The provisions of the Vermont Agency of Transportation Supplemental Specification – Disadvantaged Business Enterprise

(DBE) Utilization (CR 160) shall apply to all VTrans Federal-aid projects which specify a DBE contract goal.

**Compliance With Prompt Payment Statute.** In accordance with Vermont's Prompt Payment Act and VTrans Standard Specifications for Construction, Section 107.01(g), the Contractor shall fully comply with the provisions of 9 V.S.A. Chapter 102, also referred to as Act No. 74 of 1991 or the Prompt Payment Act, as amended.

**Subcontractor Payments.** In accordance with VTrans Standard Specifications for Construction, Section 107.01(h), on all federal-aid and state funded contracts, the Contractor, during the life of the Contract and on a monthly basis, shall submit electronically, a listing of payments to subcontractors on the form specified by the State and made available at: <http://apps.vtrans.vermont.gov/promptpay/>. Electronic reports shall be filed with the Agency Office of Civil Rights by an authorized representative and received in the Agency Office of Civil Rights on or before the tenth working day after month end. Contractors without access to the internet shall obtain and submit manual reports to the Agency Office of Civil Rights. Manual reports shall be signed by an authorized representative, sent to the Agency Office of Civil Rights, and postmarked on or before the tenth working day after month end. There shall be no direct compensation allowed the Contractor for this work, but the cost thereof shall be included in the general cost of the work. In accordance with 9 V.S.A. Section 4003, notwithstanding any contrary agreement, payments made to subcontractors after seven days from receipt of a corresponding progress payment by the State to the Contractor, or seven days after receipt of a subcontractor's invoice, whichever is later, violate this agreement. Violations shall be reported to the Agency Office of Civil Rights for review. Failure to resolve disputes in a timely manner may result in a complaint made to the Agency Pre-qualification Committee. In this Committee's judgment, appropriate penalties may be involved for failure to comply with this specification. Penalties may include suspension, reduction or revocation of the Contractor's pre-qualification rating. This clause shall be included in the prime Contractor's Contract made with all if its subcontractors.



**Attachment L****Contractor Information***Use additional pages as necessary*

Company Name	
Mailing Address	
Office Telephone	
<b>Contact Person #1</b>	
Name	
Title	
Telephone	
Email	
Check the box for when this individual shall be included in correspondences:	
Primary Contract Execution	Salesforce Access      Task Order/Solicitations      Bonding
<b>Contact Person #2</b>	
Name	
Title	
Telephone	
Email	
Check the box for when this individual shall be included in correspondences:	
Primary Contract Execution	Salesforce Access      Task Order/Solicitations      Bonding
<b>Contact Person #3</b>	
Name	
Title	
Telephone	
Email	
Check the box for when this individual shall be included in correspondences:	
Primary Contract Execution	Salesforce Access      Task Order/Solicitations      Bonding
<b>Contact Person #4</b>	
Name	
Title	
Telephone	
Email	
Check the box for when this individual shall be included in correspondences:	
Primary Contract Execution	Salesforce Access      Task Order/Solicitations      Bonding

STATE OF VERMONT  
AGENCY OF TRANSPORTATION

November, 1985  
CA-109

**Attachment N**  
**CONTRACTOR'S EEO CERTIFICATION FORM**

Certification with regard to the Performance of Previous Contracts of Subcontracts subject to the Equal Opportunity Clause and the filing of Required Reports.

The bidder \_\_\_\_\_, proposed subcontractor \_\_\_\_\_, hereby certifies that he/she 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 as amended, and that he/she has \_\_\_\_\_, has not \_\_\_\_\_, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Company	By	Title
---------	----	-------

NOTE: The above 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 subcontracts 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.

Attachment O

CA-271  
Rev. 04/14/2021

STATE OF VERMONT  
AGENCY OF TRANSPORTATION  
CERTIFICATE OF COMPLIANCE

**For a bid/proposal to be considered valid, this form must be completed in its entirety, executed by a duly authorized representative of the bidder, and submitted as part of the response to the proposal.**

A. **NON-COLLUSION:** The undersigned certifies under the penalties of perjury under the laws of the State of Vermont and the United States that it has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid/proposal.

B. **DEBARMENT:** The undersigned certifies under the penalties of perjury under the laws of the State of Vermont and the United States that it:

1. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency; and
2. Has not within a three-year period preceding this bid/proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and
3. Is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph 2 above; and
4. Has not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
5. **Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid/proposal, including whom it applies and dates of action. Exceptions will not necessarily result in denial of award but will be considered in determining bidder eligibility and/or responsibility. Providing false information may result in criminal prosecution or administration sanctions.**

C. **BYRD ANTI-LOBBYING:** The undersigned hereby certifies, by signing and submitting this bid/proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or

- employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  3. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction as required by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
  4. The undersigned also agrees by submitting its bid/proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**E. WORKER CLASSIFICATION COMPLIANCE REQUIREMENT:** In accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), the following provisions and requirements apply to the undersigned when the total project costs exceed \$250,000.00.

Bidder is required to self-report the following information relating to past violations, convictions, suspensions, and any other information related to past performance and likely compliance with proper coding and classification of employees. The Agency of Transportation is requiring information on any incidents that occurred in the previous 12 months. Attach additional pages as necessary. **If not applicable, please enter 'Not Applicable' or 'N/A' below.**

Summary of Detailed Information	Date of Notification	Outcome

Bidder hereby certifies that the company/individual is in compliance with the requirements as detailed in Section 32 of Act 54(2009), as amended by Section 17 of Act 142 (2010) and further amended by Section 6 of Act 50 (2011).

**Subcontractor Reporting.**

A. **Contracts for Services.** The undersigned hereby acknowledges and agrees that if it is a successful bidder, prior to execution of any contract resulting from this solicitation, the undersigned will provide to the State a list of all proposed subcontractors and subcontractors’ subcontractors, together with the identity of those subcontractors’ workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), the undersigned will provide any update of such list to the State as additional subcontractors are hired. The undersigned further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54) will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.

B. **Construction Contracts.** The Contractor is required to provide a list of subcontractors on the job along with lists of subcontractor’s subcontractors and by whom those subcontractors are insured for workers’ compensation purposes. This is not a requirement for subcontractor’s providing supplies only and no labor to the overall contract or project.

Additionally, the Contractor shall collect and retain evidence of subcontractors’ workers’ compensation insurance, such as the ACORD insurance coverage summary sheet. Agency of Transportation will periodically verify the Contractor’s compliance.

**This information must be updated as necessary and provided to the State as additional subcontractors are hired. If none, please enter ‘Not Applicable’ or ‘N/A’ below.**

Sub-Contractor	Insured By	Sub-Contractor’s Sub	Insured By

The undersigned further acknowledges and agrees that the failure to submit subcontractor reporting in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54), and as amended will constitute non-compliance and may result in cancellation of contract and/or restriction from bidding on future state contracts.

As a duly authorized representative of the bidder, I hereby certify that the information above is true and correct.

**Date:** \_\_\_\_\_

**Duly Authorized Signature:** \_\_\_\_\_

**Name and Title of Person Signing:** \_\_\_\_\_  
**(Duly Authorized Signer)**

**Company Name:** \_\_\_\_\_

**Company Address:** \_\_\_\_\_  
\_\_\_\_\_

**E-Mail Address:** \_\_\_\_\_

**Attachment P**  
**Executive Order 05 – 16:**  
**Climate Change Considerations in State Procurements Certification**

**Bidder certifies to the following (Bidder may attach any desired explanation or substantiation. Please also note that Bidder may be asked to provide documentation for any applicable claims):**

1. Bidder owns, leases or utilizes, for business purposes, space that has received:

Energy Star® Certification

LEED®, Green Globes®, or Living Buildings Challenge<sup>SM</sup> Certification

Other Internationally Recognized Building Certification:

---

2. Bidder has received incentives or rebates from an Energy Efficiency Utility or Energy Efficiency Program in the last five years for energy efficient improvements made at bidder's place of business. Please explain:

---

3. Please Check all that apply:

Bidder can claim on-site renewable power or anaerobic-digester power (“cow-power”). Or bidder consumes renewable electricity through voluntary purchase or offset, provided no such claimed power can be double-claimed by another party.

Bidder uses renewable biomass or bio-fuel for the purposes of thermal (heat) energy at its place of business.

Bidder's heating system has modern, high-efficiency units (boilers, furnaces, stoves, etc.), having reduced emissions of particulate matter and other air pollutants.

3. Please Check all that apply (continued):

Bidder tracks its energy consumption and harmful greenhouse gas emissions. What tool is used to do this?

Bidder promotes the use of plug-in electric vehicles by providing electric vehicle charging, electric fleet vehicles, preferred parking, designated parking, purchase or lease incentives, etc..

Bidder offers employees an option for a fossil fuel divestment retirement account.

Bidder offers products or services that reduce waste, conserve water, or promote energy efficiency and conservation. Please explain:



4. Please list any additional practices that promote clean energy and take action to address climate change:



Minimum Labor and Truck Rates  
Under Title 19, Vermont Statutes  
Annotated Section 18, as amended

April 3, 1997  
Sheet 1 of 1

**Attachment Q**

**STATE OF VERMONT  
AGENCY OF TRANSPORTATION**

**MONTPELIER FOR OTHER THAN FEDERAL-AID.** In accordance with the provisions of Title 19, VSA, Section 18, the following minimum rate for labor shall apply to this project:

The minimum wage for common labor will not be less than the State or Federal minimum wage, whichever is higher.

**ON FEDERAL-AID PROJECTS ONLY.**

The minimum rates for labor for Federal-Aid Projects shall be those set in the Wage Determination Decision of the U.S. Secretary of Labor for each project in accordance with the Federal-Aid Highway Act of 1956. When such wage rates are required they shall be included in the proposal. In the event these rates are lower than the Vermont rates, the Vermont rates shall prevail.

**TRUCK RATES.** In accordance with the provisions of Title 19, VSA, Section 18, the following minimum rates for trucks shall apply to this project:

<u>Trucks, not Including Driver Water Level Body Capacity</u>	<u>Minimum Rates Per YD per Hr.</u>
Trucks, Equipment Loaded	\$1.65

**State of Vermont**  
Contract Administration  
219 North Main Street, Suite 105  
Barre, VT 05641  
<http://vtrans.vermont.gov/>

*Agency of Transportation  
Finance & Administration*

## **Attachment R Bidder Checklist**

- Attachment I: Required Bidder Information Forms
  - I-1(a) & I-1(b)- Request for Work Types and Regions
  - I-2: Key Personnel Resume Form
  - I-3: Business Structure Questionnaire Form
  - I-4: Past Performance Questionnaire And Reference Form
  - I-5: Experience Questionnaire Form
  - I-6: Contractor Work History Form
- Attachment L: Contractor Information Form
- Attachment N: Contractor EEO Certification Form
- Attachment O: Vermont Certificate of Compliance CA-271
- Attachment P: Climate Change Considerations in State Procurements Certification

This checklist is provided for your convenience. Please refer to the full RFP for specific submittal instructions.